



# CCBE Info

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## EDITORIAL - END OF MANDATE

At the end of my mandate as President of the Council of Bars and Law Societies of Europe, I would like to reaffirm a twofold belief. **Europe is essential to us.** Be it the Convention for the Protection of Human Rights or the Treaty of Lisbon, Europe is our only chance to fight against extreme nationalism. Europe only is in a position to guarantee our rights and future in front of nationalists who find a culprit for any issue, instead of a solution.

However, we need a new common project and to express more passion for our European future. We need strong and imaginative European institutions, be it for the people or the lawyers, as weakening the institutions will not create stronger national governments or national bars in the globalisation process.

European citizens and lawyers must regain the sense of common good and must be able to express it. Otherwise, we will have warrior states defending their own nations and territories, their own exclusive interests, leading us to the disappearance of the European model. The same drives led Europe to hell in 1930. Europe, like any great civilisation, is mortal.

In addition, **lawyers are essential.** In their actions for the most deprived, refugees, abandoned ones, they give the

hopeless access to Law and Justice. What is more, they allow the progress which is **the right to rights.** They must remember that at the beginning of Europe was the Law. They must make a firm commitment to the defence of the rule of law and fundamental rights by striking the right balance between the essential security of citizens and their necessary freedom. All freedoms become conquests in the face of a public opinion which is ready for any sacrifice for the mere illusion of security.

I would like to soon hear lawyers' speeches using verbs only in the future tense. Our only means of conquering, our only weapons, are speech and the law. Lawyers are quarrelsome. They show a passion for speech. They must put this passion at the service of citizens and society. Their resistance to power is always fundamental. Tomorrow, well-trained lawyers of the 21st century who have embraced new technologies and are aware of the need to renew their professional practice, armed with ethics, will be - together with other stakeholders in civil society - defenders of fundamental rights, Justice and the Rule of Law.

**Michel Benichou**  
CCBE President

## CCBE HUMAN RIGHTS AWARD 2016

On 2 December, the CCBE granted its 2016 Human Rights Award to four Turkish lawyers who have been particularly active in the defence of human rights and the rule of law: posthumously to Tahir Elçi, assassinated in November 2015, Ayşe Bingöl Demir, Ayşe Acinikli, and Ramazan Demir.

Ms Ayşe Bingöl Demir, along with Mr Elçi's widow, travelled to Brussels to receive the award. Unfortunately, due to travel bans imposed on them following their arrest, Ayşe Acinikli and Ramazan Demir were unable to attend the ceremony. They sent videos thanking the CCBE and explaining the difficult situation of lawyers in Turkey.

This year marked the 10th CCBE Human Rights Award, and to mark this occasion, the ceremony was attended by Mr Stavros Lambrinidis, EU Special Representative for Human



Stavros Lambrinidis, Ayşe Bingöl Demir, Turkan Elçi, Michel Benichou and Patrick Henry

Rights. Mr Lambrinidis' mission is to enforce the efficiency and visibility of the European Commission in terms of human rights. The CCBE also

published a [brochure](#) highlighting the winners since 2007.

## CCBE PLENARY SESSION, BRUSSELS



Stavros Lambrinidis, EU Special Representative for Human Rights

**On 2 December, the CCBE held its 126th Plenary Session, in Brussels.**

First, Mr John Coughlan, Deputy Director, Director of Corporate Communications, Academy of European Law (ERA) spoke and presented a Europe-wide competition for young lawyers which will be organised in 2017.

Secondly, the application of the Ukrainian National Bar of Advocates (UNBA) to become observer member in the CCBE was approved unanimously. Delegations accepted the

withdrawal of the Union of Advocates of Ukraine (UAU) as an observer member. Lydia Izovitova, President of the UNBA, thanked the CCBE for the constant support the latter has provided to the UNBA over the past two years.

Thirdly, the [European Lawyers in Lesvos \(ELIL\)](#) project was presented by David Conlan Smyth, chair of the CCBE Migration Committee and Philip Worthington, project manager of ELIL. Mr Worthington highlighted the clear need for the project, and stated that so far, the project has provided assistance to over 430 individuals from 28 different countries.

Furthermore, several important papers were agreed upon during the Plenary Session, including the CCBE position on the Proposal for a Recast of Brussels Ila Regulation and two articles on the Model Code of Conduct (an Article on confidentiality and an Article on conflict of interest). The CCBE delegations also approved a "Practical Guidance for Advocates appearing before the Court of Justice in appeal proceedings". The practical guidance is addressed principally to lawyers appearing for the first time, or appearing infrequently, before the Court of Justice of the EU. It has been drafted by the CCBE in order to enhance the efficiency for lawyers of appeals against decisions of the General Court.

