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▶▶ Anti-money laundering

Proposal for a new Anti-Money Laundering Directive

The European Commission aims to present a proposal for a new Anti-Money Laundering Directive between September and December 2012. The Commission is currently carrying out an impact assessment on the 3rd Money Laundering Directive. This must be completed before any new legislation can be proposed. The Commission expects the impact assessment to be completed in Spring 2012, and following this, the Commission will present its proposal. The revised Directive will also incorporate the changes made to the Revised FATF 40 Recommendations that were concluded on 16 February (mentioned below)



The Commission has prepared a report on the application of the Directive. This report contains a specific part on the treatment of lawyers. The report analyses how the different elements of the Directive have been applied, and considers how the Directive may need to be changed. The report deals with the following:

- Accommodating changes to the FATF international standards in order to incorporate more risk-based elements which should allow a more targeted and focused approach to assessing risks and applying resources to where they are most needed;
- The possible extension of the scope of the Directive (with the possible incorporation of tax crimes as a new predicate offence for money laundering);
- Issues regarding customer due diligence, and in particular, ensuring that simplified procedures are not wrongly perceived as full exemptions from customer due diligence;
- Incorporating new provisions to deal with politically exposed persons (PEPs) at a domestic level and those working for international organisations;
- Strengthening powers and cooperation between the different national Financial Intelligence Units (FIUs) whose tasks are to receive, analyse and disseminate to competent authorities reports about suspicions of money laundering or terrorist financing in order to facilitate their cooperation
- Clarifying how AML supervisory powers apply in cross-border situations;
- Incorporating new provisions on data protection, in the light of the Commission proposals published in January 2012

The Commission has invited comments by 13 June. The CCBE will be submitting its comments.

Financial Action Task Force (FATF) - Review of the 40+9 Recommendations

On 16 February the FATF published its revised 40+9 Recommendations. Work on this review had been underway for over two years. As part of the review process, the CCBE submitted two position papers to the FATF in 2011 (in January and September) in response to two FATF consultation papers.

The FATF's response to the key themes that emerged from the public consultations is available at: <http://www.fatf-gafi.org/dataoecd/50/26/49693324.pdf> The text of the revised Recommendations can be found at the following link: <http://www.fatf-gafi.org/dataoecd/49/29/49684543.pdf>



Court challenges

Michaud case

In January 2011, a French lawyer, Patrick Michaud, took a case to the European Court of Human Rights to complain about the lack of conformity with the Convention between the rules on suspicious reporting and the right to legal advice. This will be the first case before the Strasbourg Court on the question of compatibility between the lawyer's reporting duties under the money laundering legislation and Article 8 of the European Convention of Human Rights. The CCBE has been admitted as an intervening party in this case and the CCBE intervention was sent to the Court of Human Rights in March.

Monaco Bar

The Ordre des Avocats Defenseurs et Avocats pres la Cour d'Appel de Monaco (Monaco Bar) has taken a case to the European Court of Human Rights against the government of Monaco. The Monaco Bar believes that the anti-money laundering legislation enacted by the government of Monaco violates, among other issues, the right to professional secrecy, and is contrary to various articles of the European Convention on Human Rights. The case raises similar issue to those raised in the Michaud case. Due to the similarities, the CCBE also requested permission from the Court to intervene in this case. The CCBE was given permission to intervene and the CCBE intervention was submitted in April.

For further information, please contact Peter Mc Namee (mcnamee@ccbe.eu)

Alternative Dispute Resolution



The CCBE is preparing comments on the Commission's proposals on Alternative Dispute Resolution (ADR) and Online Dispute Resolution (ODR) published at the end of 2011.

The Commission's proposal for a [Directive](#) on ADR for consumer disputes (amending Regulation No 2006/2004 and Directive 2009/22/EC) aims to ensure a European coverage with ADR entities for domestic and cross-border disputes.

The proposal for a [Regulation](#) on online dispute resolution (ODR) for consumer disputes aims to create an EU-wide online platform ('ODR platform') providing consumers and businesses with a single point of entry for resolving cross border disputes concerning on-line purchases.

Both legal acts aim at improving the internal market. The Commission envisions the ADR Directive being implemented first, to be followed by the ODR Regulation.

