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Moria detention centre, Lesvos

MIGRATION – EUROPEAN LAWYERS IN LESVOS

European Lawyers in Lesvos (ELIL) was launched by the Council of Bars and Law Societies of Europe (CCBE) and the German Bar Association (DAV) in June 2016 and was incorporated as an independent charitable, non-profit organisation in October 2017. The project was developed following the European Bar Presidents' Conference in Vienna in February 2016 and has been supported financially by 37 separate European Bars and Law Societies. Considerable assistance and support has also been extended by the Greek Bars and a Memorandum of Understanding was signed with the Greek Government to guarantee access and provide legal assistance on international protection needs to migrants in Lesvos. The Supervisory Board of ELIL is comprised of Professor Vassilios Skouris, former President of the European Court of Justice (Chair of the Supervisory Board), former CCBE Presidents Ruthven Gemmell WS and Michel Benichou, former DAV President Wolfgang Ewer and DAV Board Member Dr Annette Mutschler-Siebert.

The need for legal assistance was and remains acute. In 2015 the UNHCR estimated that over 573,000 migrants arrived on the island of Lesvos alone. The population of that island is about 86,000 persons and its legal profession consists of about 100 members. The asylum system on the island had originally been designed about 20 years ago and anticipated about a dozen applications for asylum every year. Whilst the numbers arriving substantially reduced following the migration arrangement made between the European Union and Turkey in March 2016 there remained very considerable numbers of migrants on the island. In addition the number of arrivals is increasing once more. Almost four times as many migrants arrived in the first five months of 2018 than during the equivalent period in 2017.

There are currently more than 8,500 asylum seekers on Lesvos, the majority of whom are from Syria, Iraq or Afghanistan. Many of these often severely traumatised, ill or injured people have a limited understanding about their legal rights, the asylum process and the criteria applied when their applications are assessed.

Whilst there is provision for some legal aid at appeal stage and excellent work is being carried out by members of the legal profession in Lesvos at appeal stage, the right to asylum enshrined in Article 18 of the EU Charter of Fundamental Rights can only be effective where legal aid is provided both at first instance and appeal stages not simply in Lesvos but in all of the so-called hotspots in Greece and Italy.

As there is no legal aid available for asylum seekers before their asylum interviews and only a small number of asylum lawyers on the island, many asylum seekers attend their asylum interview without having spoken to a lawyer and may be unaware of the possibility of reunification with their family in other EU member states. This is very problematic, as the asylum process is a complex and ever-changing legal procedure that is difficult to navigate: without access to legal assistance, asylum seekers do not know their rights or understand the process and so are significantly disadvantaged when they attend their asylum interview.



David Conlan Smyth S.C.,
CCBE Migration Law Committee Chairman

ELIL was inspired by belief in the fundamental importance of upholding the rule of law and ensuring meaningful access to legal assistance. Its team of Greek asylum lawyers and volunteer European asylum lawyers works to address the challenges on Lesbos by providing pro bono, independent legal assistance to as many asylum seekers as possible. The volunteer lawyers support, and work closely with, their colleagues from the Greek Bar Associations.

ELIL is one of the primary providers of legal assistance on Lesbos and has been operational since July 2016. In the last two years, its team of asylum lawyers has provided legal assistance to over 5,400 people.

ELIL operates in Moria Camp (the main migrant centre on Lesbos) and its primary focus is the provision of one-on-one legal consultations to help asylum seekers prepare for their asylum interviews. ELIL also helps reunite families by assisting with family reunification applications under the Dublin Regulation.

ELIL's work has a real impact and demonstrates the importance of asylum seekers having access to legal assistance: of the asylum seekers we have assisted and who have notified us of the outcome of their asylum application, 74.7% have been granted asylum, compared to an average of 46.5% in Greece.

ELIL has been made possible by a remarkable spirit of volunteerism which, in the last two years, has prompted 123 lawyers from 17 European countries to give up their holiday or take unpaid leave to provide legal assistance in Lesbos.

Unfortunately, the challenge is getting bigger: ELIL is one of very few organisations providing legal assistance and as stated arrivals are increasing. This puts great strain on the members of the Lesbos legal profession at a time when the need and importance for legal assistance is greater than ever.

The right to asylum is enshrined in Article 18 of the EU Charter of Fundamental Rights. This provision gives effect to the basic protection principles contained in the Geneva Convention of 1951 to which all EU Member States are contracting parties. As lawyers we all know that as the course of a case is invariably set at its commencement (at a time when serious mistakes can be made which may not be reparable), it is therefore crucial that people in need of protection arriving from war-torn zones in the Middle East are provided with competent legal advice from experienced practitioners.