Mr Koen Lenaerts, President of the Court of Justice of the European Union delivered the closing address. The main theme of the presentation focused on the challenge, and the need, to strike a balance between competing interests and competing rights, and in this regard President Lenaerts referred to certain cases: the "ZZ" case concerning a decision refusing a EU citizen admission to a Member State on public security grounds; the Facebook right to privacy case



Koen Lenaerts, President of the Court of Justice of the European Union

(the Schrems case); he also referenced the need to protect minorities with regard to asylum and refugee cases.

His full speech can be found [here](#).

Finally, Ruthven Gemmell WS was unanimously elected as the new president of the CCBE for 2017. In his speech, Mr Gemmell thanked president Benichou stating that he had been “a great president of the CCBE”.

## ANTI-MONEY LAUNDERING

### Supranational Risk assessment

The European Commission is currently undertaking a “Supranational risk assessment” on money laundering and terrorist financing. A supranational risk assessment is a Commission tool which is required under EU law to understand “risks” and to elaborate policies for the legal sector and other sectors which address the risk of money laundering and terrorist financing.

The Commission has prepared a draft report with preliminary findings on the “level of risk” and “vulnerability” of each sector. The Commission has invited stakeholders to submit

information on “mitigating measures” which exists in each sector to address the perceived money laundering threats and vulnerabilities. The CCBE approved a paper in this regard.

### Proposed revision of the 4th Anti-Money Laundering (AML) Directive

Discussions are continuing at a Council (Member State) and European Parliament Committee level. The Council aims to reach a common position on the proposal, by the end of the year. There are a number of potential issues remaining, including issues relating to public disclosure of information on beneficial ownership.

At Parliament level, the two lead Rapporteurs have produced a joint draft report (both the Parliament ECON and LIBE Committees are responsible for this file). The deadline for additional amendments was 7 December and a vote is scheduled to take place in the Parliament Committee on 25 January. From a procedural point (beyond 25 January), as soon as the European Parliament and the Council reach their respective positions on the proposal, they will carry out ‘trilogue’ negotiations, assisted by the Commission, with a view to reaching an agreement on the proposal.

## PROTECTING LAW FIRMS

Cyberattacks against law firms are increasing. Extremely important documents were stolen from a Panamanian law firm. Again, hundreds of confidential documents were stolen from a Spanish law firm. All these documents end up analysed and published in the press. I do not judge the actions advocated by these lawyers. On the other hand, professional secrecy is essential to the survival of our profession, and such secrecy must be upheld against both the State and journalists. A new kind of journalism is emerging, hacker journalism, or journalism utilising hacking. Any means seem to be acceptable to retrieve information and publish it, regardless of the principles of

presumption of innocence or professional secrecy. Law firms must protect their IT systems.

The Council of Bars and Law Societies of Europe has published a guide, which I urge you to read and implement in your law firms.

**The guide “[CCBE GUIDANCE on Improving the IT Security of Lawyers Against Unlawful Surveillance](#)” is now available on the CCBE website.**

**Michel Benichou**  
CCBE President

## EUROPEAN LAWYERS DAY

### On 10 December, the CCBE organised the 3rd European Lawyers Day.

For the 2016 edition of European Lawyers Day, the CCBE proposed the central theme of “Access to Justice”. Access to Justice is indeed a main concern of the legal profession, and is an essential part of its core mission. It was suggested to concentrate on the subtopic of “access your

lawyer to access your rights”, with a focus on access to a lawyer in criminal proceedings, guaranteed across EU Member States through Directive 2013/48. The CCBE wished to highlight that having access to a lawyer provides a person with access to all their rights.

Events and activities were organised

in 12 different countries: Belgium, Czech Republic, Finland, Greece, Hungary, Ireland, Lithuania, Poland, Romania, Slovakia, Slovenia, and United Kingdom.

