

# Interview with the CCBE President James MacGuill

## 1 What is your professional background and what are your interests outside of your work as a lawyer?



I am a practicing solicitor in Ireland and Managing Partner at MacGuill and Company, a practice of five solicitors. Having graduated from University College Cork in 1983 I was admitted to the Roll of Solicitors in 1986. I have been in private practice ever since as a litigator with an emphasis on public law, especially criminal law and human rights.

I have been actively involved in The Law Society of Ireland where I chaired many of its committees and served as President in 2007-2008. I joined the CCBE in 2008 and became Head of the Irish Delegation to the CCBE on two occasions between 2012 and 2018. I also chaired the CCBE Criminal Law Committee from 2013 for a period of 6 years before joining the CCBE Presidency in 2019. I was elected President of the CCBE for 2022 by the CCBE Plenary on 10 December 2021.

Outside work, I enjoy sport of most forms and travel, especially to historic places.

## 2 What are the most important challenges currently faced by the legal profession?

The Legal Profession are not alone in needing to adapt to survive the fallout of the COVID-19 pandemic. I believe that in reality we will never go back to exactly how things were before. Many of the positive changes were coming anyway and were merely accelerated. However, we are naturally concerned to resist any steps, whether at EU or member state level, to compromise citizens' rights to due process by opportunistically presenting some technologies as efficiencies.

In particular, the use of Artificial Intelligence in legal affairs must be robustly scrutinised. We must be vigilant to ensure that progress in the field of digitalisation of justice and artificial intelligence does not come with any unacceptable diminution in the quality of justice. The CCBE has made its position perfectly clear in position papers on the proposed regulation on the Artificial Intelligence Act and on the Digitalisation of cross-border judicial cooperation. It is likely that each of these measures will pose a significant challenge to us in the coming year.

As a criminal lawyer, I am acutely aware of how external events can influence the pace, content and introduction of EU legislative initiatives. We have seen many examples of this in the past.

Furthermore, the CCBE has identified many problematic issues regarding the current Anti-Money Laundering Package which has been recently proposed by the Commission and is currently being examined by Member States and the European Parliament. We are especially concerned by the overarching supervisory aspects of the proposed Anti-Money Laundering Authority (AMLA) which is unacceptable in its interference with the independence of the Bars. Expressing this concern in order to ensure the independence of the profession is clearly a major priority, and we will undertake to provide expert, honest and constructive observations to demonstrate the deficiencies of the current proposal.

A core value of the CCBE is to promote and defend the rule of law. This also includes dangers which our colleagues are exposed to. The CCBE must be the voice of independent Bars and Law Societies and through them individual practitioners in order to safeguard the rule of law in the interests of society in general.

Ever since the proposal for a European Public Prosecutor's Office (EPPO) was first contemplated, the CCBE has engaged with the European Commission on the establishment of the Office. This Office is now a reality and the challenge for us all will be to ensure that the new powers are exercised in a proportionate and just way. The voices of Bars and Law Societies are essential in protecting our shared values and critically in ensuring that our colleagues have access to training and other resources to cope with this new legal framework. We are particularly pleased that Commissioner Didier Reynders has indicated his support for additional resources to be provided towards the training of lawyers and we expect to be liaising closely with the Commissioner, not only with respect to EPPO training, but also additional training needs which the profession may have.

Last, but not least, we will be following up on the new pact on migration and asylum as set out in our [position paper](#) and as demonstrated in the most concrete possible fashion by the excellent work of [European Lawyers in Lesvos](#) (ELIL) which provide free, independent legal assistance to asylum seekers in Greece.

### 3 What will be your main priorities during your Presidency?

#### Defending the principle of non-identification of lawyers with their clients

In 2022, the CCBE will also dedicate itself to defending the principle of non-identification of lawyers with their clients. This is an important priority for 2022 as recent events, at a European and international level, have given rise to situations whereby lawyers have been presented as enablers of illegal or unethical practices. This CCBE believes this is wholly unjustified. The CCBE and its member Bars and Law Societies are committed to the fight against any illegal activity, including money laundering and tax evasion. The CCBE is committed to playing an active part and has taken numerous proactive measures towards increasing awareness amongst the profession with practical examples of risks which our members should be aware of.

The legal profession is highly regulated at a national level in all EU Member States and the CCBE is united in its efforts to educate its membership regarding various risks and assist them with meeting their obligations. The legal profession is widely alert to the threat of illegal activity and will always support clear, workable and proportionate measures. However, the CCBE cannot agree with recent trends at an EU and international level which seek to introduce measures which impact on the very independence of the profession, including issues regarding self-regulation.

It is important to be clear that the CCBE and its member Bars and Law Societies do not, and never will, condone the actions of any lawyer who knowingly participates in any criminal activity of a client, whether relating to money laundering, tax evasion or any other criminal activity. However, recent proposals would have a serious impact on the legal profession and society at a wider level. It is important that the CCBE raises its voice to ensure that the risks and consequences of proposed measures are explained and understood.

#### Environment and Climate Change

Although the subject is not new, questions relating to climate change, the protection of the environment and sustainability are more and more pressing and there is a lot of ongoing work in this area. The protection of the environment and the pressing challenges posed by the current climate crisis directly affect the fundamental rights and freedoms of citizens, as well as the right of access to justice. As a key organisation representing the legal profession in Europe and defending the rule of law, fundamental and human rights, we believe that the CCBE - together with its member bars - have a role to play in addressing the climate crisis and its consequences, not only by supporting clients' efforts in doing so, but also in the performance of the daily practice of lawyers. Furthermore, a strong commitment from the legal profession to engage with current and future legislative and policymaking efforts to address the climate crisis is crucial and should be further promoted.

#### Digitalisation of justice

The digitalisation of Justice remains a priority for the CCBE in 2022 as it was in 2021. While the CCBE welcomes initiatives to support the digitalisation of judicial procedures, to foster interoperability of different national systems, and to support the uptake of new technologies in the day-to-day functioning of justice systems, it remains vigilant about the guarantees which must be in place to protect fundamental rights and to respect the core values of the legal profession. In this regard, the CCBE will actively follow the legislative process launched in the EU concerning the use of Artificial Intelligence, on which it adopted a [position paper](#), as well as the coming work of the Council of Europe for a legal framework on AI. Moreover, the CCBE and the European Lawyers Foundation are finalising the "AI4Lawyers" project by presenting a guidance for EU lawyers and law firms on the use of AI in

legal practice during a conference gathering multiple stakeholders. The CCBE will also be closely involved in the legislative proposals on the digitalisation of cross-border judicial cooperation in the EU, and the reinforcement of e-identification in Europe.

## European Convention on the profession of lawyer

Since its very initiation in 2017, the CCBE has strongly supported the work carried out by the Council of Europe on the establishment of a new legal instrument on the profession of lawyer, i.e. a European Convention on the profession of lawyer. According to the CCBE, a binding legal instrument is needed in order to respond to the growing attacks and challenges faced by the legal profession which directly hinder the respect for the rule of law and access to justice for the lawyers' clients (more information is available in a detailed [CCBE position](#) on this matter). The drafting of a new legal instrument will start in the course of 2022 and the CCBE will be closely involved in this process.