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James Mac Guill (3<sup>rd</sup> Vice-President), Jiří Novák (Chair of CCBE's IT Law Committee) and Iain Mitchell QC (Chair of CCBE's Surveillance Working Group) at the Evidence2e-Codex workshop

## NEW CCBE PRESIDENCY FOR 2019

During its Plenary Session on 29 November 2018, the CCBE nominated José de Freitas (Portugal) to become its new President starting from 1 January 2019. He takes over from Antonín Mokrý. His presidency will be supported by Ranko Pelicarić (Croatia) as 1<sup>st</sup> Vice-President, Margarete von Galen (Germany) as 2<sup>nd</sup> Vice-President, and James Mac Guill (Ireland) as 3<sup>rd</sup> Vice-President.

José de Freitas was admitted to the Portuguese Bar Association in 1980. He has been Head of the Portuguese Delegation to the CCBE since 2006. He has been a partner at Cuatrecasas, Gonçalves Pereira & Associados, Sociedade de Advogados, SP, RL since 1990, having founded the firm's Porto office in 1989.



New CCBE Presidency for 2019

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## THE CCBE'S RECENT ACTIVITIES IN THE CONTEXT OF E-EVIDENCE AND E-JUSTICE

### Evidence2e-Codex workshop

On Tuesday 15 January 2019, the CCBE hosted a workshop in collaboration with INTERPOL as part of the [EVIDENCE2e-CODEX](#) project which aims to facilitate the exchange of electronic evidence within the European Union and enable international cooperation in the criminal sector. The project seeks to create a legally valid instrument to exchange digital evidence over the [e-CODEX](#) infrastructure in the context of Mutual Legal Assistance (MLA) and European Investigative Order (EIO) procedures.

The aim of the meeting was to share with representatives of the legal community the project's legal research outcomes and to collect their feedback on the status of the transposition and implementation of the EIO Directive in selected EU Member States, the practical co-existence between EIO and MLA procedures and related legal issues, data protection implications in EIO and MLA procedures, and the available instruments for technical support.

The workshop was a real success and brought together many important stakeholders who shared their experience and expertise. Among the participants were representatives from the legal professions, such as lawyers, Bar associations, prosecutors, judges, but also representatives from public and private entities, such as the European Commission and Parliament, the Council of the EU, some Ministries of Justice, EUROJUST, INTERPOL, the European Data Protection Board (EDPB), the European Data Protection Supervisor (EDPS), the European Judicial Network (EJN), academics, Microsoft and Vodafone.

The workshop was divided into two parts. The first part consisted of a theoretical approach to the project with speeches from Maria Angela Biasiotti (CNR-ITTIG, Italy - EVIDENCE2e-CODEX Project Coordinator), Jeanne Mifsud Bonnici (University of Groningen), Charlotte Anne (Legal Officer, INTERPOL), Djamila Ben-Miloud (European Commission), Fabrizio Turchi (CNR-ITTIG, Italy) and Nikolaos Matskanis (CETIC, Belgium). The second part was more practical and consisted of panel discussions. The first panel discussion related to the co-existence of EIO and MLA from the perspective of judges & prosecutors, the second discussion related to EIO and MLA from a defence lawyer's perspective and the third discussion related to investigatory access to data held by private entities, e.g. ISPs.

The panel of defence lawyers was chaired by CCBE Senior Legal Advisor, Simone Cuomo, and was composed of high-profile members of the CCBE, namely James Mac Guill (Vice-President), Jiří Novák (Chair of CCBE's IT Law Committee) and Iain Mitchell QC (Chair of CCBE's Surveillance Working Group). This panel discussed several aspects relating to the project, notably the CCBE's survey on the exchange of data with lawyers in the context of the EIO, and the possible specific issues for lawyers (including defence rights) that need to be addressed when EIO and MLA procedures are digitalised.

### European Parliament's Civil Liberties Committee (LIBE)'s [hearing](#) on «Electronic evidence in criminal matters» and high-level debate on «The security of European citizens: What role for e-evidence?»

Recently, Iain Mitchell QC, Chair of the CCBE's Surveillance Working Group, represented the CCBE and presented our position paper regarding the new proposal for a Regulation on European Production and Preservation Orders for electronic evidence in criminal matters at the hearing (video available [here](#)) on «Electronic evidence in criminal matters» that took place at European Parliament's LIBE Committee.

This hearing came as part of the ongoing legislative procedure on the proposed Regulation on European Production and Preservation Orders for electronic evidence in criminal matters, on which the CCBE has raised a number of issues and concerns that need to be addressed in the course of the legislative process, particularly in relation to the protection of the confidentiality of lawyer-client communications, judicial validation, grounds for refusal of the execution of the order, the need for a sufficient degree of suspicion, the importance of notifying data subjects, and rights of the defence ([see CCBE's position paper under this link](#)).