Background

In its [response](#) to the Commission's consultation launched in 2011, the CCBE underlined, among other issues:

- the importance of raising consumer awareness of existing domestic ADR schemes,
- the existence of various forms of ADR – encompassing non-binding mechanisms such as mediation and conciliation as well as “collaborative lawyer proceedings” and “participative” proceedings or mechanisms with a binding outcome, such as arbitration or certain ombudsman schemes,
- the danger of imposing on parties a mandatory attempt at ADR, as it could hinder their effective access to justice,
- the importance of having independent and qualified arbitrators/third party decision-makers/mediators, bound by ethical rules.

For further information, please contact Karine Métayer (metayer@ccbe.eu).

European Private Law

Proposal for an optional Common European Sales Law – CCBE preliminary position paper



The European Commission's proposal for a Common European Sales Law (CESL), [published](#) in October 2011, has raised divergent reactions from various parties regarding, among others, the legal basis chosen by the Commission and the relationship of the proposal with Art. 6 of the Regulation on the law applicable to contractual obligations ("Rome I"). On 16 February 2012 the CCBE adopted its [preliminary position paper](#) on this issue where it indicated that although the CCBE is not in a position to prejudge these legal issues, it nevertheless feels that at the very least there are serious doubts that could result in legal uncertainty and confusion for both consumers and traders. "In previously issued papers, the CCBE has expressed support for the work of the European Commission in the area of Contract Law and Sales Law, and eventually it will present a full response on the substance of the proposal", said the CCBE President Marcella

Prunbauer-Glaser. "However, the acceptance of the CESL Regulation would be heavily impaired if there were no solid ground for its enactment." The CCBE therefore, in a preliminary position, called upon EU institutions to engage in an in-depth analysis of these issues before proceeding further with the legislative process.

For the moment, the CCBE's European Private Law Committee is still analysing the various provisions of the proposal and is supposed to release a position paper later this year.

For further questions, please contact Simone Cuomo (cuomo@ccbe.eu).

CCBE event - Common European Sales Law

Together with the Consiglio Nazionale Forense (the Italian Bar Association), the CCBE organised a conference in Rome on 11 April on "The proposed Common European Sales Law – the lawyers' view". The aim of the conference was to promote a debate among legal practitioners regarding the main legal issues of the proposal. Speaking at the conference were Luigi Berlinguer, Co-Rapporteur at the European Parliament, and Dirk Staudenmayer, Head of the relevant Unit at the European Commission, as well as expert lawyers from different jurisdictions across Europe. The conference was characterised by a lively and fruitful debate, with both Mr Berlinguer and Mr Staudenmayer showing openness to different viewpoints.



"The proposed Common European Sales Law – the lawyers' view" - CCBE conference in Rome

In her opening address, Marcella Prunbauer-Glaser recalled the CCBE's early interest in a European contract law and its call, already in 2009, for EU sales law applicable in business-to-business and business-to-consumer contracts and not limited to cross-border contracts.

The contributions of the various speakers are available at this [link](#), which also includes the video recordings of the whole conference.

Professional qualifications



The CCBE adopted a [position paper](#) on the Commission legislative [proposal](#) for modernising [Directive 2005/36/EC](#) on the recognition of professional qualifications¹. The objective of the Commission is to further facilitate mobility of professionals across the EU. This proposal follows a consultation and a green paper launched by the Commission in 2011 to which the CCBE responded.

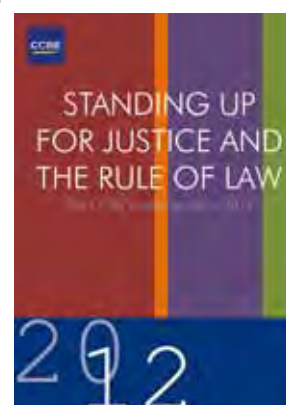
The CCBE suggests amendments to the Commission's proposal aiming at (a) underlining the voluntary basis of the European Professional Card, (b) including non-remunerated trainees in traineeships, c) limiting the obligation to recognise traineeships in other Member States to temporary mobility, for some professions such as lawyers and notaries, and d) deleting the assumption that an activity exercised as an autonomous activity in one Member State is separable in other Member States, in order to avoid confusion for consumers.

For further information, please contact Karine Métayer (metayer@ccbe.eu).

