

Three Bar Meeting, Hangzhou, China

# CCBE Info

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Three Bar Meeting, Hangzhou, China, June 17<sup>th</sup> – 19<sup>th</sup> 2017 - European Commission's proposal on tax intermediaries and reporting obligations - Meeting with Greek Minister of Migration - Good Lobby Pro Bono Awards - CCBE Standing Committee - Anti-money laundering - Broken Dialogues - TRALIM- European Lawyers Foundation (ELF)

## THREE BAR MEETING, HANGZHOU, CHINA, JUNE 17<sup>TH</sup> – 19<sup>TH</sup> 2017

Every year since 2004, the CCBE meets with the All China Lawyers' Association (ACLA) and the Japanese Federation of Bar Associations (JFBA) at the Three Bar meeting. The 2017 meeting was organised by ACLA in Hangzhou in China. The three Presidents and their Vice Presidents discussed current issues facing their respective organisations' agenda and topics of common interest. This year the CCBE, ACLA and JFBA discussed the globalisation of the legal profession, pro bono work, innovative legal

tech and artificial intelligence, training of lawyers and the promotion of the legal profession. ACLA was very interested in the training of criminal defence lawyers to safeguard the quality of their practice. The Japanese Bars Association is currently developing a strategy to integrate AI in legal services. The exchange of experiences through the Three Bar Meeting is always enriching, with the topics discussed becoming increasingly more practical and relevant. Next year, the JFBA will host the Three Bar Meeting in Japan.

## EUROPEAN COMMISSION'S PROPOSAL ON TAX INTERMEDIARIES AND REPORTING OBLIGATIONS

On 21 June 2017, the [European Commission published its proposal on tax intermediaries and reporting obligations](#). The CCBE positively notes that the proposal sets out the obligation for intermediaries to disclose potentially aggressive tax planning arrangements to the tax authorities, when involved in

such arrangements as part of their profession, unless "entitled to a legal professional privilege under the national law of their Member State." In such cases, the obligation to file information falls on the taxpayers, and intermediaries must inform them of this responsibility. As a reminder, the obligation is limited to cross-

border situations, i.e. situations in either more than one Member State or a Member State and a third country. In this regard, the Deontology committee and Tax working group met on June 30<sup>th</sup> to discuss the details of the proposal and further actions of the CCBE.

## MEETING WITH GREEK MINISTER OF MIGRATION

On 22<sup>nd</sup> June, David Conlan Smyth, Chair of the CCBE Migration Committee met with the Greek Minister for Migration, Mr Mouzalas, to discuss the European Lawyers in Lesvos (ELIL) project. At the meeting, Minister Mouzalas thanked the CCBE/DAV for their excellent work and pledged the Greek government's continued support for the project. With regards to the renewal of the Memorandum of Understanding with the Greek government, it will hopefully be signed over the coming weeks.



David Conlan Smyth, Chair of the CCBE Migration Committee and the Greek Minister for Migration, Mr Mouzalas

## GOOD LOBBY PRO BONO AWARDS

The  
GOOD  
Lobby

On 22 June, the CCBE participated at the launch of the “[Good Lobby EU Pro Bono Awards](#)”. The award highlights projects that deal with key social and political issues for the European public interest and show-cases the commitment of the legal profession and civil society to collaborate in the interest of citizens across the EU.

This is something that the CCBE highlighted as being crucial to a well-functioning democracy and rule of law, as exemplified for example by the [European Lawyers in Lesvos Project](#).

This year, the winner of the award was a joint project by DLA Piper and the Migration Law Clinic of the VU University Amsterdam, on “Assessing Dutch evidentiary policy in Eritrean family reunification cases in the light of the Family Reunification Directive.”

## CCBE STANDING COMMITTEE

The CCBE Standing Committee took place on June 30<sup>th</sup> at The Hotel in Brussels. The opening speech was given by the European Observatory President Louis-Georges Barret. Mr Barret presented the Observatory's report on the legal profession in seven Member States of the EU, and explained how it aims at displaying clear facts and statistics about the legal profession, obtained through a transparent and rigorous process, in order to fully understand and be able to analyse the profession itself and its externalities. Mr Barret added that the aim is to broaden the Observatory

to include other Member States in the future reports.

Secondly, Ms Djamila Ben-Miloud from the European Commission presented and briefly demonstrated the European Training Platform, which should be launched by the end of the year.

