



CCBE Plenary Session in Lyon

CCBE Info

N° 52
May 2016

Editorial: Transparency and Professional secrecy - CCBE Recommendations on the protection of client confidentiality - Free Movement of Lawyers Guide - Meeting between INTERPOL and the CCBE - e-Justice Conference of the Netherlands Presidency - 125th CCBE Plenary Session in Lyon on 20 May 2016 - Annual Report on implementation of the Charter of Fundamental Rights - Project of the month: Venezuela - The CCBE in Strasbourg with the Federation of European Bars (FBE) - Support Group for imprisoned Turkish Lawyers - Transparency and mutual evaluation of regulated professions

EDITORIAL: TRANSPARENCY AND PROFESSIONAL SECRECY

In this day and age, one would like for transparency to be a virtue and for professional secrecy to serve to hide all sorts of ailments and harmful actions. Transparency is a requirement on social networks, directly contradicting personal privacy. Transparency is imposed by states, who want to know everything about our lives, both private and public. There is an attempt to impose such transparency on both the state and its agents in order to control any kind of decisions and behaviours. Transparency has abolished the right to privacy.

This desire for transparency is such that no one is surprised when a law firm is burgled and all their clients' personal data is publicly exposed. No one is offended when lawyers' conversations are wire-tapped and their conversations with clients transcribed and published. No one reacts when law firms are regularly searched and their data disclosed.

However, professional secrecy is part of the 'proper administration of justice', meeting the need of a person to be able confide in another, i.e. their lawyer, without fear of being betrayed or denounced. This is called the Rule of Law. Justice and the Rule of Law are two of the cornerstones of a democratic society. There have been other times when transparency was combined with denunciation, imprisonment or worse. This was the mark of an authoritarian state.

The purpose of professional secrecy is not to hide illegal activities. Should a lawyer advise or assist a client in illegal activity, knowing it to be illegal, then the lawyer would be subject to criminal and disciplinary sanctions. Lawyers act in the interests of their clients, in accordance with the law and rules in force in any given country. Our clients therefore have the right to benefit from such protected professional secrecy, as does society.

Michel BENICHOU
President

CCBE RECOMMENDATIONS ON THE PROTECTION OF CLIENT CONFIDENTIALITY

On **20 May 2016**, at its Plenary Session in Lyon, the CCBE published its [recommendations](#) on the protection of client confidentiality within the context of surveillance activities. These recommendations aim not only to protect and ensure

the fundamental principles of professional secrecy and legal professional privilege, but more importantly to protect citizens' rights and the rule of law. The purpose of these recommendations is to inform legislators and policy makers about

the standards that must be upheld in order to ensure that professional secrecy and legal professional privilege are not undermined by surveillance practices undertaken by the state.

FREE MOVEMENT OF LAWYERS GUIDE

The CCBE is pleased to announce that a new guide for Bars & Law Societies on Free Movement of Lawyers within the European Union was passed at the CCBE Plenary Session in Lyon. **This guide will be published in the second half of 2016.**

MEETING BETWEEN INTERPOL AND THE CCBE

On 19 May, a delegation of the CCBE, headed by CCBE President Michel Benichou, visited the premises INTERPOL in Lyon to meet with a number of staff members of INTERPOL's General Secretariat, including its Data Protection Officer and Director of Legal Affairs. It was a very constructive meeting with an interesting discussion on the CCBE recommendations on surveillance, as well as on the recent efforts of INTERPOL to improve its internal rules on the processing of data.



CCBE meeting with INTERPOL in Lyon

E-JUSTICE CONFERENCE OF THE NETHERLANDS PRESIDENCY

On 19 and 20 May, the e-Justice conference of the Netherlands presidency was held in Amsterdam and focused particularly on the e-Codex project. The ministers of Justice from both the Netherlands and Germany, along with Commissioner Vera Jourova and representatives

of the legal professions were in attendance. President Michel Benichou represented the CCBE for the session "Stakeholders on screen". During this pre-recorded video session, several representatives of the legal profession had to define e-justice and talk about its impact

on the legal profession. As stated in the video, e-Justice is not about technology. It's first about citizens, about the access, cost and speed of justice, and about harmonization and collaboration within the legal profession.

The video can be found [here](#).

125TH CCBE PLENARY SESSION IN LYON ON 20 MAY 2016

For its **125th plenary session**, the CCBE received a very warm welcome from the Lyon Bar Association, the Rhône-Alpes Bars Conference (COBRA) and the Mayor of Lyon's 7th district, Myriam Picot, who delivered a welcome address to the CCBE during the Gala dinner organised by the Lyon Bar at the Gallo-Roman museum. The following day, after an opening speech by Laurence Junod-Fanget, President of the Lyon Bar, Arnaud Mathieu and Fabrice Posta, respectively President and Vice-President of COBRA, intervened to present their organisation and to invite CCBE members to a typical Lyon-style dinner. The new President of the Federation of European Bars (FBE), Yves Oschinsky, then took the floor to present the FBE and new opportunities for joint action with the CCBE.