CCBE publications

On 30 March, the CCBE published a brochure, "Standing up for Justice and the Rule of Law", in which it informs its stakeholders of its main concerns and activities in 2012 in this area. Four areas are highlighted:

- Upholding the independence of justice in the context of the reforms imposed on bailed-out countries and others which affect the fundamental role of the lawyer and the self-regulation of the legal profession in a democratic society;
- Advocating ambitious standards for the right of access to a lawyer for all citizens, particularly for suspects and defendants in Europe, as an essential element of fair trials;
- Contributing to the development of e-Justice, and ensuring that it is a tool for progress in the delivery of justice;
- Promoting the rule of law and acting in support of human rights and the lawyers who defend such rights, particularly in third countries.



The brochure is available at this [link](#). The CCBE members can also request hard copies from the CCBE secretariat if they are interested.

For further information, please contact Antoine Fobe (fobe@ccbe.eu).

Commission studies on the profession

Several Directorates of the European Commission have been or are undertaking studies which are of concern to the legal profession.



In January 2012, DG Internal Market published a [study](#) on reserved activities. The aims of the study were to: a) provide a legal inventory of reserved activities linked to professional qualifications in 3 sectors (construction, business services, tourism) across 13 EU Member States; and b) to carry out an assessment of the economic impacts of reserved activities linked to the possession of specific professional qualifications in the above sectors. The authors of the study - the Centre for Strategy & Evaluation Services, UK – concluded that: *“Although the economic analysis provides some interesting results, based on the available data, it does not show that there is a clear impact of reserved activities on economic performance for the three sectors examined”*.

¹ [Proposal for a Directive amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation on administrative cooperation through the Internal Market Information System.](#)

DG Research has commissioned SERVICEGAP to produce a comprehensive study on the impact of market services on aggregate economic growth in the EU and its comparative performance relative to competitor regions, especially the US. The Austrian Institute for Advanced Studies (IHS), which is one of 13 institutions working on the SERVICEGAP project, will update in this context its 'professional services' [study](#) of 2003, which was prepared at the time for DG Competition. The CCBE criticised the IHS study strongly because of the methodology used and the flaws in the research, which were such that it was not safe to base policy conclusions on it.

DG Justice has recently commissioned a study from the Council of Europe which will look at the efficiency of justice based on broad indicators such as backlog before courts, resources and ADR processes.

For further information, please contact Sieglinde Gamsjäger (gamsjaeger@ccbe.eu).

▶▶ Company Law

At the end of March, the CCBE published its [comments](#) on the Commission's proposed Regulation and Directive relating to the specific requirements regarding statutory audit of public-interest entities. Once again, the CCBE emphasised that legal advice, which by nature gives rise to a conflict of interest, should not be carried out concurrently with audit services. Furthermore, the CCBE welcomed the proposals to involve several audit firms in the audit of the same public-interest entity and to have a rotation of audit firms, which it sees as an incentive to exhibit and promote small and medium-size audit firms.

For further information, please contact Sieglinde Gamsjäger (gamsjaeger@ccbe.eu).

▶▶ Criminal Law

Proposal for a Directive on the right of access to a lawyer in criminal proceedings and on the right to communicate upon arrest

On 8 June 2011, the Commission presented a proposal for a Directive on the right of access to a lawyer in criminal proceedings and on the right to communicate upon arrest. The Commission proposal is the third in a line of measures called for by the EU Council to ensure that citizens have the same basic rights in their dealings with criminal justice systems, regardless of the Member State where they are suspected or accused of having committed a criminal offence.

The CCBE welcomed the proposal of 8 June, which would create for the first time an EU enforceable right to have early and continuous access to a lawyer throughout criminal proceedings. The CCBE has drafted a number of papers on the proposal and, as this is a "live" and changing text, the CCBE has had a number of meetings with Commission and Parliament representatives in response to proposed changes to the text.

The Danish Presidency is hoping that the Council can reach a position in May that can be sent to the 7/8 June Council meeting, and that a Council common position will then be reached at the 7/8 June meeting. If this is the case, the common position will be sent to the Commission and Parliament. It is expected that there will be a vote in Parliament (LIBE) Committee at the end of May or mid-June together with an expected mandate from the Parliament to begin negotiations with the Council and the Commission in order to finalise the Directive.



Right to information in criminal proceedings – Council approves EU-wide minimum standards

The Council recently adopted a directive on the right to information in criminal proceedings. (The main goal of the directive is to ensure that any person who is suspected or accused of having committed a criminal offence is provided with information concerning his or her fundamental procedural rights, as well as information on the accusation against him or her including access to the material of the case.)

