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Collective redress

In July, the CCBE responded to the Commission's consultation paper on consumer collective redress. In its response, the CCBE put forward that:

1. Any future collective redress proposals should not be restricted to consumers only.
2. Civil law claims should be strictly separated from criminal law punishments.
3. Consumer associations entitled to bring representative actions on behalf of consumers should be required to meet standards of transparency and independence.
4. Consumers who are not members of an organisation should be able to gather freely and act through lawyer(s) of their choice. In relation to test case procedures, the plaintiff should be represented by legal counsel to lead the proceedings.
5. A test case procedure should meet minimum requirements.

The CCBE had also responded to the Commission's Green Paper published on 27 November 2008, stressing the following:

- Any possible future instrument on collective redress should follow Article 65 EC which limits the competence of the European Union to measures in the field of traditional cooperation in civil matters having cross border implications;
- The loser-pays principle should be the starting point to avoid abuse of any possible future instrument on collective redress, though it should be applied with sufficient flexibility so as not to discourage, for example, interim applications or the speedy resolution of cases;
- The opt-in principle is the only way to respect appropriately, and protect, the freedom of every single consumer to decide individually whether to pursue his/her claim or not in a self determined and active way. There should be a system which permits courts to consolidate actions and join parties etc, thus avoiding unnecessary duplication of costs and time, as well as the risk of inconsistent findings of fact or law.

For further information, please contact Karine Métayer (metayer@ccbe.eu).

Competition

Regulation of service providers in the public interest

The CCBE will hold a roundtable discussion on European Commission and other competition and regulatory studies concerning the liberal professions. The event, which will be hosted by the European Parliament in Brussels, will take place on 11 November 2009. It will bring together academics and relevant stakeholders, including the European Commission, the Council and Members of the European Parliament, in order to discuss the methodologies of such studies and any shortcomings. Impact assessments will also be on the agenda for this roundtable. The three expert speakers are: [Matthias Kilian](#) (a lawyer and academic from Germany); [Frank Stephen](#) (an economist and academic from the UK) and [George Yarrow](#) (Director of the Regulatory Policy Institute in Oxford, UK).

For further information, please contact Sieglinde Gamsjaeger (gamsjaeger@ccbe.eu).



European Commission

▶▶ Review of the Brussels I regulation

The CCBE responded to the Commission's Green Paper on the Review of Council Regulation (EC) No. 44/2001 on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters (Com (2009) 175 Final).

The CCBE supports, among other things, the abolition of exequatur, but on condition that adequate safeguards are adopted to ensure that judgment debtors have adequate protection.

The CCBE also underlines the need to correct the anomaly created by Regulation 44/2001, in favour of authentic instruments, despite the fact that court judgments have been the subject of due process in a court but authentic instruments have not. If a French authentic instrument for €50,000 is brought to Germany and is confronted by a German judgment for damages for a misrepresentation committed in Germany between the same parties, to permit the authentic instrument to be enforced without regard to the judgment would be unjust.

As regards arbitration, the CCBE considers that the exclusion of arbitration from the scope of the Regulation has given rise to certain difficulties concerning the interface between court proceedings and arbitration. The practical effects of the case law of the European Court are unsatisfactory, in particular because of the complexity surrounding the question of which proceedings are governed by the rules in the Regulation, and which are not. The CCBE supports the solution identified by the Commission that the scope of the exclusion of arbitration be the subject of a specific and narrowly confined relaxation, so as to bring within the scope of the Regulation certain court proceedings ancillary to arbitral proceedings, while at the same time conferring exclusive jurisdiction on the courts of the chosen seat of the arbitration (subject only to issues of cross-border assistance to support the arbitration through securing evidence, freezing orders etc). The CCBE stresses that this position must not be interpreted as advocating the full inclusion of arbitration, but a specific and limited ancillary jurisdiction.

The full CCBE response to the Green Paper is available at the following link: http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/CCBE_response_to_the1_1246371870.pdf

For further information, please contact Karine Métayer (metayer@ccbe.eu).

▶▶ Deontology

Financial services market

Alternative Investment Fund Managers

On 29 April 2009, the European Commission proposed a [Directive on Alternative Investment Fund Managers](#) (AIFMs) with the objective of creating a comprehensive and effective regulatory and supervisory framework for AIFMs at the European level. The proposed Directive should provide robust and harmonised regulatory standards for all AIFMs within its scope, and it should enhance the transparency of the activities of AIFMs and the funds they manage towards investors and public authorities.

