



CCBE Info

N° 54
July - August 2016

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EDITORIAL- 35,000 PEOPLE DETAINED IN TURKEY

Since the failed coup of 15 July, more than 35,000 people have been arrested and are being held in Turkey. This has forced the authorities to release other prisoners to make room in overcrowded prisons. Meanwhile, 82,000 public officials have been suspended. At first, only the military were arrested. Now, however, tens of thousands of officials, journalists, police officers, judges, teachers, and academics have been affected by the arrests.

The coup has allowed the Turkish President to strengthen, through a legal purge, his power beyond all limits, and hinder liberties which were already under threat. About 100 journalists have already been arrested and imprisoned. Broadcasting is controlled by the Turkish authorities and is no more than a propaganda machine.

The Turkish people have overwhelmingly condemned the coup, as have all supporters of democracy around the world. Democracy cannot simply be the mere organisation of regular elections. Daily freedoms, particularly those of the press, the judiciary and the Bar must be respected.

Europeans cannot remain indifferent to the developments in Turkey. They must support all democrats and all those who are committed to the rule of law.

The Turkish people are not alone. Turkey is not isolated in Europe, and we are united in these aspirations for freedom, democracy and the rule of law.

Mr. Erdoğan has announced he would restore the death penalty, disregarding completely all signed conventions, if his Parliament asked for it.

This would mark a new step away from the fundamental rules of the rule of law and freedoms.

Michel BENICHOU
CCBE President

THE FUTURE OF BARS & LAW SOCIETIES

The fourth topic of the conference on **“Innovation and future of the legal profession”** of **21 October 2016** is by far the least important.

Bars are an engine of the profession. They have different names (Orders, colleges, chambers (*Rechtsanwaltskammer*) Bars and Law Societies), and have features which reflect ancient local and national traditions. They are also dependent on the judicial organisation of each country. But they are the guarantee of the independence of the Bar, often with the support of the judiciary, which is acutely aware of the importance of competent and honest professionals.

In states run under the rule of law, which we are lucky to have in Europe, the legislator has given a legal basis to these institutions, while respecting their autonomy, so that an independent defence can ensure the conduct of fair trials, and provide adequate legal advice.

To those who wonder what the Bars are for, we would suggest studying the history of the Bars and Law Societies and freedom in our country. Strong Bars are a guarantee of respect for fundamental rights of citizens; which are still threatened, especially in times of crisis. While we must fight effectively against terrorism and crime, it should still be through the tools of democracy. Isolated lawyers, even if

they work in organised structures, are in a weak position if they cannot count on the support of all of their colleagues working in accordance with the law.

But this implies that Bars, like the profession, are changing and are no longer lost in the 21st century, in or institutional quarrels from another age.

What can Bars and Law Societies offer, and how can we modernise them? Using a well-known phrase, ask yourself what Bars do for you, but also what you can do for them. Participate in this debate, and come to the conference on 21 October!

Georges-Albert Dal
Past CCBE President

INNOVATION AND FUTURE OF THE LEGAL PROFESSION

What issues, challenges and opportunities are currently facing the legal profession? How is technology impacting on legal services? Can the profession's core values be upheld in the face of these challenges?

The CCBE Conference on **“Innovation and Future of the Legal Profession”** in Paris, on **21 October**, aims to address some of the toughest questions facing the legal profession. The event will bring together many high level speakers including the French Minister of Justice, Jean-Jacques Urvoas, Tiina Astola, the Director-General for Justice and



Consumers at the European Commission, and Andrew Arruda, CEO and co-founder of ROSS Intelligence, the first artificial intelligent lawyer created using IBM Watson (supercomputer) technology. The one-day conference will cover the future of justice, legal services, law firms and Bars.

The conference will be conducted in both English and French; simultaneous translation will be provided.

More information about the conference can be found [here](#).

L4 MEETING

In **July**, the CCBE President and first Vice President attended the annual **“L4 Meeting”**, with the Presidents and Presidents Elect of the ABA, IBA and UIA, organised this year at the IBA offices in London.

The agenda addressed the most important political issues of the moment, such as Migration,



IBA President, David Rivkin; ABA President and Immediate Past President, Linda A. Klein and Paulette Brown at L4 Meeting

Human Rights and Rule of Law, Independence and professional secrecy, Integrity and corruption, Diversity and Inclusion, Brexit, etc. The parties examined potential collaboration or common positioning on such issues, and in particular, regarding Human Rights, the participants agreed to share their initiatives with the other organisations.

