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## CCBE STANDING COMMITTEE IN COPENHAGEN

The CCBE held its September Standing Committee in Copenhagen upon invitation of the Danish Bar.

The meeting opened with a keynote speech from Margrethe Vestager, European Commissioner for Competition (see after).

Among the issues discussed were the future strategy of the CCBE following the Bar Leaders' Debate in June, Statutes Review, the CCBE contribution to the work of the Council of Europe European Commission for the Efficiency of Justice (CEPEJ), and the latest developments as regards the issue of the Rule of Law.

There was also a presentation of the activities of the International Observatory of Endangered Lawyers (OIAD) by Jacques Bouyssou, member of the French delegation. The Observatory is an initiative of the French National Council of Bar Associations (France), the Paris Bar (France), the Consejo General de la Abogacia Espanola (Spain) and the Consiglio Nazionale Forense (Italy). Launched in 2015, the Observatory aims to protect lawyers who are threatened as a result of their professional practice, as well as to denounce situations that violate the rights of the defense.

More information on their activities here: <https://www.protect-lawyers.com/en/>



## CCBE Conference The Modernisation of European Company Law

Brussels - 27 November 2019



Margrethe Vestager, European Commissioner for Competition [© Morten Holtum]

## Speech from Margrethe Vestager, European Commissioner for Competition

### Security and trust in a digital world

“Ladies and gentlemen

It’s a very great pleasure to be here today with you, the representatives of Europe’s legal profession.

Our European Union is a Union based on law. The rule of law in Europe is the visible sign of our commitment never to fall back into the tyranny and violence of the last century. It’s a promise to Europeans that the law will protect everyone, not just the rich and powerful among us. And it gives our people the security they need, to get on with life in the way that’s right for them.

And you – Europe’s lawyers – are the ones who make the rule of law a reality. You’re the ones who stick to the task of applying the law, even while voices around you are clamouring for shortcuts to be taken. And I’m very glad to have this chance to thank you, for all that you do.

I’m especially happy to be here right now, in the year when the Danish Bar and Law Society is celebrating its centenary. So I can add my voice to the chorus of appreciation for its work – standing up for the rule of law here in Denmark, and enforcing the very highest ethical standards.

Those ethical rules are the reflection, of course, of the influence that lawyers have in people’s lives. Because it’s a basic principle of our democratic societies – that where you have influence, you also need rules, to make sure that influence is used in the interests of society.

### The power of digital platforms

And as the world changes, and new types of power and influence grow, the rules we have need to keep up with those changes.

Today, for example, digitisation is finding its way into every part of our lives. It’s given us new ways to stay in touch with our friends. It’s put the world’s knowledge at our fingertips, and given us control of the way we shop or read the news or watch TV. And those changes have also given some digital businesses new power over our lives.

Digitisation creates enormous possibilities for connection. But we need a way to filter those possibilities – to find the product that we want, or the information we need. And the digital platforms that help us to do that – the search engines and social media networks and online marketplaces – can become enormously powerful, by controlling our access to the benefits of digitisation.

### Tackling self-preferencing

We’ve come to rely on these platforms as our window on the digital world. And by doing that, we’ve also given them the power to decide what we see of that world. Their choices, about which websites and businesses to put at the top of their rankings, and which to rank lower down, shape our knowledge of what’s out there. Some 95% of clicks in Google search results are on the very first result on page 1. By the time you get to page 2, you find that the first result gets only 1% of clicks.

Many of us worry about what that filtering means for our own sense of truth and reality. It’s often very hard for us to know what’s being filtered out, and why. But one thing we do know – because we’ve seen it happen – is that platforms sometimes use that power in a way that’s designed to favour their own commercial interests.

That can happen, for instance, when digital platforms are both player and referee – when they don’t just run the platform, but also compete with other companies that rely on the platform to do business. In those cases, the temptation to tweak the way the platform works, to make their own services more visible than their rivals’, can be hard to resist.

And when that happens, consumers can end up paying the price. As competition in these markets fades away, they can lose out on choice, and on the innovation which competitive markets provide.

That’s why, two years ago, we fined Google nearly two and a half billion euros, for misusing the power of its platform – its search engine – to undermine its rivals in the market for comparison shopping.

