



Secrétariat des Commissions

REPORT ON FBE COMMISSIONS

Presidency Meeting - PARIS, December, 11th, 2015

PERMANENT COMMISSIONS

COMMISSION ACCESS TO JUSTICE - LUCCA

President : Michele Lucherini - Vice President : No information - Secretary : Enrico Lattanzi

An EXCEL file regarding the chair and the current composition of the commission has been sent to the President Michele Lucherini after the General Assembly of Krakow, the 13th of October 2015 in order to update the composition and complete the requested information.

The updated file has not been returned to the Secretariat of the Commissions yet.

The President has informed the Secretariat of the Commissions the 16th of October that he wanted to share every decision with his Bar Council in order to increase the FBE culture and that he would send proposals to the Presidency and begin to work.

A working program has been sent to the Secretariat of the Commissions the 9th of November as follows:

ACCESS TO JUSTICE

Abstract.

Access to Justice.

Main topics of observation and study:

- 1.Costs of justice;
- 2.Time of justice;
- 3.Legal aid;
- 4.Systems of alternative dispute resolution (limits or aids?)
- 5.Effectiveness of Justice: due process and trial brief.

Project and vision.

Access to justice has been defined as "an equal right to participate in every institution where law is debated, created, found, organized, administered, interpreted and applied".



It doesn't simply mean access to lawyers and courts.

It means access to ombudsmen, advice agencies and the police law; it means public authorities behaving properly; it means everyone having some basic understanding of their rights; it means making law less complex and more intelligible.

Access to justice may mean ensuring physical accessibility to the courthouse, explaining what the law means on the internet, providing translations, finding alternative dispute resolution other than through the courts, offering legal aid and similar steps in order to remove barriers of various kinds.

It means being "treated fairly according to the law and if you are not treated fairly being able to get appropriate redress".

We must ensure equal rights and opportunities to the parties of the case guaranteeing that a FAIR TRIAL will be held in front of an independent and impartial Court.

"Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him".

"Fair Trial" includes:

the right to be heard by a competent, independent and impartial tribunal

- the right to a public hearing
- the right to be heard within a reasonable time
- the right to counsel
- the right to interpretation,
- the right to get a decision within a reasonable time.

In order to reach that goal, we must allow those who do not have sufficient financial resources to meet the costs of a court case or legal representation in order to have the parties' right to be heard equally respected.

We must also pursue effective justice developing and amending our procedures in order to remove differences amongst procedural justice and real justice.

Sometimes an unfair decision can be however quick and formally correct in accordance with the provision of law: in this case we have to understand the reason why real justice has not been achieved and act to remove any obstacle which could jeopardize our effort.

All modern legal systems recognize the need to guarantee better access to justice for individuals and companies.

In our European systems different mechanisms exist to help citizens and companies to enforce their rights such as "alternative dispute resolution" and legal aid.

An important form of alternative dispute resolution is mediation ran by the mediator who assists the parties to negotiate a settlement which may concern a variety of domains, with a determined structure, timetable and dynamics.

Mediators use various techniques to open, or improve, dialogue and empathy between disputants, aiming to help the parties reach an agreement and depending on the mediator's skill and training.

According to Italian legal system, mediation is in certain cases compulsory and the procedure has been considered an obstacle to justice rather than a form of guarantee.

Several reasons have been brought to support such negative point of view: the citizen has got to face costs of the mediation procedure and later Court, mediators' background and quality and others.

The FBE Commission will try to understand how our systems ensure effective access to justice - suggesting common solution to improve and guarantee fair trial - because rights and freedoms are vital checks and balances in any civilized society but meaningless without access to justice or the practical means of understanding and enforcing the law of the land.

HUMAN RIGHTS COMMISSION - BRUSSELS

President : Yves Oschinsky - Vice President : No information - Secretary : No information

An EXCEL file regarding the chair and the current composition of the commission has been sent to the President Yves Oschinsky after the General Assembly of Krakow, the 13th of October 2015 in order to update the composition and complete the requested information.

The Secretariat of the Commissions has been informed that the President is currently working on the composition of the Commission and will contact new persons to get Human Rights specialized members.

ETHICS COMMISSION – DEVON

President : Rod Mole - Vice President : No information - Secretary : No information

An EXCEL file regarding the chair and the current composition of the commission has been sent to the President Rod Mole after the General Assembly of Krakow, the 13th of October 2015 in order to update the composition and complete the requested information.