The text stipulates that suspects or accused persons are provided promptly with information concerning at least the following procedural rights:

- the right to access to a lawyer
- any entitlement to legal advice free of charge and the conditions to obtaining it
- the right to be informed of the accusation
- the right to interpretation and translation
- the right to remain silent

This information shall be provided either orally or in writing in a simple and accessible language, taking into account any particular need of vulnerable suspected or accused persons.

The directive also stipulates that any person arrested has the right to receive upon arrest a so-called “Letter of Rights” in a language that he or she understands. It should be drafted in a simple and accessible language so as to be easily understood.

In addition to the rights already mentioned above, this “Letter of Rights” should contain information on at least the following procedural rights:

- the right of access to the materials of the case
- the right to have consular authorities and one person informed
- the right of access to urgent medical assistance
- the right to know how long you can be deprived of liberty in the country concerned before being brought before a judicial authority after arrest

The directive provides an indicative model of such a “Letter of Rights” and member states would be free to use this model or draw up a similar document on the basis of that model.

The right to written information about rights on arrest will also apply to persons arrested for the purpose of execution of a European Arrest Warrant. A model of such letter of rights is also annexed in the directive.

For further information, please contact Peter Mc Namee (mcnamee@ccbe.eu)

e-Justice

Find-A-Lawyer project

The project Find-A-Lawyer (FAL) officially concluded on 3 April 2012. Nevertheless, the CCBE continues to work with the FAL search engine as more bars are continuing their adaptations to fully join FAL. At this moment, 15 bars belonging to 14 Member States are totally integrated in FAL: Belgium (OBF and OVB), Cyprus, the Czech Republic, Denmark, Finland, France, Germany (DAV), Greece, Hungary, Lithuania, Luxembourg, The Netherlands, Poland, and the United Kingdom (Law Society of Scotland).

Furthermore, it is expected that the European Commission will start the work to host FAL in the European e-Justice portal in June. Once FAL is built in the e-Justice portal, it will be opened to citizens, who will be able to access a lawyer in another Member State using their own language and in accordance with criteria like practice area and language spoken by the lawyer.

FAL was presented for the second time to the Council of the EU's working party on e-Justice on 16 April 2012.

For further information, please contact Alonso Hernández-Pinzón (pinzon@ccbe.eu).



e-CODEX

The e-CODEX project, which is a government-led EU-funded project to link national e-justice systems in Europe, has entered into its second year, which will be characterised by the start of the pilot phase. During the pilot phase, four legal procedures will be built: European Payment Order, small claims procedure, European Arrest Warrant and secure cross-border exchange of sensitive judicial data. With these pilots, the e-CODEX project will fulfill its objective of improving the cross-border flow of legal information within Europe and making it easier to conduct cross-border e-Justice activities in Europe. The CCBE will continue its active participation in this project as the organisation representing lawyers through its member bars and law societies.

The first year of e-CODEX was evaluated by European Commission experts in March 2012. After this evaluation, the Commission concluded that the e-CODEX project should continue without modifications.

For further information, please contact Alonso Hernández-Pinzón (pinzon@ccbe.eu).

GATS

Brazil



The CCBE received an invitation from the Brazilian Bar Association to participate in a Public Hearing in Brasilia on 7 May on “*Ethical limits of cooperation and association between foreign legal consultants firms and Brazilian law firms.*” The CCBE was not in a position to send a representative to the Hearing. However, the CCBE did submit [comments](#) in writing.

EU US Consultation

The CCBE GATS Committee submitted a paper to the European Commission (DG Trade) in response to a consultation on a possible bilateral trade agreement with the United States. The US Chamber of Commerce in a letter to the US Administration of November 1, 2011 suggested that the US should launch with the EU a “Transatlantic Jobs and Growth Pact” which would aim at among other issues liberalising trade in services. The CCBE believes that it is beneficial to launch service negotiations between the EU and the US. We believe that an agreement covering services alone would be a better approach as opposed to a comprehensive agreement. The CCBE would support the adoption of a positive list approach with regard to any agreement. From the CCBE’s point of view, though, it is important that the US Administration uses its authority to bind the US Federal States in international treaties.

