

CCBE proposals

European Parliament Committee on Civil Liberties, Justice and Home Affairs Draft Report with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights

20/05/2016

The Council of Bars and Law Societies of Europe (CCBE) represents the bars and law societies of 32 member countries and 13 further associate and observer countries, and through them more than 1 million European lawyers. The CCBE responds regularly on behalf of its members on policy issues which affect European citizens and lawyers.

The CCBE welcomes the work which has been undertaken and proposes that the draft Resolution and draft Inter-institutional Agreement also take account of the legal profession and relevant European and legal instruments. The CCBE proposed additions are highlighted below in **bold**.

- *Motion for resolution*

New:

“Regarding the Council of Europe’s [Recommendation](#) No R(2000)21 of 25 October 2000 and the United Nations [Basic Principles on the Role of Lawyers](#) of 1990 which call upon states to guarantee a free and independent legal profession;

New:

“Whereas an independent legal profession is the cornerstone of a free and democratic society, an exclusive direct state regulation, without a leading role for the profession in the setting and enforcing of standards of conduct and of service, is incompatible with an independent legal profession.

“8. Recommends that the DRF expert panel, as per the proposed interinstitutional agreement, also assess access to justice at the European level, applying the same benchmarks to the CJEU and ECtHR, including aspects such as independence and impartiality of courts and judges, **an independent legal profession**, length and cost of litigation, **adequacy and effectiveness of the legal aid system, as well as the existence of the necessary funds for it**, implementation of court rulings, scope of judicial control and redress available to citizens, and options for cross border collective redress;”

“Article 8

8.2. Indicators for the Rule of Law:

- Legality
- Legal certainty
- Prevention of abuse or misuse of powers
- Equality before the law and non-discrimination
- Access to justice: independence and impartiality, fair trial, constitutional justice (where applicable), ***an independent legal profession;***
- ***Adequacy and effectiveness of the legal aid system, as well as the existence of the necessary funds for it***
- Particular challenges to the rule of law: corruption, conflict of interest, collection of personal data and surveillance
- Title V of the Charter”

“Article 9

The assessment of the state of DRF in the Member States, as well as the development of country-specific draft recommendations, shall be carried out by a broad and representative panel of independent experts ('DRF expert panel'), on the basis of a quantitative and qualitative review of the data and information available.

9.1. The DRF expert panel shall be composed of the following members:

- one independent expert designated by each Member State;
- ten academic experts designated by the federation of All European Academies (ALLEA);
- ***Ten lawyers designated by the Council of Bars and Law Societies of Europe (CCBE);***
- ten experts designated by the European Network of National Human Rights Institutions (ENNHRI);
- two experts each designated by the Venice Commission and the Council of Europe Human Rights Commissioner;
- ten former judges designated by CEPEJ;
- two experts each designated by the United Nations (UN) and the Organisation for Economic Co-operation and Development (OECD).”