The proposal, which is part of the European Commission's response to the financial crisis, provides competent authorities with far-reaching supervisory and investigatory powers (including the possibility to access any documents, carry out on-site inspections or require records of telephone data) which would make it impossible for clients involved in alternative investment funds to consult a lawyer in full confidence.

In a [position paper](#) adopted at the Standing Committee meeting on 4 September 2009, the CCBE therefore urges European institutions to amend the proposed Directive so that competent authorities, dealing with AIFMs, should observe national rules on professional secrecy and legal professional privilege. The CCBE points out in its paper that the obligation of a lawyer to professional secrecy and legal professional privilege serves the interest of the administration of justice.

Credit rating agencies

On 27 July 2009, the Council gave the go-ahead for the new rules on credit ratings agencies, after endorsement by the European Parliament in April. The proposed Regulation, which was put forward by the European Commission last November, as part of their 'financial crisis' package, raised concerns amongst the CCBE member Bars and Law

Societies because of its implications on the professional secrecy and legal professional privilege of lawyers. The proposed Regulation, identical to what is now proposed for alternative investment fund managers (see above), suggested that competent authorities should be given ample investigatory and supervisory powers, ignoring the duty of lawyers to observe professional secrecy/legal professional privilege. The CCBE commented on the proposal (view [proposed amendments](#) and [CCBE comments on consultation](#)). The final text takes account of the CCBE concerns: it makes specific reference to professional secrecy and legal professional privilege of lawyers.

Alternative business structures

Two consultations on alternative business structures (ABSs) have recently been undertaken in England and Wales in order to open the market of legal services to non-lawyers and to facilitate new entry in such a way that non-lawyer entrants into the market should work together with lawyers to provide legal and other services within a single ABS. The consultations are a follow-up to the Legal Services Act 2007.

The CCBE responded to both consultations, i.e. the one initiated by the Legal Services Board (LSB) (which is the body responsible for overseeing the regulation of legal services in England and Wales) (view [LSB consultation](#)) and the one put forward by the Solicitors Regulation Authority (SRA) (the Law Society's regulatory arm) (view [SRA consultation](#)).

The CCBE advises not to go ahead with the ABS project, although it is aware that the introduction of ABSs is a consequence of the Legal Services Act 2007. The CCBE also emphasises that lawyers' duties to maintain independence, to avoid conflicts of interest, and to respect client confidentiality are endangered if non-lawyers are allowed a significant degree of control over the affairs of the firm (view [CCBE response to LSB consultation](#) and [SRA consultation](#)).

Solicitors Regulation Authority consultation on conflict of interest and confidentiality

Last December, the Solicitors Regulation Authority (SRA) (the Law Society's regulatory arm) issued a consultation paper on proposed amendments to rule 3 (conflicts of interest) and rule 4 (duties of confidentiality and disclosure) of the Solicitors' Code of Conduct 2007.

According to the SRA, the proposal to amend [rule 3](#) would increase the exceptions under which firms can act for sophisticated clients with conflicting interests where the clients give informed consent. It represents a significant extension of the circumstances in which a law firm might act for two clients whose interests' conflict in a particular matter, and could involve, for example, two teams in the same firm conducting negotiations with each other. The amendment to [rule 4](#) would extend the circumstances in which information barriers can be used without the consent of the client whose confidential information is being protected.

The CCBE recently responded to the consultation, noting that the approved amendments do not appear to approach the purposes sought and present a serious risk of weakening the rules of professional conduct, which are a guarantee of client trust (view [CCBE response](#)).

For further information, please contact Sieglinde Gamsjaeger (gamsjaeger@ccbe.eu).

European Transparency Initiative

The European Commission is reviewing its interest representatives' register after a year of operation. The CCBE contributed to the Commission's consultation on 12 June (to view the CCBE's response please see: http://ec.europa.eu/transparency/eti/docs/review_process/090612_CCBE.pdf). In response, the Commission initiated a meeting with CCBE national bar representatives on 24 September 2009 to discuss the issue of professional secrecy and the Commission's register of interest representatives.