And that decision isn’t a one-off. We know that whenever a platform acts as both player and referee, the temptation will be there to use its position to undermine competition in other markets. So we’re keeping a close eye on how these platforms use their power. And right now, for example, we’re looking at whether Google used its platform to help its job search business, Google for Jobs.



## The role of data

Because powerful platforms, like Google's search engine, have a central role in our digital lives. And from that position, they can have enormous influence over the whole digital world.

As consumers, we know that when we sign up for these platforms, we're giving them permission to collect and use our data. But we don't always realise just how deeply their hunger for data reaches into our lives.

In fact, the more you look at how digital platforms work, the more you see that for many of them, collecting large amounts of data is right at the heart of their business models. It's a bit like one of those "magic eye" pictures that were popular in the nineties – the ones that just looked like a jumble of colour, until you unfocused your eyes to see the hidden 3D picture. It can be hard at first to see what the many different things that digital platforms do have in common with each other. Until, that is, you take a step back, and suddenly see that the common thread is that they're all ways to collect data.

Because in the digital world, data can be hugely valuable. It can help companies compete, by finding new ways to cut costs, or understanding better the needs of their customers. It's the raw material that trains artificial intelligence to take faster and better decisions than humans.

And perhaps most importantly of all for these platforms, it helps them to target digital advertising better. It's no coincidence that Google and Facebook, which are both determined collectors of data, are also leaders in advertising: between them, they get some six out of every ten digital advertising dollars that are spent in the US.

And so digital platforms can be even more powerful than they seem at first sight. Because it's not just the size of those platforms that's important. It's also the control that they have over data.

So as competition authorities, we need to keep a close eye on the way that digital platforms deal with data – on how they collect data, and what they do it. And we need to be prepared to take action, if we find that they're using their control of data to undermine competition and harm Europe's consumers.

## Competition and regulation

But to tackle the challenges which the digital transformation creates for Europe, we also need to look beyond competition. So I'm very happy – as well as humbled – that Ursula von der Leyen, the President-elect of the Commission, has asked me to take responsibility for making Europe fit for the digital age – as well as continuing my work on competition.

Competition makes markets work better for us as consumers – because it means that businesses have to listen to our needs. It can drive businesses to cut prices and innovate more. It can also encourage them to make products that are better for the environment, or to provide digital services that protect our privacy better.

So it's understandable that people sometimes think of competition as a panacea, a universal answer to all society's problems.

But it can't be that – because competition doesn't work that way. Competition is a process – a sort of negotiation between consumers and businesses. When we enforce the competition rules, we balance out the power in that negotiation, so consumers get a fair deal. But we don't get to say what the final deal should be.

So if, as a society, we want to lay down fundamental standards – if we want to define the market, to set out what's acceptable and what isn't – then what we need is not more competition enforcement. We need regulation.

## Regulating the digital market

If platforms misuse their control of our access to the digital world, in a way that harms competition and consumers, then competition enforcers can take action – as we did in the case of Google Shopping.

But competition is only part of the issue. When platforms manipulate the way we see the world, in ways that we often don't even notice, that affects our ability to understand the world around us. It can be hard for us to make good decisions, if we're not confident of the facts. And that can stop our markets, and even our democracies, from working well.

A few months ago, the European Parliament and the Council adopted our proposal for new rules, to help make sure that platforms treat their business customers fairly. They'll have to explain, for example, the principles they use when they rank different providers. It's a good example of the sort of transparency we may need, to live comfortably with the power of digital platforms.

We'll also need to think about how we deal with data. Because data is not just an issue for competition.

These days, data is the key to understanding the world – including the way that people think and act. And the more you understand something, the better you can control it. So when a few companies control a lot of data about us, that can also help them influence the choices we make.

Our data protection rules already give Europeans control over their own data. They allow me to stop companies misusing my data in a way that's bad for me. But they don't help me, if the problems come from the way that they use other people's data, to draw conclusions about me or to undermine democracy. So we may also need broader rules to make sure that the way companies collect and use data doesn't harm the fundamental values of our society.

### Conclusion

These regulations don't mean we've lost confidence in the value of competitive markets. But we need to remember that markets are there to serve people, not the other way round. As a society, it's our absolute right to define the basic standards that we expect our markets to live up to.