**The next Standing Committee will be held on September 15<sup>th</sup> in Brussels.**

## ANTI-MONEY LAUNDERING

### Panama Papers

The CCBE has been following developments regarding the European Parliament Committee of Inquiry into Money Laundering, Tax Avoidance and Tax Evasion (PANA). The CCBE prepared a brief and non-technical paper which was sent to all members of the PANA Committee. The paper was prepared as the CCBE believes there have been a number of occasions during various Committee Hearings in which the legal profession has been mistakenly portrayed, and the points in the paper have been prepared to assist the Committee. The Parliament report is being prepared

and a draft version is expected by 10 July with amendments being submitted until 26 September and a vote on the draft report expected on 18 October.

### Update on the Supra-National Risk Assessment

[The Commission has published its report](#) on the Supranational risk assessment on money laundering and terrorist financing. A “Supranational risk assessment” is a Commission tool, required under EU law to understand risks and to elaborate policies for the legal sector and other sectors, which addresses the risk of money

laundering and terrorist financing relating to cross-border activities i.e. identification, analysis and evaluation of these risks. The Commission report includes recommendations to Member States on the measures suitable to address those risks for each sector, including the legal sector. The recommendations cover beneficial ownership requirements, the role of supervisory authorities regarding thematic inspections, special and ongoing training for obliged entities, and annual reporting from competent authorities/self-regulatory bodies on the activities of the obliged entities under their responsibilities.

## BROKEN DIALOGUES

“

*23 June 2017 in Brussels. A European Summit. In the forbidden city. After passing around a wall of chains. A long march...*

*As Chair of the Human Rights Committee of the Council of Bars and Law Societies of Europe (CCBE), I am invited to participate in part of the European Union’s dialogue with China on human rights.*

*On my right is Ellis Mathews, Head of Division at the European External Action Service (EEAS). Facing him, Ms Liu Ha, China’s special representative for human rights. MEPs and academics complete the panel sitting around the table. European officials are sitting behind us.*

*Some interventions are soft. Ms Liu Ha reminds us that the Chinese culture is a culture of listening. We are delighted to be there together. The importance of the meeting was emphasized. We called for increased cooperation, which is necessary in a world where issues such as sustainable development must be dealt with on a global scale.*

*Other interventions are more offensive. Direct inquiries on the treatment of ethnic, religious and sexual minorities, on torture, on the repression of journalists, bloggers, etc.*

*It was my responsibility to speak on behalf of lawyers.*

*I remind the origin of our name, the importance of contradiction, the essential nature of the independence of judges and lawyers, a necessary condition for legal certainty and the harmonious development of a nation. I spoke about the role of the European bars - constantly questioning legislative initiatives, the practices of the executive power, judges’ caselaw. Here and elsewhere.*

*That means in China as well. I criticise, with a report in hands, the new (November 2016) provisions concerning the supervision of the legal profession: the obligation to join a firm, to acquire a license, which is renewable every year and makes it possible to exclude all those who accept “sensitive cases”, be it cases of birth control, the environment, religious freedom, the protection of minorities, etc. or even a simple questioning of the responsibility of an official; the prohibition of any public expression of disapproval of the government; the compulsory participation of a representative of the Communist Party in any decision taken by a law firm, etc. I asked for explanations regarding the fate of, among many others, three of our colleagues who were imprisoned, deprived of contact with their families, deprived of the right to be defended by a lawyer of their choice, having to wait for at least six months, sometimes more than a year, to be notified of the charges against them, being ill-treated, harassed, and tortured... Their names are Wang Quanzhang, Jiang Tianyong, and Xie Yang.*

*Liu Ha answered me. The tension rises. Western arrogance, colonialist blindness, the speck and the log. Our weaknesses in immigration, poverty alleviation, terrorism, and customs duties.*

*I replied. Lawyers listen. To their clients, but also their opponents. Lawyers speak... We also demand accountability to Europe. Easy examples are immigration, privacy, professional secrecy, freedom of expression. Give us facts. We are listening.*

*Their reply focused on the progress of criminal law and criminal proceedings, the organisation of the legal profession. The specific questions raised had no answers*



EU-China Human Rights Dialogue, Brussels

*but silence, except on the case of Xie Yang. A wealth of details. Unverifiable ones, sometimes contradictory. The progress of the system of detention, and the prevention of torture were praised. It was affirmed that torture is severely repressed, that guards are now closely monitored. We were invited to go to China and see it for ourselves.*

*I thanked my interlocutor and immediately accepted her invitation. I was pleased she agreed to hear the voice of a representative of European lawyers. I would like her to agree to hear the voice of Chinese lawyers.*

*The debate continued: the death penalty, torture, freedom of expression, minorities...*

*After four hours of discussions, we parted. Handshakes. Official smiles and promises to continue the dialogue. We were assured our questions would receive an answer.*