The European Voice, a leading Brussels-based newspaper dealing with European affairs, organised a transparency debate regarding the European Commission's register of interest representatives on 8 September 2009 at the European Parliament. Representatives of the Parliament and the Commission criticised the Council of Ministers for failing to improve transparency regarding European lobbying. Siim Kallas, the European Commissioner for administrative affairs, expressed his concerns that all EU institutions should share a common lobby register and complained that the Council was not active. Concerning law firms, Mr. Kallas raised the professional secrecy of lawyers issue and welcomed a dialogue with the bars in order to find the practical solutions. Finally, Mr. Kallas proposed to continue

with a voluntary scheme, although he is not rejecting the idea of a mandatory system in the future. In response, Jonathan Goldsmith, the CCBE Secretary General, noted that the law firms were not boycotting the register but were constrained by professional secrecy rules, which were legally binding.

For further information, please contact Birgit Beger (beger@ccbe.eu)

Company Law

On 16 February 2009, the European Commission launched a public consultation on a possible European Foundation Statute (deadline: 15 May 2009). The consultation focused on the difficulties foundations face when operating cross-border, on the content of a possible European Foundation Statute and on how a Statute might affect donors' and founders' attitudes.

The CCBE [responded](#) to this consultation. It pointed to the main legal and tax related obstacles which currently exist (such as the difficulty of recognition of the legal personality in another state or the differences in tax treatment). Overall, the CCBE expressed its support for the creation of a European Foundation statute in order to overcome current deficiencies in the cross-border operation of foundations.

For further information, please contact Sieglinde Gamsjaeger (gamsjaeger@ccbe.eu).

Council of Europe

As reported in CCBE Info 22, the Council of Europe, through its European Commission for the Efficiency of Justice (CEPEJ), issued a tender for a study on the role of lawyers in judicial proceedings in Europe.

After being approached by CEPEJ with an invitation to be actively involved in the study, the CCBE decided to approach an academic institution to conduct the study.

The study will analyse the role of the lawyer in the judicial cycle, and the impact of his/her action on the efficiency and quality of judicial proceedings in the Council of Europe's member states, in the light of Recommendation Rec (2000)21 on the freedom of exercise of the profession of lawyer. Trends and conclusions can be drawn from CEPEJ's own report and data-base on this issue. The study should analyse in particular the measures aimed at preventing abuses in proceedings, the link between lawyers and the courts (including through ICT), as well as the modalities for determining lawyers' fees.

For further information, please contact Birgit Beger (beger@ccbe.eu)

Criminal law

Procedural safeguards for suspects and defendants in criminal proceedings

On 1 July 2009 the Swedish Presidency published a "Roadmap" protection of suspects and defendants in criminal proceedings. The Swedish Presidency is keen to develop procedural rights for suspects and defendants in criminal proceedings, as various proposals over the last few years have not led to any concrete results despite a lot of progress being made in the area of judicial and police cooperation on measures that facilitate prosecution. The Swedish Presidency believes the best way forward is to address rights on a step-by-step-approach, whilst ensuring overall coherence.



with a view to improving the proceedings. The Swedish

To begin the process, the Swedish Presidency, on 8 July 2009, set out a proposal on the right to interpretation and translation in criminal proceedings. This proposal aims to set common minimum standards as regards the right to interpretation and translation in criminal proceedings throughout the European Union. The proposal is envisaged as a first step in a series of measures designed to replace the Commission's 2004 proposal for a Council Framework Decision on certain procedural rights in criminal proceedings throughout the European Union.

The CCBE is following developments with regard to this proposal. The CCBE attaches great importance to the protection of procedural rights of suspects and defendants in criminal proceedings in all Member States. The CCBE emphasises that the rights of suspects and defendants have been marginalised for too long, and that Member States should now adopt *inter alia* the minimum procedural safeguards - as identified by the Commission - across the board. The basic minimum procedural safeguards identified by the Commission are: access to legal advice, both before the trial and at trial; access to free interpretation and translation; ensuring that persons who are not capable of understanding or following the proceedings receive appropriate attention; the right to communicate, *inter alia*, with consular authorities in the case of foreign suspects, and notifying suspected persons of their rights (by giving them a written "Letter of Rights"). These are basic rights that are immediately necessary in order for mutual recognition to succeed, and ideally should be adopted as a whole package and not separately. The CCBE is keen for progress to be made under the Swedish Presidency.

European Commission tender for a study on Factsheets on Rights of Defendants

On 20 May 2009, the European Commission published a tender for a study to compile Factsheets on "Rights of defendants". The factsheets will cover rights under the following headings:

- The right to be informed / preliminary investigations
- The right to be heard
- Arrest, pre-trial custody and other pre-trial coercive measures
- Disclosure and Rules of Evidence
- Pre-trial and Trial
- Appeals against judgments/sentences
- Publication of personal data

In June 2009 the CCBE submitted an application for the study and is currently waiting to see whether its application has been successful.