And by doing that, we're not undermining digital technology. Quite the opposite: we're helping society to get the most out of digitisation.

As lawyers, you know that strong ethical rules are good for the profession. Because they give people confidence that their lawyers really do have their best interests at heart.

And in a similar way, successful digitisation depends on having effective rules in place, to give people confidence that digitised businesses will treat them fairly.

That's what people need, so they can put their trust in digitisation, and unlock the true potential that it has, to make our lives easier and richer and more fun.

There's a mountain out there, with a thrilling view from the top. We're ready to climb it – but first, we need to take a moment to make sure all our ropes are secure.

Thank you. »

[Commissioner Vestager's speech is also available in the Commission's website.](#)

[You can also watch it in replay as it was live-streamed on the CCBE twitter account.](#)

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## NEW EUROPEAN COMMISSION

President-elect **Ursula von der Leyen** unveiled her team of new commissioners on 15 September. The proposed structure of the Commission encompasses eight Vice-Presidents whose role will be to coordinate and steer the Commission's work on the six headline ambitions of the President's Political Guidelines – the European Green Deal, a Europe fit for the digital age, an economy that works for people, protecting our European way of life, a stronger Europe in the world and a new push for European democracy. Of those eight Vice-Presidents, three Executive Vice-Presidents will have a dual function (Vice-President responsible for one of the core topics mentioned above and Commissioners).

Among those executive Vice Presidents, **Frans Timmermans** (Netherlands) inherited "The European Green Deal" portfolio which includes the DG Climate Action.

**Margrethe Vestager** (Denmark) too received the position of Executive Vice-President as well as the «Europe fit for the digital age» portfolio, thus keeping DG Competition in her hands. She was also tasked by von der Leyen to coordinate the EU's work on big data and Artificial Intelligence (working with the Justice Commissioner in that regard).

We also find **Valdis Dombrovskis** (Latvia) as an executive Vice-President. He will also retain his role as Commissioner for Financial Services (DG FISMA). DG FISMA has notably been given the role to deal with anti-money laundering moves (previously part of DG JUST).

Alongside the executive vice presidents, we find five other vice-presidents:

**Josep Borrell** (Spain), who had already been appointed in July by the European Council as High Representative of the Union for Foreign Affairs and Security Policy, is also selected as Vice-President (HR/VP-designate) for "A stronger Europe in the World".

**Věra Jourová** (Czechia), who was Commissioner for Justice in the previous Commission, has been appointed Vice-President for values and transparency. In her mission letter to Jourová, von der Leyen entrusted her with protecting media pluralism and the Rule of Law - the latter with her successor as Justice Commissioner Didier Reynders.

Greece's **Margaritis Schinás** was selected Vice-President to "Protecting our European way of life". Von der Leyen clarified in the mission letter that the Greek Commissioner will be responsible for both security and migration policy (working with Home Affairs Commissioner Ylva Johansson).

**Maroš Šefčovič** (Slovakia) was named Vice-President for Interinstitutional Relations and Foresight.

**Dubravka Šuica** (Croatia) has been appointed Vice-President for democracy and demography.

Among the other commissioners-designate we notably find:

**Didier Reynders** (Belgium): DG Justice and Consumers (DG JUST). Commissioner Reynders will bear the responsibility for enforcing the Rule of Law (alongside Vice President Jourová). He has notably been tasked to work on the "ethical implications of artificial intelligence". His mission will also include consumer protection, the European Public Prosecutor's Office (EPPO), the General Data Protection Regulation (GDPR), citizens' rights, company law and judicial cooperation.

**Sylvie Goulard** (France) has been handed a very broad portfolio as it encompasses DG Internal Market (DG GROW), DG Connect (responsible for developing the digital single market) and a new DG for Defense Industry and Space (previously part of DG GROW). She will thus have quite an extensive role alongside Commissioner Vestager regarding the digital world as she is most notably expected to work on Artificial Intelligence and on the new Digital Services Act.

**Helena Dalli** (Malta): Equality portfolio (Directorate-General for Justice and Consumers (DG JUST) on matters relating to Equality & New Task Force for Equality)

**Ylva Johansson** (Sweden): DG Migration and Home Affairs (DG HOME). Von der Leyen particularly emphasized information exchange between law enforcement authorities and an asylum reform.