CONTINUED CRACKDOWN ON LAWYERS IN CHINA

9 July 2016 marked the one-year anniversary of the so-called “**709 crackdown**” in China which began with the detention of rights lawyer Wang Yu and her family, and led onto hundreds of lawyers, law firm staff, and family members being subject to intimidation, interrogation, detention as criminal suspects, and forced disappearances. To mark the occasion, the CCBE sent a [letter](#) to the Chinese government urging them to take effective steps to drop all charges against the lawyers and order the immediate release of those who are detained. The CCBE also co-signed a letter from China Human Rights Lawyers Concern Group calling for the attention and actions of the

Chinese government in ensuring the protection of rights of the lawyers and other legal workers implicated in the 709 crackdown. Since then, Zhou Shifeng, the director of Fengrui law firm that was awarded the 2015 CCBE Human Rights Award, was sentenced to seven years in prison for “subversion of state power”. In addition, the following lawyers are still facing the charge of “subverting state power”: Li Chunfu, Wang Quanzhang, and Li Heping. The CCBE has again [written to express its concern over the situation of the lawyers](#), and is carefully monitoring the situation as regards those lawyers who have not yet been charged.

LAWYERS AND THE EUROPEAN COURT OF HUMAN RIGHTS

As a reminder, the CCBE is organising, on **19 October 2016 in Paris**, a seminar on “**Lawyers and the European Court of Human Rights**”. Two main themes will be discussed: the role of the lawyer towards the court, and the future of

the European Court of Human Rights (ECHR). Dean Spielmann, the immediate past-president of the ECHR will deliver the opening address. Please note that the seminar will be in French.

The programme of the seminar can be found [here](#).

For more information about the seminar or to register, please email Madeleine Kelleher (kelleher@ccbe.eu).

PUBLIC CONSULTATION ON THE REGULATION OF PROFESSIONS: PROPORTIONALITY AND MEMBER STATES' NATIONAL ACTION PLANS

On **19 August**, the CCBE submitted its [response](#) to the “Consultation on the regulation of professions: proportionality and Member States’ National Action Plans”. The public consultation is linked with the [Directive on professional qualifications](#) and the Single Market Strategy of the European Commission (EC) as its [Communication of 28 October 2015 \(COM \(2015\) 550\)](#) proposed to introduce a common analytical framework that Member States will have to apply when assessing the proportionality of qualification requirements in the field of professional services, including lawyers’ activities. It is also planned that the EC will issue periodic guidance that identifies concrete reform needs for specific Member States and professions that have unjustified regulations.

The Directive on professional qualifications is aimed at minimising the negative impact that professional regulation can have on the single market and has implemented a mutual

evaluation exercise designed to lead to a review of [national requirements](#). The purpose of the public consultation was to allow any stakeholder to comment on national reports from EU/EEA countries (see National Action Plans made available by the EC), in which they had to screen their arrangements for regulating the professions and demonstrate that they were ‘proportionate’ to legitimate public interest objectives. The second part of the questionnaire contained questions to appreciate how the proportionality test could be better shaped and clarified.

The CCBE did not respond to the questionnaire itself as it was not possible to provide input regarding national rules or requirements at national level. Therefore, the CCBE limited its reply to the restatement of existing CCBE positions in relation to the principle of proportionality and core values of the legal profession. The full response can be found [here](#).

CJEU: VAT ON LAWYERS' SERVICES COMPATIBLE WITH THE RIGHT OF ACCESS TO JUSTICE

On 28 July, the Court of Justice of the European Union (CJEU) issued its judgment on the **Belgian VAT Case C 543/14**, stating that the removal of VAT exemption on services supplied by lawyers is not inconsistent with the right to a fair trial and access to justice.

By virtue of a transitional provision dating from the Sixth VAT Directive, Belgium exempted services supplied by lawyers from VAT until 31 December 2013. A number of Belgian bar councils,

together with the CCBE and several human rights and humanitarian associations, brought proceedings before the *Cour constitutionnelle* (Belgian Constitutional Court) challenging the abolition of that exemption, the main thrust of their arguments being that the resulting increase in the cost of litigation breaches various guarantees of the right of access to justice. Before deciding on those arguments, the *Cour constitutionnelle* requested a

preliminary ruling of the CJEU on the interpretation and validity of certain provisions of the VAT Directive.

According to the CJEU, the guarantees conferred by the right to an effective remedy and the principle of equality of arms do not extend to the charging of VAT on services supplied by lawyers. The CJEU also sees no need to exempt citizens who qualify for legal aid under a national legal aid scheme from paying such VAT.