*Mixed feelings. [Some NGOs had called on the EU](#) to cancel this dialogue, highlighting its reluctance to denounce human rights abuses, fearing that the institutionalisation of this dialogue would serve as a smokescreen for the Chinese authorities.*

*So, should we stop here or pursue such dialogues? Did we need to be there? Were we manipulated and instrumentalised? Beyond an exchange of diplomatic words, can these meetings have a positive impact on human rights defenders in China?*

*I cannot really give a definitive answer to these questions. Is there even one? Should these not be constantly reevaluated? Breaking bridges is not necessarily the most effective option. But we must be careful not to legitimise, in the name of a so-called real politik, unbearable violations of the most fundamental rights.*

*Let us continue the struggle. ”*

**Patrick Henry,**  
**Chair of the CCBE Human Rights Committee**

## TRALIM- EUROPEAN LAWYERS FOUNDATION (ELF)

The European Lawyers Foundation (ELF), in partnership with the Spanish Bar, the Athens Bar, the Italian Bar, the Irish Law Society and the Polish Legal advisors, implemented the TRALIM project over the last 12 months. TRALIM stands for Training of lawyers on the European law relating to immigration and asylum and it was awarded funding by DG Justice. The main achievements of the project were to train more lawyers than foreseen (150 lawyers instead of 130 committed to the European Commission) for a lower cost (20% savings from the forecast budget), all by ensuring high quality of training, smooth organisation of the four training events and high satisfaction of participants and speakers who enthusiastically took part (average satisfaction rate of 4.22/5).

The project was a win-win situation for all the parties directly or indirectly involved. First of all, 150 lawyers from the partner countries received good training from speakers with extensive experience in immigration and asylum cases. The lawyers also had the chance to find out more about

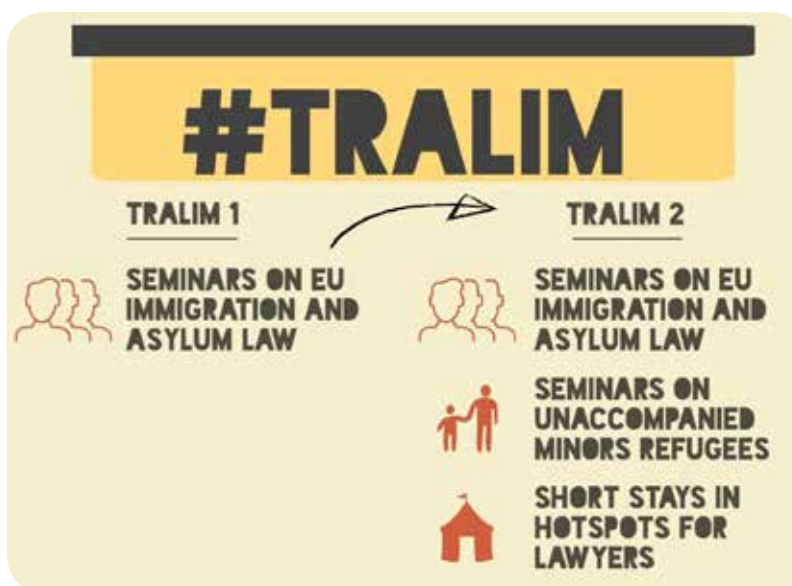
the legal framework and procedures followed in other countries and to exchange experiences and business cards with their counterparts from these other countries. The 150 trained lawyers are now more familiar with EU immigration and asylum law, which puts them in a position to offer better advice to their clients when

The legal aspects linked to the ongoing refugee crisis will continue to be an important issue for the EU and for lawyers practising in EU Member States for years to come. Therefore, building on the success of the TRALIM project, ELF is now working on a continuation, which aims to extend the number of lawyers trained.

Further, this new project will include additional seminars on the topic of unaccompanied minor migrants. A new component is also being considered, namely the inclusion of funds for some of the participating lawyers to go to migration hotspots for a short period of time. This will allow these lawyers to become familiar with the situation

dealing with such cases. Through a multiplier effect, well-trained lawyers can potentially become trainers at national level and disseminate the knowledge they obtained during the TRALIM seminars. Further, partner bars had a unique chance through this project to organise low-cost training activities for their members, with control over the selection processes for national speakers and participants.

in the hotspots and to learn from local lawyers who represent migrants in these places. The continuation project will be presented to the EU for funding, and it will show the commitment of EU lawyers to the protection of migrant rights.



### UPCOMING EVENTS

- 8-9/08** *L4 Meeting, New York*
- 10-15/08** *ABA Annual Meeting, New York*
- 28/08-1/09** *International Association of Young Lawyer (AIJA) Annual Conference, Tokyo*
- 15/09** *CCBE Standing Committee, Brussels*
- 25/10** *European Lawyers Day*