CCBE and ECBA project on cross border legal assistance

In January 2009, the CCBE and the European Criminal Bar Association (ECBA) submitted a joint application for a tender for a European Commission study on cross-border legal aid. The study will analyse whether it would be possible to set up a scheme in order to assist defence lawyers working on cross-border cases to cooperate better and to facilitate exchange of information in cases involving mutual recognition instruments or use of the 2000 Mutual Legal Assistance Convention in particular. In March 2009 the CCBE and ECBA were informed that their joint application was successful. The CCBE and ECBA established a joint committee in April 2009 and began work on the study. The CCBE and ECBA visited defence practitioners in three EU Member States - Austria, Spain and the United Kingdom - in order to obtain information on the difficulties experienced by defence practitioners involved in cross-border cases. A questionnaire was also sent to 5 other bars with a comprehensive list of questions relevant to the project. The CCBE and ECBA submitted its interim project to the Commission in July 2009 and are currently working on developing a proposal for a pilot project. The final report – including the proposal for a pilot project - will be submitted to the Commission in December 2009.

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

Human Rights



Morten Kjaerum, Director of the European Union Agency for Fundamental Rights

The Director of the European Union Agency for Fundamental Rights, , was invited to address the CCBE Plenary Session on 15 May in Copenhagen on the topic: "The Fundamental Rights Agency and Human Rights in the EU" (http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/COPENHAGEN_150501_1244196169.pdf).

Morten Kjaerum gave a full presentation of the activities of the Agency. He also participated in a joint meeting with the Human Rights, Access to Justice and Criminal Law committees where a number of issues were discussed, such as procedural safeguards for suspects and defendants in criminal proceedings, human rights concerns in relation to e-Justice, and the impact of the economic crisis on human rights.

The CCBE considers the work of the EU Agency for Fundamental Rights of utmost importance and regularly participates in the platform meetings organised by the Agency.

The CCBE is very keen to continue and enhance cooperation with the Agency.

For further information, please contact Karine Métayer (metayer@ccbe.eu).

IT Law

E-Justice Portal

The European Council adopted a Multi-annual European e-Justice action plan (2009-2013) on 31 March 2009 (to view the text, please see: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:075:0001:0012:EN:PDF>). The Council believes that work should be carried out with a view to developing at European level the use of information and communication technologies (ICT) in the field of justice, particularly by creating a European e-Justice portal. The use of such new technologies would help to rationalise and simplify judicial procedures, and as well the use of an electronic system in this area would reduce procedural deadlines and operating costs, to the benefit of citizens, undertakings, legal practitioners and the administration of justice.

Multilingualism is a further major challenge. That is why the European Commission envisages the development of automated translation tools, the creation of a database of legal translators and interpreters, and the possibility to produce online forms of automatic translations. Concerning this, the Council also decided to focus on devising a working method which ensures accurate translation in the European Community's twenty-three official languages, of legal concepts taking into consideration questions relating to semantics.

The European Commission will launch its e-Justice portal in mid-December 2009. The CCBE has agreed to take forward an initiative to create an improved European lawyers' directory for the e-Justice portal.

E-Justice - general

On 31 March 2009, the CCBE President gave a speech to the Council of Ministers working group on e-Justice. The president welcomed the e-Justice initiative and said that European bars and law societies, and their member lawyers, were ready to work to make it a success. She rehearsed the CCBE's aims for the e-Justice portal, which is in the process of being constructed. Apart from the ideas now being implemented, the CCBE was keen to see the following: a means for citizens to access the bars' directories of lawyers in the most user-friendly way; and a means for lawyers to undertake cross-border transactions, particularly with registries in other Member States, through the use of the CCBE electronic ID card. She also outlined some human rights concerns that the CCBE has with some aspects of e-Justice, notably with the use of video-conferencing cross-border, particularly in criminal cases, and with the consequences of linking criminal databases. The speech can be found at this link: http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/CCBE_eJustice_speech1_1240495846.pdf

The CCBE received good feed-back after the President's speech, and the speech was made publicly available on the Council's website.

