



CCBE Info

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127th Plenary Session in Edinburgh - European Court of Human Rights - Work on a European Convention on the profession of lawyer - Criminal Law - Corporate Social Responsibility - Company law - CJEU Lahorgue case C-99/16 - Multilateral Exchange of Lawyers (MULTILAW)

127TH PLENARY SESSION IN EDINBURGH

On 19 May, the 127th Plenary Session was organised in Edinburgh. The previous evening, the CCBE delegations were kindly welcomed at the Edinburgh Castle for a reception hosted by the Law Society of Scotland and the Lord Advocate, James Wolffe.

At the Plenary Session, Mr Michael Matheson MSP, the Scottish Cabinet Secretary for Justice (Minister of Justice) delivered the keynote address. Mr Matheson presented the justice system in Scotland and highlighted some key achievements made over recent years.

In addition, the Right Honourable Lord Patrick Hodge, Justice of the Supreme Court and Martin Šolc, President of the International Bar Association (IBA) also spoke, the former emphasising the importance of the rule of law and the independence of the judiciary, and the latter highlighting some of the key work recently done by the IBA and its collaboration with the CCBE.

On the evening of the 19th May, the UK Delegation of the CCBE kindly hosted a Gala Dinner at the Signet Library.



Mr Michael Matheson MSP, the Scottish Cabinet Secretary for Justice (Minister of Justice)



The Right Honourable Lord Patrick Hodge, Justice of the Supreme Court



Martin Šolc, President of the International Bar Association (IBA)

EUROPEAN COURT OF HUMAN RIGHTS

From June, the European Court of Human Rights will provide brief reasons for the inadmissibility decisions rendered by a single judge.

The CCBE welcomes this new practice of the Court. For many years, the CCBE has raised with the Court that the absence of motivation of inadmissibility decisions was

problematic for lawyers as they were unable to explain the decision to their clients.

WORK ON A EUROPEAN CONVENTION ON THE PROFESSION OF LAWYER

The CCBE is currently working on the issue of a possible European Convention on the profession of lawyer. Last year, the CCBE proposed to the Council of Europe to initiate work on this issue, given the central role played by lawyers in the administration of justice and given that, at present, there is no binding European instrument specifically related to the profession of lawyers. This proposal was followed, in October 2016, by a motion signed by 22 members of the Parliamentary Assembly of the Council of Europe (PACE) inviting the Committee of Ministers to initiate work on the drafting of such Convention.

In January 2017, the Council of Europe Committee on Legal Affairs and Human Rights was officially seized with

the matter by the PACE and appointed a rapporteur in March: Mrs Sabien Lahaye-Battheu, a Belgian Member of the PACE and a Belgian lawyer since 1990. In May 2017, a CCBE delegation met with the secretariat of the Legal Affairs and Human Rights Committee, who is in charge of the coordination of the work. The report of the rapporteur is expected to be published by the end of 2017. The report will not contain a draft text of the convention but a list of essential principles to be included in a future convention. If the proposal is accepted by the Committee of Ministers, the drafting of the text of the Convention should begin at the end of 2018 or beginning of 2019. The drafting process usually last around two years and is then followed by signatures and ratifications.

CRIMINAL LAW

The CCBE is following developments regarding the “Proposal for a Regulation on the mutual recognition of freezing and confiscation orders”.

During its Plenary Session on 19 May, the CCBE delegations approved a CCBE response to the Commission proposal. The CCBE will be following

the European legislative process with regard to this proposal.

CORPORATE SOCIAL RESPONSIBILITY

During its Plenary Session on 19 May, the CCBE delegations approved a CCBE Practical Guide for Bars and Law Societies on Corporate Social Responsibility.

In February 2013, the CCBE issued Guidance “*Corporate Responsibility and the Legal Profession*” (“*Guidance I*”), providing information about the definition, the basic concepts and the International, EU and national initiatives and norms regarding Corporate Social Responsibility (CSR). In February 2014, the CCBE issued “*Corporate Social Responsibility and the Legal Profession - Guidance II*”.

Guidance II elaborates further on the CSR-implications of the specific role and position of the legal profession, the advice on CSR and the potential CSR-responsibility of lawyers/law firms as suppliers of services and as enterprises. The latest *Guidance* follows up on these issues by highlighting in short bullet form some of the challenges addressed in Guidance I and II. The latest Guidance aims to alert Bars and Law Societies that it has become urgent to deal with some essential questions which are relevant for lawyers dealing with CSR.