A reminder has been sent the 12th of November.

The Secretariat of the Commissions didn't get any reply from the President.

LEGAL EDUCATION COMMISSION - MADRID

President : Maria Sonia Gumpert Melgosa - No Vice President - Secretary : Ana Casado Martin

An EXCEL file regarding the chair and the current composition of the commission has been sent to the Madrid Bar Association after the General Assembly of Krakow, the 13th of October 2015 in order to update the composition and complete the requested information.

The Madrid Bar has replied the same day in informing the Secretariat of the Commissions that the updated file would be sent as soon as possible. The update is under progress.

AD HOC COMMISSIONS

ARBITRATION COMMISSION - NAPOLI

President : Alessandro Senatore - Vice President : No information - Secretary : No information

An EXCEL file regarding the chair and the current composition of the commission has been sent to the President Alessandro Senatore after the General Assembly of Krakow, the 13th of October 2015 in order to update the composition and complete the requested information.

A reminder has been sent the 12th of November.

The Secretariat of the Commissions didn't get any reply from the President.

COMMISSION PROFESSIONAL INSURANCE - ANTWERP

President : Leo Bouteligier - Vice President : No information - Secretary : No information

An EXCEL file regarding the chair and the current composition of the commission has been sent to the President Leo Bouteligier after the General Assembly of Krakow, the 13th of October 2015 in order to update the composition and complete the requested information.

A reminder has been sent the 9th of November.

The Secretariat of the Commissions didn't get any reply from the President.

EASTERN BARS COMMISSION - CLUJ

President : Stanca Gidro - Vice President : Christoph Munz - Secretary : Diana Andrasoni

An EXCEL file regarding the chair and the current composition of the commission has been sent to the President Stanca Gidro after the General Assembly of Krakow, the 13th of October 2015 in order to update the composition and complete the requested information. The new temporary composition has been sent to the Secretariat of the Commissions the 23rd of October and updated on the website.

The report of the meeting of Krakow has also been sent to the Secretariat of the Commissions as follows :

1. Mme la présidente et Mme la secrétaire ont participer aux travail de leurs anciennes

Commissions, a Cracovie, le 8.10.2015.

- 2. La présidence de la Commission, le domicile de la Commission Barreaux de l'Est et la secrétaire était approuvée en assemblée générale le 10.10.2015.*
- 3. Mme la présidente a demandé si les Barreaux de L'Est sont les barreaux situés du point de vue géographique en l'Est de Europe ou bien les pays ex-communistes. Monsieur 1er Vice Président Yves OSCHINSKY a opiné que la commission doit s'occuper des pays de l'Est géographique*
- 4. Pour faire fonctionner cette commission on en a discutée avec les représentants de Pologne, pour avoir au moins un membre de cette pays. Nous avons établi une collaboration intense avec la Commission de Droits de l'homme, pour toutes les problèmes conjointes.*
- 5. Pour savoir le vice-président, nous avons préparée une lettre au vice-président actuel, M. Cristoph Munz pour le demander si il désire rester vice-président de la commission.*
- 6. Le vote pour désigner le vice-président sera a Barcelone, in février.*
- 7. Nous avons nommes M. David MORGAN comme président d'honneur.*
- 8. Nous avons préparé des courriers électroniques aux membres actuels de la commission et aux quelques barreaux d'Est, pour confirmer la qualité de membre actifs et les points d'Internet ; pour définitiver les sujets de travail de cette commission.*
- 9. Dans le délai indiqué par le statuts nous aurons transmettre les formulaires définitives avec les membres de la Commission et les sujets de travail.*

The Secretary Diana Andrasoni also informed the Secretariat of the Commissions, the 24th of November, that Christoph Munz accepted to remain Vice-President of the Commission and that the Commission had sent letters to try to establish common interests within its members in order to present a scientific program and to get new members especially from the Hungarian Bar Associations.

MEDIATION COMMISSION - BARCELONA

President : Silvia Gimenez-Salinas - Vice President : No information - Secretary : Marta Isern

An EXCEL file regarding the chair and the current composition of the commission has been sent to the Barcelona Bar Association after the General Assembly of Krakow, the 13th of October 2015 in order to update the composition and complete the requested information.