For further information, please contact Peter Mc Namee (mcnamee@ccbe.eu)

Human Rights

Copenhagen seminar

The CCBE President was invited to speak at a high level seminar on 15-16 March in Copenhagen organized by the EU Agency for Fundamental Rights together with the Danish EU Presidency. The theme of the seminar was ‘Bringing the Charter to life - opportunities and challenges of putting the EU Charter of Fundamental Rights into practice’. The seminar sought to explore the challenges and opportunities of applying the Charter in practice, both at the EU and national level, with a view to identifying best practices and finding ways to improve co-operation between responsible national authorities, European institutions and civil society. Key European and international stakeholders as well as EU law experts from



EU institutions, EU Member States and human rights organisations participated in the seminar and shared their perspectives on putting the Charter into practice, including Mrs Viviane Reding, European Commission Vice President, and Prof. Dr. Vassilios Skouris, President of the Court of Justice of the EU.

The CCBE President spoke on the use of the EU Charter by European lawyers and improving its application through the training of legal professionals. The Chair of the CCBE Human Rights Committee, Laurent Pettiti, also attended the seminar.

Brighton conference

On 18-20 April, a high level conference on the future of the European Court of Human Rights took place in Brighton organised by the United Kingdom within the framework of the Chairmanship of the Council of Europe's Committee of Ministers.

Delegations from 47 Member States of the Council of Europe participated in the conference alongside many European and international human rights experts, including the President of the European Court of Human Rights, Sir Nicolas Bratza, and the Council of Europe Secretary General, Mr Thorbjørn Jagland. The CCBE was represented by the Chair of the Human Right Committee, Laurent Pettiti.



The aim of the conference was to agree on a package of concrete reforms to strengthen the role and authority of the European Court of Human Rights.

The conference adopted a [Declaration](#) asking the States Parties to the Convention to improve the implementation of the Convention at national level and ensure that they act quickly and effectively on the Court's judgements so as to meet their obligations and reduce the Court's backlog by putting a stop to repetitive applications. The declaration adopted will be considered now by the Human Rights Committee.

For further information, please contact Karine Métayer (metayer@ccbe.eu).

Important national developments

Troika



Christine Lagarde, managing Director of the International Monetary Fund (IMF)

Last December, the CCBE [wrote](#) jointly with the American Bar Association to the managing Director of the International Monetary Fund (IMF), Christine Lagarde, to alert her to the consequences of Troika (European Commission-European Central Bank-International Monetary Fund) initiatives on the legal profession. The CCBE letter focused on the developments in Ireland where the Irish Minister of Justice proposed in October 2011 far-reaching reforms, unprecedented in Europe: the Minister's proposal provides for setting up a new Regulatory Authority - composed of government appointed members - which would have all powers of regulation including conduct, discipline and complaints handling (see also CCBE [letter](#) to Irish authorities). The CCBE alerted DG Justice, which is the Commission's Directorate looking at justice issues in connection with the Troika actions, to these developments and discussed the Irish reforms in more detail at a meeting in January 2012.

The IMF replied to say that there is no intention of the IMF that the independence of the legal profession be undermined by any of the Troika measures. DG Justice told the CCBE that they are looking at these issues very closely and that they were grateful for the profession's views.

A few weeks ago the Irish Minister of Justice announced that amendments will be made to the Legal Services Bill in order to take account of the concerns voiced.

Italy

On 24 January 2012, the CCBE [wrote](#) to Mario Monti, President of the Council of Ministers, and to Paola Severino, Minister of Justice, to raise concerns about the Italian Stability Law and more particularly about its provisions on alternative business structures. The Stability Law, which was adopted by the Italian government in November 2011 as part of its initiatives to counter the financial crisis, provides inter alia for external (non-lawyer) partnership in law firms, with no limitations for the participation of non-lawyers. After discussions at Parliament level in March 2012, the rules on the membership of professional firms were amended so to put a ceiling on non-lawyer participation: non-lawyers may own and have a representation in the governing bodies of such structures of up to 1/3. The Law does not provide for any safeguards, however, in order to ensure that non-professional ownership does not impact on the core values of lawyers such as independence or confidentiality. The Italian government will continue looking into the lawyers' profession. Further reforms are expected for later this year.



Mario Monti, President of the Council of Ministers, Italy

For further information, please contact Sieglinde Gamsjäger (gamsjaeger@ccbe.eu).