Following the introduction of the LIBE Committee Chair, MEP Claude Moraes, the programme of the hearing included the presentation of a study requested by LIBE on e-evidence which was



Iain Mitchell QC, Chair of the CCBE's Surveillance Working Group, presented the CCBE position paper at the hearing on «Electronic evidence in criminal matters» at European Parliament's LIBE Committee

followed by speeches from high-level speakers representing a wide variety of actors dealing with e-evidence (judges, prosecutors and lawyers, data protection and fundamental rights authorities and organisations, as well as telecommunication and internet service providers), who shared their current experience and views on the proposed e-evidence files.

### CCBE's proposals included in the adopted Council's Strategy and Action Plan on e-Justice for the period 2019-2023

The Justice and Home Affairs Council recently adopted the [Strategy](#) and [Action Plan](#) on the development of e-Justice for the period 2019-2023. This Action Plan includes two projects which are based on suggestions made by the CCBE on the basis of the project proposals which were approved by the June CCBE Standing Committee.

The first project relates to **Find-a-Lawyer II on the creation of a verification system for the status of a lawyer (page 18 Action Plan)**. This action is based on the CCBE's proposal to establish a European-level interoperability solution for the identification of lawyers and the verification of their role as a lawyer (including the validity of their practising certificate) in electronic cross-border court procedures.

The second project relates to **Artificial Intelligence for Justice (page 15 Action Plan)**. This action includes the CCBE's proposal for a guide on the use of artificial intelligence by lawyers in the EU.

The fact that these proposals are included in the action plans means that EU funding will be made available for the implementation of these projects. During the period 2019-2023, the EU's work on e-Justice will be focussed on three key objectives, namely the improvement of access to information in the area of justice, the continuation of the digitalisation of judicial and extrajudicial proceedings to offer easier and faster access to the courts, and ensuring the technical implementation and management of national e-Justice systems to facilitate interconnection and interoperability between Member States' systems.

### Adoption of the first European Ethical Charter on the use of artificial intelligence in judicial systems

The CCBE closely followed and welcomed the recent adoption of the first European text setting out ethical principles relating to the use of artificial intelligence (AI) in judicial systems by the European Commission for the Efficiency of Justice ([CEPEJ](#)) of the Council of Europe.

The [Charter](#) provides a framework of principles that can guide policy makers, legislators and justice professionals when they grapple with the rapid development of AI in national judicial processes.

The CEPEJ's view, as set out in the Charter, is that the application of AI in the field of justice can contribute to improving the efficiency and quality of courts' work, and it must be implemented in a responsible manner which complies with the fundamental rights guaranteed, in particular, by the European Convention on Human Rights (ECHR) and the Council of Europe Convention on the Protection of Personal Data. For the CEPEJ, it is essential to ensure that AI remains a tool in the service of the general interest and that its use respects individual rights.

Read full press release: [Council of Europe adopts first European Ethical Charter on the use of artificial intelligence in judicial systems](#).

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## THE 7<sup>TH</sup> WORLD CONGRESS AGAINST THE DEATH PENALTY TO BE HELD IN BRUSSELS FROM 26 FEBRUARY TO 1 MARCH 2019

For more than ten years, AVOCATS.BE and the Bar of Liège have been full members of the World Coalition ["Together Against the Death Penalty"](#).

As its name suggests, the Coalition aims to gather together all the initiatives of abolitionist activists. Chaired by Robert Badinter, every two years it organises a world congress which brings together, in addition to many personalities (heads of state, Nobel Peace Prize winners, former death row prisoners), more than 1500 participants including, of course, many lawyers.

This year, the Congress will take place in Brussels, in five different locations, but mainly at the Egmont Palace, a stone's throw from the Palais de Justice. The [programme](#) includes, in addition to Plenary Sessions, workshops, cultural events and a series of side events organised by partner organisations.

Among the themes to be discussed during the Congress will be abolitionist strategies, how to prevent the resurgence of the

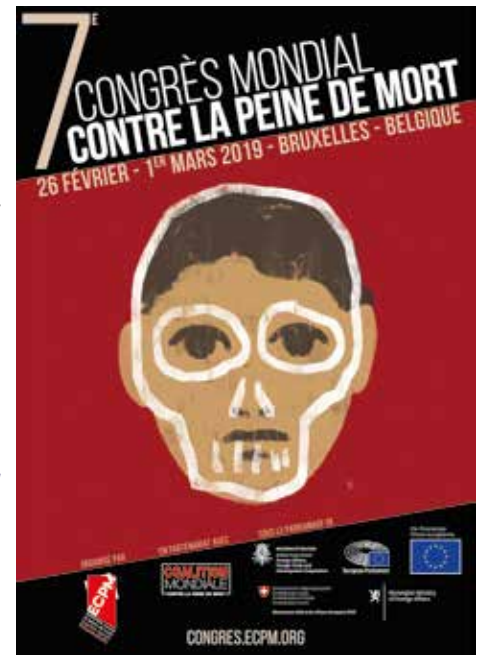
death penalty, the private sector and the death penalty, women and the death penalty, LGBT and the death penalty, Bars in the fight against the death penalty, etc.

[Registration](#) is free but mandatory.