Phil Worthington, Solicitor, Managing Director, European Lawyers in Lesbos

Our resources are finite. We urgently need additional financial support to continue to provide this essential service. A donation of £44/€50 enables our team of qualified and practising European asylum legal practitioners to provide eight hours of one-to-one legal assistance to people in need.

Please visit our website (www.elil.eu) for further information, to find out how to volunteer and to read our Funding Appeal (available in various languages).

If you would like to donate, please go to www.elil.eu/donate - we are extremely grateful for all donations, no matter how large or small.

MIGRATION – ROME CONFERENCE ON THE DUBLIN SYSTEM

The CCBE First Vice-President, José de Freitas, and the Chair and Vice-Chair of the CCBE Migration committee, David Conlan Smyth and Noemi Alarcon Velasco, participated in a conference on migration organised by the Consiglio Nazionale Forense (CNF) on 21 June in Rome. The conference was dedicated to the reform of the Dublin system which defines which State has the obligation to evaluate the asylum claims presented by persons arriving in Europe.

José de Freitas reported on the CCBE work in the field of migration underlying that European lawyers must remain vigilant to uphold human rights. Noemi Alarcon Velasco explained the current system established by the Dublin III Regulation and David Conlan Smyth presented the CCBE position on the reform proposal.



David Conlan Smyth, Chair of the CCBE Migration Committee, Andrea Mascherin, President of the Consiglio Nazionale Forense and José de Freitas, CCBE First Vice President at the Rome Conference on the reform of the Dublin system

SPOTLIGHT ON EUROPEAN LAWYERS - ALEXIS DESWAEF

What are your main activities as a lawyer?

I am a lawyer, registered at the Brussels Bar (Belgium) since 1994 and one of the co-founders of the Quartier des Libertés law firm (www.quartierdeslibertes.be), committed to the access to justice of everyone, whatever the socio-economic situation of the person is. I am specialised in immigration and international law (residence and asylum), criminal law (for victims of human trafficking) and international humanitarian law (Myanmar-Total case in Belgium).

For almost 25 years, I have been defending homeless or poorly housed, undocumented migrants, migrants, victims of human trafficking, refugees, victims of police violence, social recipients, and human rights defenders in many different countries, etc.

What are the greatest achievements of your career?

In 2007, I won first prize at the International Human Rights Moot Court Competition in Caen (Normandy, France), denouncing the confinement of undocumented minors in closed centres, and in 2010, I successfully won a case against Belgium, on the same issue, in the European Court of Human Rights.

I carried out several missions in Burundi for Avocats Sans Frontières.

In 2012, I took part in a mission of lawyers in Palestine, the story of which I published in a book entitled 'Israel-Palestine, Caught in the Vice. 10 Days to Understand' (*Israël-Palestine, au cœur de l'étau. 10 jours pour comprendre*, Editions Couleurs Livres).

From December 2011 until a few weeks ago, I chaired the League of Human Rights (LDH) in Belgium, which, as a counter-power, observes, informs and challenges public authorities and citizens in order to remedy situations, which infringe fundamental rights. For example, the League of Human Rights is committed to a migration policy which respects human rights, a fight against terrorism which does not violate fundamental freedoms, and public policies for the most deprived in society.



Alexis Deswaef

What developments in human rights have you observed in the last few years?

In countries such as Belgium, and in Europe, it would feel natural that the respect of human rights and fundamental freedoms by governments would progress steadily. Nevertheless, this is not the case. Europe faces major challenges, such as migration, and the fight against terrorism or poverty. Citizens are legitimately concerned about such challenges. Politicians too often play with these concerns and fears, sometimes even amplifying them by fanning the flames or dividing society to present themselves later as protectors of the people or saviours of the nation. These politicians are populists seeking success for the next elections instead of pursuing policies aimed at all citizens and the future generations. In addition, they erode our rights and freedoms, often advocating for policies, which could be described as far-right policies. European lawyers have an essential role in the defence of the rights and freedoms of citizens. We have a role of counter-power against our governments' 'austerity', a combination of austerity policies, which abuse economic and social rights with authoritarian policies, which disregard civil and political rights. To fulfil this mission, lawyers must take legal action for citizens before the courts, but also be present with citizens on the street.

CCBE E-EVIDENCE ROUNDTABLE EVENT AT THE EUROPEAN PARLIAMENT



On 28 June, the CCBE organised a roundtable discussion at the European Parliament (EP) on the Commission's proposal for a regulation on [European Production and Preservation Orders for electronic evidence in criminal matters](#). This important proposal aims to make it easier and faster for police and judicial authorities to obtain electronic evidence (such as e-mails or documents located on the cloud) from a service provider in another Member State to investigate, prosecute and convict criminals and terrorists.