IT Law

Commission proposals on data protection reform

On 25 January 2012, the European Commission published its [legislative proposals](#) on data protection reform consisting of:

- a Regulation (replacing Directive 95/46/EC) setting out a general EU framework for data protection; and
- a Directive (replacing Framework Decision 2008/977/JHA16) setting out rules on the protection of personal data processed for the purposes of prevention, detection, investigation or prosecution of criminal offences and related judicial activities.



In addition to further harmonising the EU framework, as evidenced by the choice of a regulation as one of the legal instruments, the text aims to meet the challenges of the digital environment. "The Commission will create a genuine digital single market for businesses and consumers," commented Justice Commissioner Viviane Reding.

This reform is a follow-up to the public consultation which the European Commission held in November 2010 following the publication of its Communication called "[A comprehensive approach on personal data protection in the European Union](#)". In its [response](#) to that consultation, the CCBE urged the European institutions to take into account a number of guidelines when shaping Europe's legal framework on the fundamental right to protection of personal data.

As for the current proposal, the Commission intends to end the fragmentation of the EU data protection framework by choosing to harmonise national laws. Companies particularly appreciate this aspect, since at the moment they have to take account of 27 different national laws.

The draft text provides that companies established in several member states will deal with the control authority in the country where they have their main place of business. It also proposes to delete notification obligations imposed on data processors by Directive 95/46/EC. In exchange, the text imposes the implementation of procedures and mechanisms that focus on processing operations that present specific risks. These measures are expected to lead to savings of nearly €2.3 billion a year, according to the Commission's data.

Another important aspect of the text concerns Article 84 which states that “Member States may adopt specific rules to set out the investigative powers by the supervisory authorities [...] in relation to controllers or processors that are subjects under national law or rules [...] to an obligation of professional secrecy or other equivalent obligations of secrecy, where this is necessary and proportionate to reconcile the right of the protection of personal data with the obligation of secrecy.”

The CCBE's IT Law Committee is currently discussing these proposals and will issue a position paper later this year.

Technological choices of the CCBE in the electronic identification of EU lawyers



On 1st February, the CCBE issued a report produced by Peter Homoki on “[Technological choices of the CCBE in the electronic identification of EU lawyers](#)”. This report was commissioned by the CCBE for different reasons, the most important of which is that the growth in use of technology means that it is only a matter of time before lawyers will be able to, and in due course maybe obliged to, conduct cross-border electronic transactions. The CCBE, therefore, needs to be ready with EU-wide solutions for this. In addition, the EU has begun to contemplate electronic cross-border legal transactions, and has invested millions of euros in the [e-CODEX project](#) (e-Justice Communication via Online Data Exchange) to investigate how this will happen. e-CODEX is a Member States' project, with the CCBE as an active project partner. The e-CODEX project has now reached the point

where it is crucial that the CCBE comes up with solutions for how a lawyer will prove his or her identity electronically across borders for the purpose of a cross-border transaction.

The Member States and the CCBE's member bars have different approaches to, and have begun to come up with different solutions to, lawyers' e-identity. This report aims to investigate those different approaches, look at the conceptual basis for e-identity and the direction in which technology is heading, and come up with a solution which will be acceptable to CCBE members and to the e-CODEX project for the future.

For further questions, please contact Simone Cuomo (cuomo@ccbe.eu).

PECO

Georgia



Rupert D'Cruz,
PECO committee chair

On 30 January 2012, the CCBE took part in a meeting between the Georgian Ministry of Justice, the Georgian Bar Association (GBA), and the CCBE. The CCBE was represented by Rupert D'Cruz, the PECO committee chair.

The discussions at the meeting focused on the situation of arrested/imprisoned lawyers and lawyers' rights/duties in general. It was suggested to consider the cases on a case-by-case basis. They also raised the issue of how to ensure the Georgian Bar's involvement in cases where lawyers are arrested or their law offices, for instance, are searched.

It was decided to hold such joint GBA - Ministry of Justice meetings on a regular basis.

Bosnia and Herzegovina

Since 2010, the CCBE has been assisting the Bar of the Federation of Bosnia and Herzegovina in relation to the issue of fiscal cash registers. On 12 April 2010, the CCBE together with the Union Internationale des Avocats (UIA) sent a letter to the authorities of the Federation of B&H to alert them about dangers of introducing fiscal cash registers.

The CCBE has now been informed that the Government of the Federation of B&H, at its meeting held on 20 March 2012, finally decided to exempt the legal profession from the obligation to record transactions of their services via fiscal systems.