Penal-Net



PenalNet, www.penalnet.eu, is the first European e-network for fluent, secure and inviolable e-communications among criminal lawyers. It is an initiative co-financed by the programme Criminal Justice 2007, from the Directorate-General for Justice, Freedom and Security of the European Commission, and it is being developed by the Bars of France, Hungary, Italy, Romania and Spain (as project leader).

On 24 September 2009, Penal-net will hold its Public launch in Madrid. At the launch, qualified speakers representing each partner country will debate on new means to improve trans-border practice throughout PenalNet.

Users of 'PenalNet' will be provided with a certified electronic signature (which proves that the recipient is a qualified legal practitioner), according to the recommendation of the CCBE on Technical standards for interoperability of elec-

tronic ID cards (http://www.ccbe.org/fileadmin/user_upload/NTCdocument/en_annex_technical_s1_1192451405.pdf)

The main objective of PenalNet is to develop better communications and improve professional relationships between lawyers through e-communications, that will strengthen cross-border confidence and interoperability between legal practitioners.

Data protection conference organised by the European Commission on 19-20 May 2009

The European Commission held an interesting conference entitled: "Personal data – more use, more protection?" which discussed subjects of relevance for the CCBE like, for example, data retention (see CCBE position paper at http://www.ccbe.org/fileadmin/user_upload/NTCdocument/EN_Outcome_of_nation1_1208853239.pdf http://www.ccbe.org/fileadmin/user_upload/NTCdocument/en_it_law_ccbe_recom1_1182246703.pdf). The European Commission noted at the conference that, while the data retention directive deals with the retention of data only, there might be a future instrument which deals with the critical aspect of access to retained data. As Article 14 of the data retention directive inter alia foresees, the Commission shall submit to the European Parliament and the Council, no later than 15 September 2010, an evaluation of the application of this Directive and its impact on economic operators and consumers, taking into account further developments in electronic communications technology and the statistics provided to the Commission.

Other topics of interest to the CCBE were identity management and global issues of data protection.

As regards global issues, the 31st International Conference of data protection and privacy is to be held in Madrid at the beginning of November 2009, see <http://www.privacyconference2009.org/privacyconf2009/home/index-iden-idweb.html>. The conference aims at achieving the approval of a joint proposal on "International Standards for the Protection of Privacy and Personal Data", eventually allowing for the development of a universal, binding legal document.



All the relevant documentation of the European Commission's Conference of 19-20 May 2009 will be available at the following link: http://ec.europa.eu/justice_home/news/events/news_events_en.htm.

The conference formed part of the Commission's open consultation on how the fundamental right to protection of personal data can be further developed and effectively respected, in particular in the area of freedom, justice and security.

For further information, please contact Birgit Beger (beger@ccbe.eu)

CCBE manifesto

In the perspective of the European Parliament elections and, later this year, the renewal of the Commission, the CCBE published in March a manifesto calling for 'The right kind of justice for Europe'. In this document the CCBE presents its main concerns about the way that justice is currently addressed at EU level, and calls on the European institutions: to establish a DG Justice at the European Commission; to uphold the right of a client to consult a lawyer in full confidence; to introduce minimum common procedural safeguards for the rights of suspects and defendants in criminal proceedings; and to ensure that Member States and the EU, when adopting legislation against terrorism and organised crime, comply with their European and international legal obligations to uphold human rights. The full text of the manifesto can be found at this link: <http://www.ccbe.eu/index.php?id=330&L=0>



About DG Justice, the CCBE is happy to observe a remarkable evolution in the Commission's position. Pressed namely by the ALDE and The Greens Groups in his September hearings at the European Parliament, President Barroso announced that he was going to split the justice, freedom and security portfolio so that one commissioner would be responsible for rights and justice, and another for security.

For more information, please contact Antoine Fobe (fobe@ccbe.eu).

▶▶ Stockholm Programme

2009 is also the year which will see the adoption, under the Swedish presidency, after the Tampere and Hague programmes, of the next five year programme (2010-2014) on the future development of the Union's area of freedom, security and justice. The CCBE hopes that its manifesto (see above) will be taken into account by the drafters of what is already called the 'Stockholm Programme'. However, there are further CCBE recommendations which have been submitted and that are of direct relevance to the on-going discussions about what the programme should contain. These recommendations include the following: a balanced approach to the development of e-Justice; mutual recognition of authentic acts that is not limited to notarial acts; and access to legal training in EC law and procedural law for lawyers on an equal footing with judges and prosecutors. The position paper laying out the CCBE recommendations is available at this link: http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/EN_Recommendations_f1_1252915994.pdf

The CCBE has met with the relevant service of the European Commission, ahead of their Communication on the Stockholm Programme, and is engaged in a series of meetings with the Swedish Presidency, and the future 'Trio of Presidencies' (Spain, Belgium and Hungary) which will eventually have to start implementing the programme.