For the past 20 years or so, the use of the death penalty has been gradually declining. Yet 20,000 people are still languishing on death row in the 55 countries that still apply the death penalty (compared with 106 abolitionist countries, six that only apply the death penalty in exceptional circumstances – war or revolution – and 31 de facto abolitionists – who have not carried out executions for at least 10 years). And, year in and year out, 1500 men and women are executed every year.

There is still a long way to go.

Let us continue the struggle.  
Patrick Henry



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## FINNISH BAR PROJECTS FOR 2019

The Finnish Bar Association has founded three working groups to prepare the profession and the Bar for the challenges that lie ahead.

Firstly, we feel that the number of female lawyers in the Finnish Bar (30 %) is too low – we already know that young female lawyers are leaving the profession, mainly due to the difficulties and obstacles in combining work and family life. One working group is trying to find a way to communicate to young lawyers (both women and men), law firms and future lawyers, that it is not just vitally important, but also possible to achieve work-life balance in our profession. This requires a change of practice and especially attitudes in our profession. Female lawyers should also be encouraged to enter into partnership and become entrepreneurs, which would enable more flexible working hours.

Secondly, the Bar wants to examine if its rules and regulations are still valid in their entirety. Are we just overregulating? Are all our rules still necessary and should we update our rules to be more future-proofed? The Bar does not want to block new innovative ways to provide legal services. Quite the opposite – we are looking for new innovations, for instance through combining AI and small law firms' legal innovation. This requires that we take a critical look at our rulebook to assess which of our rules are still essential and valid and which are not.

Thirdly, our members suffer more and more from stress, have difficulties maintaining a reasonable workload and, when struggling with these issues alone, they need more help staying healthy and fit for work. The Bar founded a working group to identify ways to help its members, especially sole practitioners but also young lawyers with work-life balance challenges, to find tools to keep them fit for work. The local Bars and lawyers' colleagues have a crucial role to play in recognising when a colleague is in need of help and in advising him or her to seek professional assistance.

All these working groups will report their findings at the end of 2019.

Minna Melender  
Secretary General  
Finnish Bar Association

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## “ADVOKATSAMFUNDET” CELEBRATES ITS 100<sup>TH</sup> ANNIVERSARY

In 2019, the Danish Bar and Law Society (“Advokatsamfundet”) celebrates its 100<sup>th</sup> anniversary! Advokatsamfundet was founded in 1919 by an initiative from the Supreme Court lawyer Otto Liebe, and the establishment was by and large the result of a comprehensive judicial reform entering into force on 1 October 1919. It was not until this reform that the principle of the tripartition of power (as laid out in the Constitutional Act of 1949) was carried out. Advokatsamfundet comprises lawyers holding the Danish title “Advokat” authorized to practice law whether in Denmark, Greenland, the Faroe Islands or abroad. Registration with Advokatsamfundet is mandatory, and today the organization has approximately 6500 members. The objects for which Advokatsamfundet is established are:

- » to safeguard the independence and integrity of lawyers
- » to ensure and enforce the discharge of the duties and obligations of lawyers
- » to ensure the professional competence of lawyers; and
- » to work for the benefit of rule of law in Denmark

The anniversary will be celebrated throughout the year of 2019. On 24 May 2019, a seminar with prominent national and international speakers has been arranged, and in the evening a huge gala event will take place at the Royal Opera House in Copenhagen.

Furthermore, Advokatsamfundet will publish a book portraying 10 lawyers, former and current. The main focus of the book will be the interaction between Danish lawyers and the development of Danish society during the past 100 years and it will be published by the largest Danish publishing house, Gyldendal. The book has been authored by a historian and former editor-in-chief at a large national newspaper and contains solid research, inspiring conversations, provocative portraits, and profound reflections and should be an interesting read for all people interested in the development of Danish society over the past 100 years. A little later, in September 2019, Advokatsamfundet has invited CCBE and its delegations to Copenhagen where a Standing Committee will be conducted.

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## DAY OF THE ENDANGERED LAWYER

January 24, 2019 marked the Day of the Endangered Lawyer, which this year was dedicated to the situation of lawyers in Turkey. This day, which was created in 2010, is jointly organised by the European Democratic Lawyers’ Association (AED-EDL), the European Association of Lawyers for Democracy (ELDH) and the foundation “The Day of the Endangered Lawyer”. On this occasion, the CCBE and other lawyers’ associations and Bars gathered in front of the Turkish consulate in Brussels to support Turkish lawyers. Similar gatherings were held in 22 countries around the world. It also provided an opportunity to send a letter to the Consulate, jointly signed by several organisations, requesting that measures be taken to ensure that lawyers in Turkey can exercise their professional activity without hindrance, intimidation, harassment or undue interference. Since the failed coup d’état in 2016, more than 1,500 Turkish lawyers have been prosecuted, more than 590 arrested and more than 200 convicted.



### UPCOMING EVENTS

28/02/2019	CCBE Standing Committee - Vienna
28/02/2019 – 02/03/2019	47 <sup>th</sup> European Presidents’ Conference – Vienna
29/03/2019	Standing Committee - Rome