Relations with the Mediterranean

On 18 March 2012, the CCBE Vice-President Maria Slazak and Secretary-General Jonathan Goldsmith met with Arab Lawyers Union (ALU) representatives in Cairo, Egypt.

The CCBE representatives raised the following topics: the evaluation of the lawyers' directives; anti-money laundering challenges and e-justice. The ALU informed the CCBE about the latest developments affecting their lawyers since the first joint meeting with the CCBE in April 2011, including their major issue regarding relations between lawyers and judges. The ALU also presented the list of topics that they would like to develop in training.

They also met with a representative of the EU Delegation in Egypt to discuss the funding opportunities for training of lawyers in the Mediterranean region.



Maria Slazak, CCBE Third Vice-President

Council of Europe working group “Professional judicial systems”: Armenia, Azerbaijan, Belarus, Georgia, Moldova, Ukraine (14-15 February 2012)

A CCBE representative, Marc Jobert, took part in the meeting of the working group of the Council of Europe “Professional judicial systems” on 14-15 February 2012 in Strasbourg.

The meeting gathered representatives from public authorities and Bars and a number of experts: the experts had been analysing the laws on the legal profession in each of the Eastern Partnership countries. They analysed whether the laws are up to European standards. They measured them against the UN basic principles, the European Convention of Human Rights, the Council of Europe recommendations on lawyers, the CCBE Code of Conduct and other relevant instruments. The draft report prepared by the expert working group focuses on the following topics: the role of Bars; access to the profession of lawyer; initial and continuous training of lawyers; disciplinary liability of lawyers; and overview of developments and main trends, main obstacles and recommendations for implementation of European standards in the Eastern Partnership countries as regards the profession of lawyer.

The Council of Europe is currently finalising the report and will publish it soon.

For further information, please contact Sieglinde Gamsjaeger (gamsjaeger@ccbe.eu).

Permanent delegation to the Luxembourg Courts (PD Lux)

Revision of the Rules of Procedure of the Court of Justice – oral hearing



Following its detailed comments on the draft Rules of Procedure of the Court of Justice (from September 2011), the PD Lux has continued to follow developments regarding the Rules. With regard to one aspect of the latest version, the PD Lux is concerned that the proposal in draft Article 76(2) will permit the Court to dispense with an oral hearing if it considers “*that it has sufficient information to give a ruling*”.

In April, the CCBE President submitted a letter to the President of the Court of Justice and to the Permanent Representations in Brussels mentioning the importance of the oral hearing. The letter provided that, as regards open justice, a public hearing has characterised the vast majority of court proceedings throughout the EU, and such public hearings are particularly important for the general acceptance of EU law. It is also the case that the abolition of the Report for the Hearing and the increasing number of cases in which there is no Opinion from an Advocate General mean that the oral hearing is of increasing

importance as a point at which both judges and advocates focus on the matters at issue. Justice is thereby not only done, but also seen to be done.

The CCBE letter mentioned that, as regards access to justice, well-established principles of rights of defence require that, if requested, the Court should grant a hearing to a party at which the main points can be highlighted, questions

can be asked by the Court of each party and above all a right of reply is afforded to each party to the written observations of the other parties in preliminary reference cases. Without such an opportunity, the right of reply is abolished.

The CCBE also pointed out that, of the 600 cases decided in a recent year, only 180 had an oral hearing. In these circumstances, and for the reasons given above, the letter stressed that the Court should not have a right to refuse an oral hearing where one is requested.

For further information, please contact Peter Mc Namee (mcnamee@ccbe.eu)

Training

European Judicial Training

The European Commission has asked the CCBE to gather - by the end of April - through its member Bars and Law Societies information about training of lawyers in EU law and other Member States Law. The exercise not only covers lawyers but also judges, prosecutors and other judicial staff as well as notaries. The objective of the Commission's exercise is to prepare a report on the development and increase of training of legal practitioners in EU law, following the 2011 European Commission Communication "Building trust in EU-wide justice, a new dimension to European judicial training". This goes back to a request of the Council of the European Union of October 2011.

Continuing training

Over the past two years, the CCBE secretariat has been gathering information on national continuing training regimes. The information – including a comprehensive summary of the existing national regimes and country tables – has now been made public on the [CCBE website](#).

For further information, please contact Sieglinde Gamsjäger (gamsjaeger@ccbe.eu).