



CCBE Info

N° 60
March 2017

European Lawyers in Lesvos - Defence of the Defenders Workshop -
European Parliament Workshop on Training of Lawyers -
Anti-Money Laundering - Criminal Law -
TRAVAW (Training of lawyers on the law regarding Violence Against Women)

EUROPEAN LAWYERS IN LESVOS

From 8-11 March, a delegation composed of CCBE President Ruthven Gemmell, CCBE Past-President Michel Benichou, CCBE Migration Committee Chair David Conlan Smyth, DAV (German Bar Association) Past and Vice-President Prof. Dr. Wolfgang Ewer, and DAV CEO Cord Brüggmann, travelled to Greece to visit the [European Lawyers in Lesvos \(ELIL\) project](#).

The delegation was welcomed in Athens for a dinner hosted by the Athens Bar and by the head of the Greek delegation to the CCBE, Panagiotis Perakis, with notable guests including two CCBE Greek Past Presidents, the Minister of Justice, distinguished academics, and lawyers. It was an excellent and welcoming occasion, and a special presentation was made to CCBE Past President Michel Benichou for his considerable contribution to ELIL and access to justice in Greece.

On 9 March, the delegation met with the Greek Minister of Justice, Mr Stavros Kontonis. The meeting was of great interest and the Minister set out the economic and political context of the refugee crisis in Greece, and stated the Greek government's commitment to European solidarity and peace. Next, the delegation met with the Greek Minister of Migration's legal advisers, Mr Vassileios Zissis and Mr Markos Papakonstantis, where they discussed the project's success on the ground, the good collaboration between the project and the Ministry, and the potential future of ELIL.

The delegation then travelled to Lesvos and met with the project managers, Philip Worthington and Chrysoula Archontaki. On 10 March, along with the Minister of Migration's legal advisor, Mr Vassileios Zissis, the delegation visited the Reception and Identification Centre of Moria. The delegation was welcomed by the Director of Moria who accompanied them on their visit of the camp.

Finally, the delegation met with Bar leaders from the Lesvos Bar thanking them for their co-operation with ELIL and for their work, and discussing the potential future 'shape' of the work in Lesvos.

The trip was very successful and it was an excellent opportunity to see how well the project is being run on the ground.



Dr Cord Brüggmann, Mr Panagiotis Perakis, Mr Ruthven Gemmell WS, Greek Minister of Justice Mr Stavros Kontonis, Prof. Dr Wolfgang Ewer, Mr Michel Benichou, Mr David Conlan Smyth



CCBE President Ruthven Gemmell WS and CCBE Greek Head of Delegation Panagiotis Perakis, outside the ELIL container in Moria



Mr David Conlan Smyth, Mr Markos Papakonstantis, Mr Michel Benichou, Mr Ruthven Gemmell WS, Mr Vassileios Zisis, Prof. Dr Wolfgang Ewer and Dr Cord Brüggmann

On 31 March 2017, the European Lawyers in Lesvos worked on its 1000th case, meaning that over 1000 individuals have received first instance legal advice from an ELIL lawyer since July 2016. This is an excellent achievement and we wish to thank once again the generous financial support of the contributing Bars.



ELIL Project Manager, Philip Worthington, outside the ELIL container in Moria

DEFENCE OF THE DEFENDERS WORKSHOP



Burundi lawyer, Mr Vital Ruyaga

On 30 March, the CCBE and ProtectDefenders.eu organised a joint workshop entitled “How to improve the protection of threatened lawyers worldwide? Practical tools from the EU Human Rights Defenders mechanism”.