**More information and pictures of these activities will be available on the [CCBE website](#) shortly.**

## EUROPEAN LAWYERS AND THE EUROPEAN ARREST WARRANT

The European Lawyers Foundation (ELF) and the CCBE were awarded last year a project to carry out a study on “EAW-Rights: analysis of the implementation and operation of the European Arrest Warrant from the point of view of defence practitioners”. The project, which ended on 2nd November 2016, aimed to contribute to the correct and consistent implementation of the European Arrest Warrant; in particular, the project focused on the following objectives:

- Identification of the implementation at national level of the Framework Decision 2002/584/JHA on the European Arrest Warrant in all EU Member States.
- Identification of good practices carried out in the 28 Member States in order to ensure defence rights
- Presentation of recommendations focused on the improvement of defence rights in EAW cases

The project’s main result was the development of a study that addresses these objectives. It can be downloaded for free at: <http://europeanlawyersfoundation.eu/publications/>

Further to this, ELF continues working on the EAW due to the importance of this legal instrument for those detained under it and their lawyers. ELF is now working on a proposal called EAW-Net. The object of this new project is to allow experienced practitioners from different Member States to network around a theme of mutual learning and exchange of best practices. The need for a network between EAW defence practitioners, especially in the context of dual representation in both issuing and executing states, was highlighted by the national experts who contributed to the EAW-Rights study.

## THE EUROPEAN LAWYERS FOUNDATION: AN ORGANISATION FOR THE BENEFIT OF BARS AND LAWYERS OF THE EU

The European Lawyers Foundation (ELF) is headquartered in The Hague, The Netherlands. It was established by the Council of Bars and Law Societies of Europe (CCBE) in 2014. ELF’s objective is to undertake projects that relate to the exercise of the profession of lawyers, the development of the law and practice pertaining to the rule of law and administration of justice and substantive developments in the law itself, both at a European and international level. ELF works mainly in two areas:

A) European projects: these are projects implemented within the EU, and mostly funded by the European Union. They cover a broad spectrum of issues: from

training lawyers in different areas of law to drafting studies on important EU instruments.

B) External projects: these are focused on issues related to the profession (for example, our projects funded by the International Bar Association in Ukraine and Kazakhstan on improving the quality of legal services in these countries) and to issues on the rule of Law (such as our project on re-establishing the rule of law in Venezuela).

**More information about the foundation can be found [here](#).**

## ADOPTED PAPERS IN 2016

[CCBE comments on the Commission proposal for a regulation establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person \(recast\) - COM \(2016\) 270](#)

[CCBE comments on the draft code of conduct for the Unified Patents Court](#)

[CCBE comments on the proposal for a Directive relating to certain aspects of company law \(codification\)](#)

[CCBE Guidance on Improving the IT Security of Lawyers Against Unlawful Surveillance](#)

CCBE guide on appeals

[CCBE position concerning contract rules for online purchases of goods and digital content \(COM \(2015\) 634 and 635\)](#)

[CCBE position on the proposal for a recast of the Brussels IIa Regulation on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction](#)

[CCBE Position Paper on the Judgments Project concerning jurisdiction and the recognition and enforcement of judgments in civil and commercial matters \(No. 2\)](#)

[CCBE proposal for a revision of the Unfair Contract Terms Directive](#)

[CCBE proposals - European Parliament Committee on Civil Liberties, Justice and Home Affairs Draft Report with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights](#)

[CCBE Recommendations on the protection of client confidentiality within the context of surveillance activities](#)

[CCBE Recommendations regarding the implementation of the General Data Protection Regulation \(GDPR\)](#)

[CCBE response to Commission proposal to amend the fourth Anti-Money Laundering Directive](#)

[CCBE response to the Public Consultation on a proposal for a mandatory Transparency Register \(TR\)](#)

[CCBE statement on the European Commission Consultation on the regulation of professions: Member States' National Action Plans and proportionality in regulation](#)

[European Arrest Warrant Rights](#)

[Guidelines for Bars & Law Societies on Free Movement of Lawyers within the European Union](#)

[Joint letter - Lobbyists for Transparent Lobbying](#)

[Joint Statement- For a free and independent defence before the International Criminal Court](#)

[Joint Statement on the possible reinstatement of the death penalty in Turkey](#)

[The European Court of Human Rights – Questions & Answers for lawyers](#)

Towards a model code of conduct - Article on Confidentiality

Towards a model code of conduct - Article on Conflict of interest

[TRAINAC: An assessment by defence practitioners of the implementation of three procedural safeguards directives](#)

## UPCOMING EVENTS

**1-7/02** ABA Midyear Meeting (Miami)

**23/02** Standing Committee (Vienna)

**23-25/02** 45<sup>th</sup> European Presidents' Conference (Vienna)