For more information, please contact Antoine Fobe (fobe@ccbe.eu).

▶▶ Money laundering

European Commission study on the impact of the money laundering Directives on the legal profession

In July 2009, the European Commission launched a tender for a study on the application of the anti-money laundering Directive with a particular focus on the impact of the money laundering Directives on the legal profession. The study will be carried out in response to Article 42 of the 2005 Money Laundering Directive. Article 42 states: *"By 15 December 2009, and at least at three-yearly intervals thereafter, the Commission shall draw up a report on the implementation of this Directive and submit it to the European Parliament and the Council. For the first such report, the Commission shall include a specific examination of the treatment of lawyers and other independent legal professionals."*

The CCBE was approached by a UK consultancy to become a sub-contractor in the project application. The CCBE agreed to be a sub-contractor. It is expected that the Commission will award the study to the successful tenderer in November or December 2009.

FATF - Review of Recommendation 9 of the FATF 40

The FATF is currently looking at reviewing Recommendation 9 of the FATF 40 Recommendations. Recommendation 9 allows countries to permit financial institutions and others (including lawyers) to rely on intermediaries or other third parties to perform the identification and verification requirements of the customer due diligence (CDD) process or to introduce business, provided that certain criteria are met. However, even where such reliance is permitted, the ultimate responsibility for customer identification and verification remains with the person relying on the third party. A meeting was organised by the FATF in June 2009. The CCBE participated in this meeting and will continue to be involved in discussions.

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

▶▶ CCBE sub-group on Patents

Proposal for a European and Community Patents Court

The CCBE sub-group on patents is examining the proposal for a European and Community Patents Court. The sub-group examined the latest version of the paper from the Council Working Party on Intellectual Property (Patents) and has a large number of comments regarding the latest proposal. These comments range from the proposed composition of the panels of the Court of First Instance, issues regarding the anticipated problems with the composition and functioning of the pool of judges, issues regarding jurisdiction, continuing problems with representation, problems concerning the interpretation of Community Law provisions, and language difficulties that run throughout the proposal. A position paper is being prepared at the moment.

Rules of procedure

Aside from the general proposal on the European and Community Patents Court, the CCBE sub-group on patents is also examining the draft Rules of Procedure for this court. The CCBE sub-group is in the process of preparing a position paper with comments that it will submit to the Council.

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

▶▶ PECO

Bosnia and Herzegovina

The Bar Association of the Federation of Bosnia Herzegovina and the Bar Association of the Republika Srpska have applied for CCBE observer membership. Philippe De Jaegere, a member of the Belgian delegation to the CCBE, has been appointed as rapporteur. In June, the rapporteur carried out a fact finding mission to Bosnia Herzegovina: he met with representatives of the Bars and also with members of the government and courts. The application was given preliminary approval at the Standing Committee meeting on 4 September 2009. The final decision will be taken at the Plenary Session in November.

Georgia

The CCBE, through its PECO Committee, has had regular contacts with the Georgian Bar Association in recent months about the discussions on amending the Law on the Bar. PECO members have provided expert feedback on the proposed amendments.

Upon request of the Georgian Bar Association, the CCBE sent a letter to the Georgian Parliament back in April concerning the issue of multiple Bar Associations. Members of Parliament, with the apparent aim of improving the functioning of the legal profession, were suggesting earlier this year that multiple Bar Associations should be established. The CCBE - in a [letter](#) to the Georgian Parliament – expressed its concerns: it noted that such a move would lead to a split within the profession with a patchwork of different sets of rules (ethical and disciplinary) being the consequence. CCBE experts from the PECO Committee also participated in a seminar, which was jointly organised by TAIEX of the European Commission and the Georgian Bar Association. The seminar took place on 28-29 May 2009 in Signaghi, Georgia. The seminar brought together representatives of Parliament and the legal profession as well as international experts in order to discuss the proposed amendments to the Law on the Bar and changes to be made to the Charter of the Georgian Bar Association. In June 2009, the CCBE addressed another [letter](#) to the Georgian Parliament, supporting the amendments of the Georgian Bar Association on the law on the Bar (removal of the quorum requirements for the General Assembly, appointment of a full-time salaried Executive Secretary for the day-to-day management of the Bar etc.) CCBE experts noted that the proposed changes comply with European and CCBE standards and should help it to overcome its existing structural and organizational problems.