Laurence Junod-Fanget, President of the Lyon Bar

ANNUAL REPORT ON IMPLEMENTATION OF THE CHARTER OF FUNDAMENTAL RIGHTS

On 19 May, the European Commission adopted its [2015 annual report](#) on the implementation of the Charter of Fundamental Rights of the European Union.

This report will ensure a better implementation of the Charter through the monitoring of

progress made in the promotion of fundamental rights in areas where the E.U. has the power to act. As such, in 2015, the European institutions have taken into account the Charter in several important legislative proposals such as the data protection reform package, the Directives on

the presumption of innocence and the right to present at trial or those on special safeguards for children in criminal proceedings and on the Victims' Rights. The report also provides examples of how the Charter was applied by Member States when implementing European law.

PROJECT OF THE MONTH: VENEZUELA

The European Lawyers Foundation (ELF) has been concerned about the situation in Venezuela since mid-2015. Since that date, when our first working mission to the country took place (in order to obtain first-hand knowledge of the situation), the situation has worsened considerably. As a result of the persecution that lawyers face in Venezuela, and the accompanying deterioration in the rule of law, ELF decided to organise a mission of European lawyers to Venezuela in September 2015. We then had the opportunity of witnessing the difficulties lawyers encounter, being harassed by the government simply for doing their job as lawyers.

The situation could not now be more critical. President Maduro, contrary to the Constitution, has established a state of emergency without consulting the Parliament. He has even threatened the use of violence. ELF continues to be committed to help our Venezuelan colleagues. ELF is in constant contact with a Venezuelan organisation of lawyers. ELF has met with Members of the European Parliament to brief them on ELF's work regarding Venezuela. We expect to continue keeping the European Parliament informed and to engage other relevant actors on the EU scene, in the hope of raising the profile of the state of the rule of law in Venezuela.

THE CCBE IN STRASBOURG WITH THE FEDERATION OF EUROPEAN BARS (FBE)

The FBE held its general congress in Strasbourg, **from 12 to 14 May**, where participants were welcomed by the Mayor of Strasbourg, Mr. Roland Ries. The event took place in the Great Chamber of the European Court for Human Rights, and the theme was 'The lawyer in dialogue with the European Court of Human Rights'. The President of the Court, Guido Raimondi, highlighted the importance of such a dialogue. The following day, within the Bar Presidents' Forum, President Benichou, former President of the FBE, presented the European Lawyers in Lesvos project to which numerous bars pledge their support.



FBE General Congress in Strasbourg

SUPPORT GROUP FOR IMPRISONED TURKISH LAWYERS

Ramazan Demir and Ayse Acinikli, members of the Istanbul Bar Association, **were arrested on 16 March**, along with seven other lawyers (Mr. İrfan Arasan, Mr. Hüseyin Boğatekin, Mr Şefik Çelik, Mr Adem Çalışçı, Mr Tamer Doğan, Mr. Mustafa Ruzgar, and Ms Ayşe Gösterişlioğlu), one day before a hearing, at which they were scheduled to appear on March 17, 2016 on behalf of a common client. The other seven have

been released, but Ayse Acinikli and Ramazan Demir remain in detention. They have not been given access to their file, and therefore, have no ability to challenge the charges levied against them. During their interrogations, they were questioned about interviews they gave to the media, complaints they lodged before the European Court of Human Rights and meetings they had with their clients.

An initiative has been launched by French lawyers calling for European lawyers to support their Turkish colleagues by sending them postcards. In order to be allowed into the prisons, the postcards must be written in Turkish. Therefore, a few standard phrases in Turkish are provided for those who wish to write a postcard.

More information about this initiative can be found [here](#).

TRANSPARENCY AND MUTUAL EVALUATION OF REGULATED PROFESSIONS

The European Commission has decided to conduct a mutual evaluation and transparency exercise of the status of regulated professions. Part of the obligations under the revised Directive 2005/36/EC on professional qualifications entailed submitting reports (or [national action plans](#)) before 18 January 2016 presenting the results of the evaluation on the access to regulated professions and identifying potential reform requirements. A [video](#) of the conference 'Reforming regulation of professions: results of mutual evaluation and way forward', which took

place on 18 May in Brussels, is available [here](#). Participants were able to discuss these plans and interact with experts on the economic impacts of reforming the regulated professions. The speech delivered by Commissioner Elżbieta Bieńkowska is also available [online](#). Following this conference, a public consultation was announced on «Regulation of professions: proportionality and national action plans». The consultation has been available [online](#) since 27 May 2016.

Anyone interested should respond by 19 August 2016.

UPCOMING EVENTS

- 1-3/06** *67th Annual Conference of the DAV, Berlin*
- 1-3/06** *European Network of Councils for the Judiciary – General Assembly, Warsaw*
- 17-18/06** *115th Day of Swiss Lawyers, Brunnen*
- 23/06** *CCBE Standing Committee, Brussels*