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## A EUROPEAN CONVENTION ON THE LEGAL PROFESSION BY 2020

Our specific status as lawyers, acting as intermediaries between citizens and the courts, places lawyers in a central position in the administration of justice. Lawyers therefore play a major role to ensure public confidence in the action of the Courts, whose mission is fundamental in a democratic state based on the rule of law. Nonetheless, individuals must also have trust in the capacity of lawyers to represent their clients effectively in order to believe in the administration of justice. The European Court of Human Rights recalled these principles in a number of decisions, including the case of *Morice v. France* (no. 29369/10, ECHR 2015).



Laurent Pettiti, Chair of the European Convention Working Group

Lawyers help enforce the rule of law. They do so by protecting individual freedoms and by ensuring the enforcement of the right to a fair trial, guaranteed by Article 6 of the European Convention on Human Rights (ECHR). Unfortunately, when the rule of law is threatened, the rights associated with the practice of the legal profession are also restricted quite often.

On 25 January 2018, the Parliamentary Assembly of the Council of Europe (PACE) adopted Recommendation 2121 (2018), submitted on 13 October 2016, on the development of a European Convention on the profession of lawyer. While subscribing to the minimal standards set out in the Committee of Ministers' Recommendation No. R(2000)21 of the member States on the freedom of exercise of the profession of lawyer, the PACE recalled that these standards, although non-binding, are intended to elaborate upon and give practical effect to principles arising from binding obligations, notably those of the European Convention on Human Rights.

While highlighting the fact that lawyers continue dealing with harassment, threats and attacks, and that these acts are even increasing in some States, where they have become widespread and systematic and seem to be caused by a deliberate policy, the PACE

believed that this situation proved the necessity to reinforce the legal status of Recommendation No. R(2000)21 by integrating its provisions into a binding convention and adding to it an efficient control mechanism. This convention could also become a source of binding principles on the wider international level by allowing non-member States to accede to it.

The PACE therefore called on the Committee of Ministers to draft and adopt a Convention on the profession of lawyer, based on the standards set out in Recommendation No. R(2000)21. It is now up to the Committee of Ministers of the Council of Europe to implement the PACE recommendation, with the help of the Council of Europe working parties and the technical assistance of the CCBE, so that the Council of Europe member States can sign a 225th treaty by 2020.

As European lawyers and with the assistance of our professional bodies, we must support and unite our efforts for this ambitious and essential project.

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## ANTI-MONEY LAUNDERING

### Revision of the 4th Anti-money laundering Directive

On 19 April, the European Parliament plenary session formally approved the revised 4th Anti-money laundering Directive following an agreement on its revision by the Parliament, Commission and the Council in December 2017. The agreement marks the fifth and latest update to the EU's Anti-money laundering Directive.

The revised Directive means that there will be public access to national registers of beneficial owners of companies operating in the EU, including subsequent interconnection of national registers. There will also be access to national registers of beneficial owners of trusts operating in the EU, where there is a legitimate interest, as it is in the cases of NGOs and investigative journalists, including subsequent interconnection of national registers.

The scope of the Directive has been extended to cover all forms of tax advisory services, letting agents, freeports, art dealers, electronic wallet providers and virtual currency exchange service providers. Of interest to the CCBE, self-regulating professions must now report on suspicious transaction reports received, suspicious transaction reports forwarded to the Financial Intelligence Unit (FIU), violations of the Anti-Money Laundering Directive and imposed sanctions. The Directive also provides for greater cooperation between national FIUs and the inclusion of bank supervisors in the exchange of information. Additionally, the Directive provides better regulation in the protection of whistle-blowers who signal money laundering activities such as the right to anonymity.

The amended Directive will enter into force at the end of 2019.

### FATF revision of risk-based approach guidance for professions

The CCBE is participating in the FATF project to revise the risk-based approach (RBA) guidance for professional intermediaries (lawyers, accountants and trusts and company service providers). The FATF has agreed details about the proposed revision regarding information on the initial framework, draft timelines, terms of reference and the structure of the proposed Guidance. The drafting work of the revised guidance has now begun, and the first draft was discussed during an FATF meeting in Vienna on 23-24 April.