At the workshop, the new online platform “Index of attacks and threats against Human Rights Defenders” created by the European Union Human Rights Defenders Mechanism, was launched. This platform is an important new instrument to enhance the protection of threatened lawyers, since it will centralise alerts on attacks on lawyers worldwide. Last year, the CCBE proposed the establishment of this platform, based on the model of the platform to promote the protection of journalism and safety of journalists, launched by the Council of Europe in 2015. The event gathered around 70 participants among which were Bars and Law Societies, International, European and national lawyers’ organisations, individual lawyers, and human rights NGOs. Mercedes García Pérez, Head of Human rights Division at the European External Action Service (EEAS), and Sarah Rinaldi from the Commission’s Directorate-General for International Cooperation and Development (DEVCO) presented the EU initiatives in support of human rights defenders/lawyers.

The CCBE President, Ruthven Gemmill WS, and the CCBE Human Rights Committee Chair, Patrick Henry, highlighted the deterioration of the situation of lawyers in many countries and reported on international mobilisation and the CCBE initiatives in support of threatened lawyers. The European Union Human Rights Defenders Mechanism representatives presented the new platform, as well as other practical tools to assist endangered human rights defenders and lawyers.



Ms Mercedes García Pérez,
Head of Human rights
Division at the European
External Action Service (EEAS)



CCBE/ProtectDefenders joint Workshop at the Press Club

There were also testimonies from the President of the Executive committee of the Colombian Bar and from lawyers at risk from Burundi (Mr Vital Ruyaga) and Kenya who benefited from the temporary relocation programme of the EU Human Rights Defenders Mechanism.

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

EUROPEAN PARLIAMENT WORKSHOP ON TRAINING OF LAWYERS

The workshop on “The training of lawyers” which will discuss the training of judges and legal practitioners, including lawyers, will take place on Wednesday 12 April 2017 in Brussels, during a joint meeting of the Committee on Civil Liberties, Justice and Home Affairs and of the Committee on Legal Affairs. The chair of the Training Committee, Pier Giovanni Traversa, will participate on behalf of the CCBE.

ANTI-MONEY LAUNDERING

Amendments to the 4th AML Directive

On 28 February, the responsible European Parliament Committees adopted a Report on the proposal for a Directive amending the 4th anti-money laundering Directive. Discussions have now commenced with the Commission and Council (Member States) in order to find a compromise. A number of the draft proposed provisions in their current form will impact on lawyers, including issues regarding customer due diligence requirements, beneficial ownership provisions, the role of the self-regulatory body, the role and activities of Financial Intelligence Units and tax advice provided by lawyers.

In February, the European Data Protection Supervisor (EDPS) issued an Opinion which analysed certain provisions of the proposed amendments to the 4th AML Directive. The EDPS is an independent institution of the EU which, with regard to the specific point of processing personal data, “is responsible for ensuring that the fundamental rights and freedoms of natural persons, and in particular their right to privacy, are respected by the Community institutions and bodies”. In its Opinion, the EDPS identifies a

number of significant concerns relating to Beneficial Ownership provisions. The Opinion also identifies concerns regarding proportionality issues with respect to the role of Financial Intelligence Units, and proportionality concerns regarding the need to depart from the well-established risk-based approach. This Opinion also refers to concerns regarding the fact that the proposed amendments exceed the stated goal of countering money laundering and terrorist financing, and violate the principle of purpose limitation of gathering personal data. The CCBE shares the concerns of the EDPS and has expressed similar concerns.

Supra National Risk Assessments

The Commission is continuing its work on Supra-National Risk Assessments (SNRA). This involves assessing the level of “threat and risk” of money laundering and then assessing the “mitigating measures” for a number of sectors, including the legal sector. The CCBE participated in a second Commission consultation on 14 March. It is expected that the Commission will prepare its Recommendation by June 2017.

Commission proposal on countering money laundering by criminal law

On 23 December, the Commission published a “Proposal for a Directive of the European Parliament and of the Council on countering money laundering by criminal law.” The CCBE believes there are many problems with this proposal, ranging from the definition of “criminal activity”, provisions regarding the “acquisition, possession or use”, implications for the presumption of innocence, “self-money laundering” provisions, as well as provisions concerning “Property derived from criminal activity”. The CCBE prepared a response to this proposal which was approved at the Standing Committee on 31 March, and will be submitted to the EU institutions.