The Barcelona Bar Association has informed the Secretariat of the Commissions that the updated file would be returned as soon as possible.

It has not been sent to the Secretariat of the Commissions yet.

COMMISSION ORGANISATION AND OPERATION OF THE BAR ASSOCIATIONS AND LAW SOCIETIES - FFM

President : Andrea Griem - Vice President : Rudolf Lauda - Secretary : Heike Steinbach-Rohn

An EXCEL file regarding the chair and the current composition of the commission has been sent to the Vice-President Rudolf Lauda (as the email address of the President was not known)

after the General Assembly of Krakow, the 13th of October 2015 in order to update the composition and complete the requested information.

A reminder has been sent the 9th of November.

The Secretariat of the Commissions didn't get any reply from the Vice-President.

COMMISSION FUTURE OF THE PROFESSION – THE HAAGUE

President : Bas Martens - Vice President : David de Knijff - Secretary : Saskia van der Toorn

An EXCEL file regarding the chair and the current composition of the commission has been sent to the President Bas Martens after the General Assembly of Krakow, the 13th of October 2015 in order to update the composition and complete the requested information.

A letter has also been sent the same day requesting from the Commission to work on solutions, within a six months period, to increase the membership of the FBE (especially for the North of Europe, Eastern Europe but also central countries like France which is badly represented in the FBE) and to increase the attendance to the FBE annual congress and intermediate meeting which is constantly decreasing.

Bas Martens has informed the Secretariat of the Commissions that he will work on the proposed subjects (solutions to increase the membership of the FBE and the attendance to the congress and intermediate meeting). The report has not been sent yet.

He also informed the Secretariat of the Commissions that he will contact the current members of the commission for an update of their details and ask them if they want to remain a member of the commission. The Secretariat of the Commissions did not receive the information yet.

He finally confirmed that he would remain the permanent representative for the Hague Bar to the FBE as the term as a dean is too short to build up contacts in the FBE

COMMISSION NEW TECHNOLOGIES - WROCLAW

President : Iza Konopacka - Vice President : Franceso Tregnaghi - Secretary : Anna Materla

An EXCEL file regarding the chair and the current composition of the commission has been sent to the President Iza Konopacka after the General Assembly of Krakow, the 13th of October 2015 in order to update the composition and complete the requested information.

A letter has also been sent the same day requesting from the Commission to give its input on the FBE website and to propose solutions to improve the website, to make it more attractive, efficient and interactive.

The President has informed the Secretariat of the Commissions that she would not be able to handle this questions before the 23rd November as she was in charge of the organization of a conference. She informed that the Commission would present proposals during the Congress in Strasbourg as well as interesting IT projects and solutions that could be implemented by the Bar members.

The President Iza Konopacka has sent an email to the current members of the Commission the 6st of December, asking them to confirm their membership and send their updated contact details. The file regarding the composition of the Commission has not been returned yet to the Secretariat of the Commissions.

HUMAN RIGHTS FREEDOM COMMISSION - POZNAN

President : Artur Wierzbicki - Vice President : Marc Wesser - Secretary : Renata Karbowska-Kuźma

An EXCEL file regarding the chair and the current composition of the commission has been sent to the President Artur Wierzbicki after the General Assembly of Krakow, the 13th of October 2015 in order to update the composition and complete the requested information.

The President also informed the Presidency that his Commission wishes to follow up the resolution on refugees adopted in Kraków, especially in conducting an investigation on the assistance provided to refugees in Europe by lawyers in the FBE. A letter signed by the President Nazario de Oleaga has been sent to the FBE member Bars by Marta Cuadrada in this sense.

The new composition of the commission has been sent the 9th of December to the Secretariat of the Commissions but could not be updated on the website as the information was not complete and had to be put by the Secretary of the commission in the original EXCEL file, which is the mandatory format of the website.

COMMISSION LAW WITHOUT BORDERS - FFM

President : Rudolf Lauda - Vice President : Sergiusz Foltynowicz - Secretary : Tanja Wolf

The EXCEL file regarding the chair and the current composition of the commission has been sent to the President Rudolf Lauda after the General Assembly of Krakow, the 13th of October 2015 in order to update the composition and complete the requested information.

A reminder has been sent the 9th of November.

The Secretariat of the Commissions didn't get any reply from the President.