Moldova

Constantin Parascho, information officer of the Romanian delegation to the CCBE, participated on behalf of the CCBE in the Moldovan Bar Congress in March 2009 in order to report about the CCBE's activities in Moldova in 2008 and the CCBE experts' recommendations of 3 September 2008 concerning the structure of the Bar Association. In response to the recommendations, representatives of the Moldovan Bar highlighted during the Congress their

willingness to hire a Secretary General for the Bar in order to improve the day-to-day administration of the Bar and to build up a body of experts and personnel in order to deal with the problems of the Bar and its interactions with state authorities and international bodies. The CCBE will continue monitoring the developments within the Moldovan Bar Association.

Ukraine

Four draft laws on the Bar are currently pending before the Ukrainian Parliament. The CCBE sent a letter to the Head of the Legal Policy Committee of the Ukrainian Parliament, MP Mishenko, earlier this year offering its assistance and expertise in the discussions on the law on the Bar. MP Miroshnichenko, Head of the Legal Policy sub-Committee dealing with the law on the Bar, replied to the request and asked for an expertise of the draft law which he put to Parliament last December. The PECO Committee is currently looking into this request.

The Council of Europe is also assisting the profession in Ukraine under a joint programme run with the European Union on the “Transparency and Efficiency of the judicial system of Ukraine”. The Law on the Bar is one of the issues that the Council of Europe deals with: in June, the Council of Europe organised an assessment visit to Ukraine in order to meet with relevant stakeholders and discuss the draft laws on the Bar. The vice-chair of the PECO Committee, Rytis Jokubauskas, participated in this visit as expert. The Council of Europe experts are expected to provide a framework expertise on the law on the Bar.

Kazakhstan

The CCBE expressed concerns about the disbarment procedure which was initiated by the Kazakh Committee on National Security against a member of the Almaty Collegium of Defence Lawyers, Daniyar Kanafin, for critical comments he made in the mass media on the Kazakh law on state secrecy, which requires lawyers to have a special permission to deal with cases involving state secrets. Daniyar Kanafin was refused representation of a client on the grounds that he had no security clearance required for access to state secrets. The CCBE believes that these actions of the National Security Committee, which have serious consequences for the independence of lawyers and Bar Associations and the freedom of expression, do not comply with the United Nations Basic Principles on the Role of Lawyers (1990) and the International Covenant on Civil and Political Rights (view [CCBE letter](#)).

Serbia

The Serbian Bar recently approached the CCBE about changes to fiscal law provisions which would have a serious impact on the legal profession in Serbia. The Serbian government adopted last March a Regulation which will introduce fiscal cash registers for lawyers as from March 2010: all lawyers will then need to record their activities through these registers. If registers will not be used by lawyers, the new rules foresee the suspension of lawyers’ activities or the closing down of a law firm. The CCBE expert, Dimitrios Hadjimichalis, has been looking into this matter. A [letter](#), setting out the CCBE views, has been addressed to the Serbian authorities. The CCBE voices concerns about the potential impact of the new provisions on the duty of confidentiality of lawyers and notes that the changes will also run counter the independence and self-administration of the profession. The changes would be contrary to several international instruments: the European Convention on Human Rights, the United Nations Basic Principles on the Role of Lawyers of 14 December 1990 and the Council of Europe Recommendation Nr. R (2000) 21 on the freedom of exercise of the profession of lawyer of 25 October 2000.

PECO Seminar

This year’s PECO seminar on “The place and the part played by the lawyer within the judicial system” was held on 25 June 2009 in Bucharest, Romania upon invitation of the Romanian Bar Association and its President Gheorghe Florea. Dr. Catalin Marian Predoiu, Minister of Justice of Romania, was among the speakers, to report about recent changes to the Romanian civil and criminal Codes. [Fernando Piernavieja Niembro](#), member of the Spanish Delegation to the CCBE, participated in the seminar as an expert speaker to address the audience on recent developments in the area of European Criminal Law. Romanian lawyers appreciated the opportunity to have a discussion about the new Codes and contributed to a lively discussion on the role of lawyers within society and the administration of justice.

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