### TAX3 Inquiry - Committee on Financial Crimes, Tax Evasion and Tax Avoidance

On March 1, the European Parliament confirmed the decision taken in February by the Conference of Presidents to set up a special committee on financial crime, tax fraud and tax avoidance. The new TAXE 3 Committee is the fourth committee, after the TAXE, TAXE 2 and PANA committees, to address these issues. It is expected to build on and complete the work carried out by its predecessors. The TAX3 Committee will last for 12 months and will comprise of 45 members. Its mandate will focus on tax avoidance, tax evasion, and money laundering. It will aim to finalise the work begun under the TAXE 1 and TAXE 2 special committees, as well as the implementation of the recommendations set out by MEPs who worked on the 'Panama Papers' inquiry.

On 22 March, in the aftermath of the election of its members by the Parliament on 14 March, the Committee convened in Brussels for its inaugural meeting. Petr Ježek (ALDE) of the Czech Republic, co-rapporteur on the PANA Committee, was appointed chair of the TAXE3 Committee. The TAX3 Committee met once again on 16 April in Strasbourg and have agreed to present a report on their inquiry by 1 March 2019. The CCBE will be following the activities of the TAXE3 Committee.

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## CRIMINAL LAW

### Commission proposal on countering money laundering by criminal law

The CCBE's AML and Criminal Law Committees have been attentively following the Commission proposal on "Countering money laundering by criminal law". The CCBE has already submitted a position paper in this regard and participated in a number of meetings with various representatives.

The Committee prepared a second position paper in order to illustrate practical problems with regard to the Council and Parliament positions. The Parliament and Council are carrying out trilogue negotiations, assisted by the Commission, with a view to reaching an agreement on the proposal. The second trilogue took place on 21 February 2018. The third trilogue took place on 12 April.

### Commission proposal concerning the mutual recognition of confiscation and freezing orders

The CCBE's Criminal Law Committee is following developments regarding the Commission proposal concerning the mutual recognition of confiscation and freezing orders. The CCBE is pleased to report that the Parliament Committee Report reflects many of the organisation's concerns regarding procedural safeguards.

However, Member States reached a General Approach (a common position) in December which does not contain any safeguards which means that there is still much to work on. The lack of procedural safeguards led to a statement of rejection of the General Approach by Germany.

### European Public Prosecutor

On 12 October, the regulation establishing the European Public Prosecutor's Office (EPPO) was adopted by 20 Member States which are part of the EPPO enhanced cooperation. Following the adoption of the Regulation, significant measures for the practical set-up of the EPPO will take place during the current Bulgarian Presidency. The Commission, which is entrusted with the establishment and initial administrative operation of the EPPO, has already undertaken a number of steps towards setting up the EPPO. This includes creating an EPPO Expert Group, drafting the Operating Rules of the Selection Panel for the selection of the European Chief Prosecutor and the European Prosecutors, procuring a business case study for the EPPO Case Management System and establishing the EPPO budget for the year 2019. At the same time, the EPPO Regulation will require that some changes be made at a national level. The Commission, together with the Bulgarian Presidency, organised a conference on the establishment of the EPPO. The Conference took place in Sofia on 26-27 March. The initial set-up and functioning of the EPPO is a priority for the Bulgarian EU Presidency and is also part of the established programme of the Trio EU Presidencies of Estonia, Bulgaria and Austria. The Conference provided an opportunity to address and discuss the issues surrounding the establishment of the EPPO amongst practitioners and representatives of the Member States, European Parliament, Council, Commission, Eurojust, OLAF, Europol, the European Judicial Training Network, representatives of Third Countries, Defence Lawyers Associations, and academia. The CCBE was pleased to be invited to this conference, as this allowed the views of defence practitioners to be presented.

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## PERMANENT DELEGATION TO LUXEMBOURG

### Draft amendments to the Rules of Procedure of the General Court

The CCBE is examining two draft amendments to the Rules of Procedure of the General Court which have been sent to Member States. The first draft amendment is intended to enable the Vice-President of the General Court to exercise a function and a competence with which he is not currently vested. The second draft amendment is intended to make use of the e-Curia IT application mandatory for the lodging of procedural documents and the service of documents by the Registry in connection with proceedings before the General Court. The CCBE will prepare a position in response to the proposals.