**László Trócsányi** (Hungary) will lead the 'Neighbourhood and Enlargement' portfolio. He was most notably entrusted with keeping a credible perspective on future accession for each candidate country.

It is now up to the European Parliament to play its role. Hearings of all the Commissioners-designate will be taking place from 30 September to 8 October and during which they are expected to explain their political priorities and answer MEPs' questions. Afterwards, the full Commission (including the High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the European Commission) needs to be elected by a simple majority of the votes on 23 October.

The expected date for the Commission to start working is 1 November.

Given the upcoming hearings, we welcome you to visit [our website on which we will keep you up to date regarding the latest developments](#).

[The full overview of the commission can also be found in the press release.](#)

[Latest news on the hearings on the European Parliament website.](#)





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## DEMOCRACY, THE RULE OF LAW AND FUNDAMENTAL RIGHTS



Strengthening the common values and the rule of law is one of the main priorities of the Finnish Presidency of the Council of the EU. The President of the CCBE José de Freitas together with the head of the CCBE Finnish delegation Jarkko Ruohola participated in the conference on Democracy, the rule of law and fundamental rights organised by the Finish Presidency held on 10–11 September 2019 in Helsinki.

“The importance of our common European values is greater than ever, because our need for European cooperation is also greater than ever,” said Minister of Justice of Finland Anna-Maja Henriksson in the opening of the conference.

During the conference more than 350 participants discussed how to safeguard the resilience of our societies in a changing world, in particularly the functioning of democracy and the impact of disinformation and the new technologies, the right of everyone to participate in the political and public life as a fundamental right, and the ways to strengthen the rule of law and the role of different actors in this important task.

When addressing the audience, the President of the CCBE reiterated the important role of lawyers in ensuring and guaranteeing the access to justice and effective judicial protection, as well as delivering on legal certainty and defending fundamental rights and freedoms of each person in each country. He also stressed that the independence of lawyers is also the direct matter of rule of law, and it is one of the main priorities of the CCBE.

José de Freitas expressed the regret to the representative of the European Commission (DG Justice) regarding the lacking role of lawyers in the [Communication of the Commission on Strengthening the rule of law](#) within the EU. The promise was received that lawyers will be included and involved in further initiatives to implement this Communication.

In the [conclusions of the conference](#) the reference to professional networks was made answering the demands of the CCBE on the important role of lawyers. The results of the conference were also presented for the General Affairs Council and the Justice and Home Affairs Council of ministers.



José de Freitas, President of the CCBE and Emmanuel Crabit, Director of Fundamental rights and Rule of Law, European Commission

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## SPOTLIGHT ON EUROPEAN LAWYERS: ROMANA ORLIKOWSKA-WROŃSKA



Romana Orlikowska-Wrońska

Romana Orlikowska-Wrońska was born in 1942 in Stalowa Wola in Poland. She is a practicing lawyer and member of the Gdańsk Bar Association since 1975. She specialises in international law, criminal law and human rights. Already when studying at the Warsaw University, she was inspired by the activity of the democratic opposition in Poland. Later, as a lawyer, she defended oppositionists before courts in 1981-1989.

Since 1980 when the Independent Self-Governing Trade Union «Solidarity» was founded she was a lawyer at the Intervention Bureau of the «Solidarity» Union National Commission in Gdańsk where she rendered free legal advice to those suffering from political repression, but also to other persons approaching her with their life problems. Although actual help was not always possible, yet, all those who came to her could count on being listened to and understood.

After the martial law was imposed in Poland, she worked with the Primate of Poland Committee to Help Persons Deprived of Their Liberty and Their Families. The Committee was formed in response to detention of political activists and culture promoters. It offered legal aid to all those interned under martial law. By 1989 she defended in approximately forty political trials. In 1985-1986, she took part in the trial conducted in Gdańsk against the key opposition activists interned under martial law: Adam Michnik, Władysław Frasyniuk and Bogdan Lis, which the then underground press named «Gdańsk Trial». During the trial, the process guarantees were exceptionally drastically violated, which was a fact publicised by Radio Free Europe, for example. She supported her clients not only in court but also at penal institutions, bringing them money, food and other essentials. She helped families of imprisoned clients. In political trials run by judges following instructions from the authorities of the time, one could not count on being freed. Reduction of the penalties petitioned by the prosecution service was a success. Engaging in political matters was risky for both lawyers and their families. They were continuously followed by the security service. Yet, despite those threats and troubles encountered, Romana Orlikowska-Wrońska never refused to defend people in political trials.