FATF Private Sector Consultative Meeting

The CCBE participated in a FATF organised Private Sector Consultative Meeting in Vienna on 20 and 21 March. The meeting covered a range of issues including beneficial ownership, trusts and future work with the private sector.

CRIMINAL LAW

Proposal for a Regulation on the mutual recognition of freezing and confiscation orders.

On 23 December, the Commission published a “Proposal for a Regulation on the mutual recognition of freezing and confiscation orders”. The CCBE is in the process of finalising its response to this proposal as the proposal in its current form contains many problematic issues.

EPPO

The discussions regarding the creation of a European Public Prosecutor (EPPO) are advancing, and it is possible that the EPPO will be operational by 2019. Not all countries will participate (so far 13 Member States have indicated their support). The CCBE has voiced its position on numerous occasions regarding Defence Rights, Choice of Forum, Judicial Review and Remedies. The CCBE will need to assess how defence practitioners can be best prepared to deal with EPPO cases.

Procedural safeguards

The CCBE, through its Criminal Law Committee, has followed developments regarding proposals for Directives that have now completed the legislative process. These concern (a) the Right to interpretation and translation, (b) the Right to information (c) the Right to access a lawyer (d) Provisional legal aid for suspects or accused persons deprived of liberty and legal aid in European arrest warrant proceedings, (e) the presumption of innocence and the right to be present at trial in criminal proceedings, and (f) special safeguards for children suspected or accused of a crime.

The Committee was closely involved in the discussions on these proposals when each was going through the legislative process. This involved numerous meetings with Commission, Parliament and Council Presidency officials. It is now time to look at identifying what further Rights should be developed. The Committee has been liaising with the European Criminal Bar Association (ECBA) in this regard, as the ECBA has already given thought to some further possible measures. Discussions between the CCBE and the ECBA will continue in this regard.

TRAVAW (TRAINING OF LAWYERS ON THE LAW REGARDING VIOLENCE AGAINST WOMEN)



The first training seminar on legal cases concerning violence against women took place in Madrid on 27 March 2017.

The seminar was attended by 40 Spanish lawyers, who came from various cities to ensure a balanced geographical representation. The speeches were delivered by 7 experts in the field of gender-based violence (5 Spanish, 1 Irish and 1 Polish expert). The seminar was divided into two sessions, the morning dedicated to the national context of the law relating to violence against women, with the afternoon focusing more on the European context. The two speakers from Poland and Ireland were invited to analyse comparatively their national legal frameworks on gender-based violence, with a view to exchanging good practices with their Spanish counterparts.

The detailed programme of the Madrid seminar can be accessed through the following [link](#).

RECENTLY ADOPTED PAPERS

[CCBE comments on the ELI ENCJ Consultation Paper on The Relationship between Formal and Informal Justice the Court and Alternative Dispute Resolution](#)

[CCBE comments on the proposal for a Directive on the enforcement of the Directive 2006/123/EC on services in the internal market, laying down a notification procedure for authorisation schemes and requirements related to services, and amending Directive 2006/123/EC and Regulation \(EU\) No 1024/2012 on administrative cooperation through the Internal Market Information System](#)

[CCBE comments on the proposal for a Directive on a proportionality test before adoption of new regulation of professions](#)

[CCBE Comments on the Proposal for a Directive of the European Parliament and of the Council on countering money laundering by criminal law COM\(2016\) 826 final 2016/0414 \(COD\)](#)

UPCOMING EVENTS

- | | |
|-----------|--|
| 19 May | CCBE Plenary Session, Edinburgh |
| 24-25 May | IBA 12 th Annual Bar Leaders' Conference, Belfast |
| 24-26 May | 68 th Annual Conference of the DAV, Essen |