### Amendments to Protocol No 3 on the Statute of the Court of Justice of the European Union

The CCBE is examining a paper from the Court of Justice of the European Union which has been sent to EU Members States concerning three primary aspects (i) the transfer to the General Court of the jurisdiction in principle to adjudicate, at first instance, on infringement proceedings based on Article 108(2) and Articles 258 and 259 TFEU; (ii) the conferral on the Court of Justice of responsibility to deal with actions for annulment linked to the failure to properly comply with a judgment delivered by the Court under Article 260 TFEU and (iii) the introduction, for certain categories of appeals, of a procedure whereby the Court of Justice will first determine whether certain appeals are allowed to proceed. Additionally, the paper contains a proposal to harmonise terminology. The CCBE will prepare a position in response to the proposals.

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## DIGITAL DAY 2018

On 10 April, the CCBE participated to Digital Day 2018, an event organised by the European Commission (DG connect), which gathered representatives of EU countries, private industries, academia and civil society.

The event saw 25 countries sign a [Declaration of cooperation on Artificial Intelligence](#), a joint commitment to further collaborate on the most important issues regarding Artificial Intelligence (AI). Commissioner Mariya Gabriel recalled that any successful strategy dealing with AI needs to be cross-border. The EU's priorities lie in ensuring an adequate legal and ethical framework which includes privacy and protection of personal data.



Mounir Mahjoubi, State Secretary of Digital Affairs in France attends Digital Day on 10 April 2018

The Future Committee of the CCBE is currently considering the use of AI systems within the legal profession and their impact on judicial systems with a view to outlining legal and deontological issues that these technologies may create.

On 25 April, the European Commission published a communication on Artificial Intelligence which details the strategy of the EU.

You can find the press release of the event [here](#).

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## LAUNCH OF THE EUROPEAN TRADATA PROJECT

On 4 April, the Paris Bar organised the first training seminar for lawyers as part of the European project TRADATA, whose aim is to train at least 630 lawyers in the European Union, over two years, and to raise awareness to the fundamental issues of the General Data Protection Regulation (GDPR). This project is led by the European Lawyers Foundation (ELF), in partnership with the Paris Bar and 8 other Bars and Law Societies.

The speakers at this successful event on a current hot topic were legislators, regulators and law practitioners, who are directly facing these issues. The fruitful and relevant discussions that took place show that a number of participants have a great interest in this topic. A summary of the debates will be available soon.

Basile Ader, Vice-President of the Paris Bar, commenced the event by referring to the practical guide that was recently published in France. This guide was developed by the Paris Bar, the Conseil national des barreaux and the Conférence des Bâtonniers in order to help lawyers to achieve compliance and to advise their clients. Isabelle Jégouzo, Head of the European Commission Representation in Paris; Bénédicte Fauvarque-Cosson, Professor of Private Law; Marianne Billard, representing the French deputy Paula Forteza, rapporteur for the French bill on “personal data protection”; Jean Lessi, the Secretary General of the CNIL and Elise Latify, independent consultant, led the event together with Anne-Laure Villedieu, Pierre Desmarais, Benjamin Pitcho and Jérôme Deroulez, by addressing all important topics. The speakers reiterated the strategic challenge that is the success of the implementation of this new regulation within the European Union, which as a result should contribute to uniform global standards on personal data protection.

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## ARTIFICIAL INTELLIGENCE, HUMANE JUSTICE

The CCBE is currently collaborating with the Lille Bar, Lille Catholic University, la Délégation des Barreaux de France et la Conférence des Bâtonniers de France et d’Outre-Mer on the organisation of an international conference. The theme of the conference will be “Artificial Intelligence, Humane Justice” and it will take place on 30 November 2018 in Lille, France.



Given the progress of AI technology over the past few years, the CCBE is keen to provide a platform for lawyers to discuss this ground-breaking technology and its implications for their profession. The conference will include workshops on topics such as Access to Justice, Blockchain, and Legal Design. It will also feature an international array of speakers who will share their insights, highlight the potential applications of AI technology, and address the ethical dilemmas surrounding its use in law/legal affairs.

The full programme (speakers, schedule, practical details) and the agenda will be made available in due course.