The event was hosted by MEP Birgit Sippel (S&D Group) who is the Rapporteur on this file on behalf of the EP's Civil Liberties, Justice and Home Affairs Committee. Stressing the immediate bearing of this proposal on the rule of law, she indicated that her office will carefully scrutinise the necessity and lawfulness of this instrument and invited the various stakeholders participating in the roundtable to provide her with their insights and analysis.

Following her opening of the roundtable, the European Commission's Tania Schröter (Deputy Head of Unit B2 Procedural

Criminal Law – DG JUST) gave an overview of the main aspects of the proposed regulation. The discussion which then followed mainly revolved around the question whether the proposed enhanced powers to access e-evidence across national borders are coupled with sufficient procedural safeguards and due process procedures. In this regard, the CCBE presented its preliminary comments on the proposal setting out a number of issues and concerns that the CCBE wishes to see addressed in the course of the legislative process, particularly in relation to the protection of confidentiality of lawyer-client communications, judicial validation, grounds for refusal on the execution of the order, the need for a sufficient degree of suspicion, the importance of notifying data subjects, and rights of the defence.

A range of views were then expressed by a cross section of stakeholders, including Fair Trials, Microsoft, The Business Software Alliance (BSA) and European Digital Rights (EDRI).

Also during the open discussion which followed, a number of important loopholes were highlighted, such as the lack of dual criminality and the absence of common minimum standards in respect of remedies.

In due course, the CCBE will publish a more detailed position paper on the proposal for a regulation on European Production and Preservation Orders for electronic evidence in criminal matters, with some concrete suggestions for amendments to remedy some of the shortcomings that have been identified.

ANTI-MONEY LAUNDERING: CCBE INTERVENTION IN SUPPORT OF THE BELGIAN BARS

The CCBE is seeking to intervene before the Belgian Constitutional Court in support of the Belgian Bars against provisions of the national law implementing the 4th Anti-money laundering Directive in Belgium. The case also involves a possible preliminary reference to the European Court of Justice. The case concerns the protection of professional secrecy/privilege, and it is being contested that the national implementing act in Belgium (act of 18 September 2017) implementing the provisions of the 4th AML Directive (Directive 2015/849) violates the right to professional secrecy/privilege.

FATF REVISION OF THE RISK-BASED APPROACH GUIDANCE FOR PROFESSIONS (LAWYERS, ACCOUNTANTS AND TRUSTS AND COMPANY SERVICE PROVIDERS)

The work on the revision of the 2008 risk-based approach guidance for the legal profession is continuing. The work commenced in March 2018 and a first draft of the revised guidance was prepared in advance of an FATF meeting in Vienna on 23/24 April. The next FATF meeting took place on 26 June. The CCBE will continue to be involved in providing its input.

FUTURE OF THE JUDICIAL TRAINING

The experts of the CCBE actively participated in the Conference on “Fitting professionals for the 21st century Justice: How to answer training needs of justice practitioners” organised by the European Commission in Brussels on 18-19 June 2018.

This two-day conference gathered the views of the main stakeholders involved in training of justice practitioners and enabled direct discussions on the results of the written public consultation on the future strategy for European Judicial Training where the CCBE has also provided its contribution.

During the conference the CCBE experts called for an equal attitude to all justice professionals and stressed the essential role of lawyers defending citizens, ensuring the rule of law and strengthening the confidence in the European judicial area. This requires the continuing development of lawyers’ skills and knowledge, which has always been strongly supported by the CCBE.



GENERAL DATA
PROTECTION REGULATION

▷ The CCBE protects your personal data

The CCBE has always treated the personal data of its members and its subscribers confidentially and securely. However, in light of the new EU General Data Protection Regulation (GDPR), which came into force since 25 May 2018, we have adapted our privacy policy.

These new regulation aims to:

- Communicate with transparency the collected personal data, their purposes and their recording times,
- Strengthen citizens' rights by giving them more control over their personal data,
- E m p o w e r stakeholders dealing with personal data.

To consult the CCBE Data Privacy Policy, click [here](#).

▷ The CCBE welcomes Ms. Paula Garrido Ramos to its Brussels office. She joins the team as Director of the Communications and Public Affairs. Paula has worked in the United States, Spain and Brussels. She possesses a Master to Practice Law and a Double Degree in Journalism and Law. Paula is born in Spain and speaks fluent Spanish, English, German and French.



Paula Garrido

UPCOMING EVENTS

<i>21-23/07/2018</i>	<i>Three Bar Meeting – Fukuoka</i>
<i>02/08/2018</i>	<i>ABA Annual Meeting – Chicago</i>
<i>05-07/09/2018</i>	<i>European Law Institute General Assembly – Riga</i>
<i>05-07/09/2018</i>	<i>Young Lawyers Contest - Trier</i>
<i>14/09/2018</i>	<i>CCBE Standing Committee – Brussels</i>