

# PRESS RELEASE

## CCBE wins case against the Dutch State on surveillance of lawyers

02/07/2015

**The District Court of The Hague has ruled that surveillance of lawyers by intelligence agencies constitutes an infringement of fundamental rights and orders the State to stop all surveillance of lawyers' communications.**

The Court was questioned on the legality of eavesdropping on lawyers' calls and communications by domestic intelligence agencies in a challenge brought against the Dutch State by the law firm Prakken d'Oliveira, the Dutch Association of Criminal Defence Lawyers (NVSA), and the Council of Bars and Law Societies of Europe (CCBE). In its verdict delivered on July 1<sup>st</sup>, the court recognises that the ability to communicate confidentially with a lawyer is a fundamental right which is currently being breached by Dutch surveillance policy.

The court orders the Dutch government to stop all interception of communications between clients and their lawyers under the current regime within six months. The Dutch State has six months to adjust the policy of its security agencies regarding the surveillance of lawyers and ensure that an independent body exercises effective prior control in order to prevent or stop tapping of lawyer-client conversations.

Under the existing policy only a government minister may give the authorisation to conduct surveillance, while monitoring by a Supervisory Committee (CTIVD) only takes place after the fact. This is judged insufficient by the court.

The court also ruled that information obtained from surveillance of lawyers may only be released to the public prosecutor if an independent body has examined if and under what conditions security agencies were allowed to conduct surveillance.

Current national policy allows Dutch security services to transmit information obtained from the interception of lawyer-client communications to the public prosecutor. The

court finds this practice unlawful and holds that the current safeguards are inadequate in view of the case law of the European Court of Human Rights.

In welcoming the decision, CCBE President Maria Ślęzak commented: *"The essential principle of lawyer-client confidentiality is increasingly threatened for reasons that are not always made clear to the public. Our goal is to put a stop to arbitrary surveillance and to put clear limits on the monitoring of private communications."*

The State may appeal the ruling within four weeks.

### Note to editors

Transcript of the judgement (in Dutch):  
<http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2015:7436>

CCBE takes mass surveillance to court (press release, 27/05/2015):  
[http://www.ccbe.eu/fileadmin/user\\_upload/NTCdocument/EN\\_pr\\_0315pdf1\\_1432724578.pdf](http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/EN_pr_0315pdf1_1432724578.pdf)

CCBE Statement on mass electronic surveillance by government bodies (including of European lawyers' data):  
[http://www.ccbe.eu/fileadmin/user\\_upload/NTCdocument/EN\\_14142013\\_CCBE\\_Sta1\\_138\\_2086457.pdf](http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/EN_14142013_CCBE_Sta1_138_2086457.pdf)

Dutch Intelligence Service (AIVD) taps Prakken d'Oliveira lawyers:  
<http://www.prakkendoliveira.nl/en/news/dutch-intelligence-service-aivd-taps-prakken-doliveira-lawyers/>

## **About the CCBE**

The 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.

Founded in 1960, the CCBE is recognised as the voice of the European legal profession by the EU institutions, and acts as the liaison between the EU and Europe's national bars and law societies. The CCBE has regular institutional contacts with those European Commission officials, and members and staff of the European Parliament, who deal with issues affecting the legal profession. The CCBE is an international non-profit-making association incorporated in Belgium.

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