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## ECBA SPRING CONFERENCE



On 20-21 April, the CCBE’s President, Antonín Mokry, attended the European Criminal Bar Association (ECBA) Spring Conference in Oslo and delivered the day’s opening remarks. The Conference dealt with “Pre-Trial Detention and Compensation: Current Issues and Minimum Standards.”

Mr. Mokry emphasised the long history of cooperation between the CCBE and the ECBA and took the opportunity to congratulate his counterparts on their initiative for an “Agenda 2020: A new Roadmap on minimum standards of certain procedural safeguards” which is designed to lead to the strengthening of the legal principle of mutual recognition and mutual trust. The CCBE will make every effort to support the ECBA Roadmap so that both organisations can continue to work together to further promote procedural safeguards.

The CCBE President, Antonín Mokry, at the ECBA Conference in Oslo

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## ENCJ WORKSHOP ON INDEPENDENCE AND ACCOUNTABILITY

On 14 March, the CCBE Secretary General, Philip Buisseret, participated in a workshop organised by the European Network of Councils of the Judiciary on the “Independence and Accountability” of judges.

The workshop aimed to present and discuss the preliminary results of a research project on judges’ independence and accountability before representatives of the European Union, the Council of Europe, CEPEJ, the Network of the Supreme Court presidents, the CCBE, and the World bank. Through this project, the ENCJ conducted a survey among European judges and developed a set of indicators based on European and international standards for judicial independence and accountability. These indicators were first applied to 25 judiciaries in 2014-15. Following an evaluation of the project’s results, these indicators were refined and applied again in 2016-17. The ENCJ indicators are useful for several reasons as they help identify risks to the independence of the judiciary, they provide insights into the overall situation of the judiciary in Europe, and they improve judicial systems at the national level.

During the workshop, some stakeholders expressed reservations regarding the methodology of this project, which relies on self-assessment. However, it was acknowledged that despite the underlying challenges, it remains an endeavour worthy of interest.

The participants concluded that further exchanges were needed as it was necessary to introduce qualitative criteria, refine the current indicators, and consider a more objective methodology.

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## EUROPEAN LAWYERS FOUNDATION

On 3 and 4 April 2018, the European Lawyers Foundation (ELF) helped the International Bar Association to organise a conference in Livingstone, Zambia on “Globalising your practice – opportunities and challenges”.

The conference aimed to train lawyers from the Southern African Development Community (SADC) region on issues related to the practice of lawyer at a global level, including the regional consequences of globalisation.

The conference welcomed speakers from the Americas, Africa, and Europe who presented topics such as international subcontracting, joint ventures in the legal sector, international arbitration of commercial disputes, raising capital in international markets, and trends in the management of law firms. In the end, 120 lawyers from SADC countries participated in the conference, which was also attended by the Minister of Justice, Mr. Given Lubinda, and Mr. Likando Kalaluka, the Attorney General.

A report about the conference will be soon uploaded on ELF’s website. Discover it [here](#).



The Minister of Justice, Given Lubinda, and the Attorney General, Likando Kalaluka, appear with representatives of the Law Association of Zambia, the SADC Lawyers Association, speakers and ELF’s Managing Director

## NEWS IN SHORT

▷ The CCBE was delighted to discover that France ratified the Protocol No. 16 to the Convention on the Protection of Human Rights and Fundamental Freedoms.

▷ The CCBE always encourages participation in contests and awards such as the ELI Young Lawyers Award and the CEPANI Award which will both take place in 2018.

The goal of the ELI Young Lawyers award is to provide the young European legal community with a mechanism to propose practical suggestions for the improvement

of European law. More information on the contest is available [here](#).

The goal of the CEPANI Award is to offer young professionals with an interest in the field of national and international arbitration the chance to gain recognition among their peers. More information on the contest is available [here](#).

▷ Did you know that on February 1, 2018 hundreds of advocates demonstrated in front of the Dutch parliament to prevent the demolition of legal aid?

## UPCOMING EVENTS

*17/05/2018 Innovative Legal Services Forum – Prague*

*18/05/2018 CCBE Plenary Session – Prague*

*29/06/2018 CCBE Standing Committee – Brussels*