ALBANIA SEMINAR

As a reminder, the CCBE PECO Committee is organising a seminar in Tirana, Albania on **30 September 2016**. The seminar will discuss the following topics: Comparative analysis of Bars and Law Societies in selected EU Member States and Serbia – Report from the World Bank; the Core Values of the Legal

Profession and Enforcement Mechanisms; the Organisation of Initial and Continuous Training and the Use of New Training Methods.

The programme of the seminar can be found [here](#).

LEGAL AID

On **30 June 2016**, the European Parliament and the Council reached an informal agreement on the text of a Commission proposal for a Directive on provisional legal aid for suspects or accused persons deprived of liberty and legal aid in European Arrest Warrant

proceedings. The CCBE followed the legislative process and was active in contributing to the discussions. The directive lays down minimum rules concerning the right to legal aid for suspects or accused persons in criminal proceedings who are deprived of

liberty, and in certain other situations. It also ensures that legal aid is made available in European arrest warrant proceedings, upon the arrest of the requested person in the executing State.

COMMISSION PROPOSAL TO AMEND THE 4TH ANTI-MONEY LAUNDERING DIRECTIVE (AML DIRECTIVE)

The CCBE is examining a Commission proposal of **5 July 2016** to amend **Directive 2015/849 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing** (the 4th AML Directive). The CCBE is concerned with a number of provisions including provisions that will impact on non-business type trusts, new reporting

mechanisms and systematic reporting requirements and proposed changes to the role of Financial Intelligence Units. It also appears that the proposal exceeds international standards by disregarding the Risk Based Approach in respect of beneficial ownership thresholds for shareholding and due-diligence requirements for high risk countries.

EUROPEAN COMMISSION STAKEHOLDER CONSULTATION GROUP FOR THE FITNESS CHECK OF EU CONSUMER AND MARKETING LAW (THE «GROUP»)

The CCBE is delighted to announce that the CCBE has been selected to join the European Commission [Stakeholder Consultation Group](#) for the Fitness Check of EU Consumer and Marketing Law (the «Group»).

The objective of setting up the Group is to “consult the most important consumer and business stakeholders on the key issues of the Fitness Check, in particular in relation to the possible need for further modernisation of the

relevant rules, through a balanced and inclusive approach”. The Chair of the CCBE European Private Law Committee, Friedrich Graf von Westphalen, will be the CCBE’s lead representative in the group.

TRAINING OF LAWYERS ON EU LAW RELATING TO ASYLUM AND IMMIGRATION (TRALIM)

TRALIM is an EU co-funded project implemented by the European Lawyers Foundation in partnership with the Bars of Spain, Italy and Athens, the Law Society of Ireland and the Polish Legal Advisors. It aims at training a minimum of 130 lawyers from the five partner countries in European law relating to asylum and immigration. The seminars will focus on the two separate European legal orders regulating asylum and immigration: a) the EU legal order based on the relevant regulations and directives, the provisions of the EU Charter of Fundamental Rights and the case law of the Court of Justice of the EU, and b) the Council of Europe legal order based on

the application of the European Convention of Human Rights and the case law developed by the European Court of Human Rights. Training will take place through the organisation of 4 seminars in four different venues (Madrid, Athens, Dublin and Rome) **from October 2016 to April 2017**. The seminars are intended for qualified lawyers who may be confronted with legal questions relating to asylum and immigration. The seminars will also offer networking opportunities for further cooperation and action of lawyers from different countries in the pressing issues of asylum and immigration.

UPCOMING EVENTS

- 16/09** *CCBE Standing Committee, Barcelona*
- 18-23/09** *IBA Annual Conference, Washington DC*
- 30/09** *CCBE PECO Seminar, Albania*
- 28-31/10** *UIA 60th Annual Congress, Budapest*

CCBE POSITIONS AND GUIDES ADOPTED BETWEEN JANUARY AND AUGUST 2016

[CCBE comments on the draft code of conduct for the Unified Patents Court](#)

[CCBE comments on the proposal for a Directive relating to certain aspects of company law \(codification\)](#)

[CCBE position concerning contract rules for online purchases of goods and digital content \(COM \(2015\) 634 and 635\)](#)

[CCBE Position Paper on the Judgments Project concerning jurisdiction and the recognition and enforcement of judgments in civil and commercial matters \(No. 2\)](#)

[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](#)

[CCBE Recommendations on the protection of client confidentiality within the context of surveillance activities](#)

[CCBE response to the Public Consultation on a proposal for a mandatory Transparency Register \(TR\)](#)

[Joint letter - Lobbyists for Transparent Lobbying](#)

[Joint Statement- For a free and independent defence before the International Criminal Court](#)

[TRAINAC: An assessment by defence practitioners of the implementation of three procedural safeguards directives](#)