She strived after publicizing political cases also outside Poland. She was sending reports about the persons who were arrested and detained to the Amnesty International headquarters in London. Since 1989 she was working for the Amnesty International, the Polish Office of which she co-organised and registered. Later, as a lawyer with knowledge of international law, she took part in the extradition trial of an Australian who was involved in the top post-war business affair in Australia. She also spoke before the European Court of Human Rights, where she represented families of victims of the Polish MS Jan Heweliusz ferry catastrophe in the Baltic Sea. The trial ended with success. As a result of the Court's decision, the flawed local criminal regulations were changed, which gave Romana Orlikowska-Wrońska much satisfaction. In 2011-2015, she was a State Tribunal member judge. In 2011, for her exceptional service for the democratic transformation in Poland, for public, social and professional accomplishments as well as for promotion of knowledge of the contemporary history of Poland, she was decorated by the President of Poland with the Officer's Cross of the Order of Polonia Restituta. She is still active in criminal trials pending in Poland against politicians from the opposition parties. Her professional credo reads that in the criminal proceedings the lawyer's duty is not only to defend the accused, but also to assert the broadly understood human rights and the rules of democratic criminal proceedings. She demands that they be observed not only in court, but also when demonstrating for court independence over recent years before courts in Poland. She is an example for young lawyers how to practice with courage and abide by top professional standards at the same time.





The CCBE will hold a conference in Lisbon together with with the FBE with the presence of its member Bars and Law societies, and lawyers from all over Europe. This event will be a forum to discuss «Self-regulation and Quality in the Legal Profession» and to initiate discussions in the presence of the European Commission after the adoption of the proportionality directive, which provides a framework for (ex-ante) analysis of the proportionality of new professional regulations at national level, and the challenges it entails in relation to the regulation of lawyers. This issue is particularly important for European Bars in view of the studies launched by the Commission on possible tools for measuring the quality of services. Several roundtables will take place with experts, professors, lawyers and economists (See attached programme). Examples of best practice and quality control systems implemented by some Bars and Law societies will also be examined with the participation of a quality inspector from the Quebec Bar, who regularly audits lawyers in their firms. This event will be organised for Bars and Law societies, and through them for all European lawyers who wish to guarantee citizens access to quality legal services while respecting lawyers' ethical rules.

The programme is available [here](#).

For further information and registration, please contact the CCBE secretariat at [event@ccbe.eu](mailto:event@ccbe.eu)

## NEWS IN BRIEF

On 8 November, the Georgian Bar will host the 7th International Conference of Advocates dedicated to the 100th anniversary of Georgian Bar. The Conference will focus on the Role of Bar Associations and Law Societies in Effective Administration of Justice and it will showcase the presentations of Council of Europe experts on European standards and presentations of Bar leaders on country perspectives concerning the following areas:

- Key aspects of independence of legal profession and of their professional unions;
- Importance and the ways of effective cooperation among Bar, Judiciary and Prosecution;
- Interrelationship between the use of social networks by advocates and their ethical obligations in the context of freedom of expression.

The Conference will consist of a one-day conference and the official part of the Conference will be followed by an official ceremony and reception that will serve as an excellent occasion for international guests to experience Georgian culture and traditions.

Please see Conference related information available on the following website - <https://www.tbilisiconference.com/>

## UPCOMING EVENTS

24/10/2019	<i>Standing Committee – Lisbon</i>
25/10/2019	<i>Joint CCBE – FBE Conference on self-regulation and quality in the legal profession - Lisbon</i>
6-10/11/2019	<i>2019 international Congress of the UIA - Luxembourg</i>
27/11/2019	<i>CCBE Conference on the Modernisation of European Company Law – Brussels</i>
29/11/2019	<i>Plenary Session – Brussels</i>