COMPANY LAW

The European Commission has recently published a public consultation on [“EU Company law upgraded: Rules on digital solutions and efficient cross-border operations”](#), the purpose of which is to gather feedback from stakeholders and interested parties on various issues in the field of company law, such as the use of online tools and cross-border mobility of companies.

The consultation is divided into the following four parts:

- (1) Reasons to act;
- (2) The use of online tools throughout the companies' lifecycle;
- (3) The cross-border mobility of companies (mergers, divisions and conversions);
- (4) The conflict-of-law rules for companies.

According to the Commission's [Inception Impact Assessment](#) (which was also published at the same

time (and which can be commented until 7 June 2017), the Commission is expected to come forward with a legislative measure during the last quarter of 2017. Based on the feedback received from the consultation, as well as the findings of external supportive studies and research, the Commission is expected to conduct an Impact Assessment of the legislative proposal.

The consultation period runs out on 6 August 2017.

CJEU LAHORGUE CASE C-99/16

On 18 May, the CJEU issued its [decision](#) on the LAHORGUE case, which concerned a preliminary reference made by a French jurisdiction with regards to a refusal to issue a router for access to the private virtual network to a lawyer duly registered at a Bar of another Member State in the context of freedom to provide services under of the [Council Directive 77/249/EEC](#).

The Court thus ruled that: *“The refusal, on the part of the competent authorities of a Member State, to issue a router for access to the private virtual network for lawyers to a lawyer duly registered at a Bar of another Member State, for the sole reason that that lawyer is not registered at a Bar of the first Member State, in which he wishes to practise his profession as a free provider of services, in*

situations where the obligation to work in conjunction with another lawyer is not imposed by law, constitutes a restriction on the freedom to provide services under Article 4 of Council Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services, read in the light of Article 56 TFEU and the third paragraph of Article 57 TFEU. It is for the national court to determine whether such a refusal, in the light of the context in which it is put forward, genuinely serves the objectives of consumer protection and the proper administration of justice which might justify it and whether the resulting restrictions do not appear to be disproportionate in regard to those objectives.”

MULTILATERAL EXCHANGE OF LAWYERS (MULTILAW)

The European Lawyers Foundation is delighted that it has recently been awarded the MULTILAW project. It is a long-awaited initiative, funded by the European Union (EU), which allows greater mobility of lawyers within the European Union and contributes to the development of a European judicial culture. It will set up the first European training exchange scheme for lawyers, based on the good practices established by the European Judicial Training Network for the exchange of judges and prosecutors. The project is led by the European Lawyers Foundation, in partnership

with the Paris Bar, the Athens Bar, the National Bars of Romania, Lithuania, Spain and the Czech Republic and the Polish Legal Advisors. During its life, lawyers from 7 EU Member States (young lawyers with up to 5 years of professional experience) will have the opportunity to be trained abroad in host institutions from the legal sector. During their placement, the incoming lawyers will be able to immerse themselves in other EU Member States' legal systems, to create or consolidate cross-border networking capacities, and to improve their legal and linguistic skills. The duration of

each placement will be two weeks, and hosting institutions in partner countries will be either local and national bars or private law firms with cross-border activities within Europe. The first exchanges are expected to take place in September 2017, and the total number of lawyers to participate in the exchanges will be 75. The project is only the first step towards the planned creation of a permanent structure of exchange of lawyers at EU level in the near future that we hope will be financially supported by the EU and extended to more Member States and lawyers.

RECENTLY ADOPTED PAPERS

- [Submission on whistle-blowing protections](#)
- [CCBE Model Article on Independence](#)
- [CCBE Guidance on the main new compliance measures for lawyers regarding the General Data Protection Regulation](#)
- Practical Guide for Lawyers on Corporate Social Responsibility – Guidance III
- [Response from the CCBE regarding the proposal for a regulation on the mutual recognition of freezing and confiscation orders](#)

UPCOMING EVENTS

- 1-3/06** *FBE Annual Congress, The Hague*
- 07-09/06** *European Networks of Councils for the Judiciary, Paris*
- 30/6** *Standing Committee, Brussels*