



Secrétariat des Commissions

REPORT ON FBE COMMISSIONS

Presidency Meeting - London, March, 21st, 2016

PERMANENT COMMISSIONS

COMMISSION ACCESS TO JUSTICE - LUCCA

President : Michele Lucherini - Vice President : Suzanne Stern - Secretary : Enrico Lattanzi

The members list of the Commission has been updated. During the joint meeting in Barcelona, the President has presented the working program of the commission (below). He has also noticed that there are no Spanish, French and British representatives yet, among the current members of the commission. An email has been sent in the last days inviting the concerned member Bars to appoint a representative to become member of the commission.

WORKING PROGRAM

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 on 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 TRAIL 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

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.

On behalf of President Nazario de Oleaga, a request for support in the context of prosecutorial abuse against the legal profession in Romania has been forwarded to the Commission the 14th of January 2016.

ETHICS COMMISSION – DEVON

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

The composition of the commission could not be updated yet.

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

The composition of the Commission has been updated.

The commission is currently evaluating the project of International Contract Competition for young lawyers at training level proposed by the Warsaw Bar Association to the Presidency.

The Commission had evaluated the proposal as follows :

we think it seems like an interesting project for the Legal Education Committee, in accordance with the statutory activities of the FBE and its objectives to ensure the level of professional quality and technical competence of lawyers as well as to promote exchanges for young lawyers.

However, before agreeing definitely on initiating the project, we would like to have a more detailed information regarding the financial obligations of each party, and in particular regarding the financial obligations of the Madrid Bar Association as the President of this Committee and possible participant, especially if the FBE is not planning on investing funds.

We also find the time-line originally planned impossible to meet and if the project were to be implemented it would have to be during the year 2016.

The Commission is now in direct contact with the Warsaw Bar Association to get the requested information and fulfill its evaluation.

AD HOC COMMISSIONS

ARBITRATION COMMISSION - NAPOLI

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

The composition of the commission could not be updated yet.

During the Presidency meeting held in Barcelona, President Nazario de OLEAGA informed the Presidency that he has spoken with Alessandro Senatore who will work on the composition of his commission and prepare a working program.

COMMISSION PROFESSIONAL INSURANCE - ANTWERP

President : Leo Bouteligier - Vice President : Luc De Somer - Secretary : Stefanie Verstraete

The members list of the Commission has been updated. The President also informed the Secretariat of the Commissions that he is waiting for replies from the Madrid and the Wroclaw Bar Associations.

During the joint meeting in Barcelona, the President has informed the Presidency that the commission is waiting for instructions from the Presidency about relevant topics in the frame of professional insurance.

The President of the commission also informed the Presidency that the commission will start to work on legal aid insurance.

EASTERN BARS COMMISSION - CLUJ

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

The composition of the Commission has been updated. Following the joint meeting in Barcelona, a new file should be sent soon by Diana Andrasoni to the Secretariat of the Commissions in order to complete the contact details of the members.

The last report of the activities of the Commission has been sent on February 2016 and contains the working program of the commission for the next months.

We have send letters to all FBE member bars asking them if they would like to have an active participation in our Commission. As a result, we have new members,

- 1. Dariusz Gibasiewicz from Olsztyn Bar Association*
- 2. Artur Wierzbicki from Poznan Bar Association*

No other Bar Association has answered us yet.

We have send letters to all Bars from Eastern Europe, and we have invited them to join FBE and our Commission.

We annex the list of contacted Bars.

We will resend mails and we will speak again directly with non-member Romanian Bars and some Hungarian Bars.

We plan on holding a commission meeting in Romania, Cluj-Napoca in the upcoming 6 months.

We have prepared a letter of support for Greek Bar Associations strike against the planned pension system reforms announced by their Government.

The working program proposed:

- 1. Applicable fiscal regime in Eastern Europe for Attorneys. How fiscal regime for attorneys may affect free access to justice. (Greek attorneys strike as first example)*
- 2. State interference in freedom and independence of advocacy.*
- 3. Migration, asylum and infringement procedures against East European States for missing implementation of the Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection and Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection.*
- 4. The principle of equality of arms threatened in ex-comunist countries by the magistrate prosecutors statute. Professional relationship between Magistrates (Judges and prosecutors) and attorneys.*

MEDIATION COMMISSION - BARCELONA

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

The composition of the commission could not been updated yet.

The Barcelona Bar Association has informed the Secretariat of the Commissions that the updated file would be returned as soon as possible. The working program of the commission will also be sent to the Secretariat of the Commissions.

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

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

The composition of the commission could not be updated yet.

Vice-President Rudolph Lauda informed the Secretariat of the Commissions that he has sent an email to the current members of the commission asking them to confirm their membership. It seems that a lot of members have replied.

Following the joint meeting in Barcelona, the chair of the commission has informed the Secretariat of the Commissions that the information received by email from the members would be collected and a final list will be sent as soon as possible.

A working program should be sent as soon as possible to the Secretariat of the Commissions.

COMMISSION FUTURE OF THE PROFESSION – THE HAAGUE

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

A letter had been sent by President Bas Martens to the current members of the commission on December 23rd 2015, informing them about the topics the commission is working on and to ask them to confirm their membership and complete their contact details.

The composition of the commission could not be updated yet.

The Presidency invited 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.

During the joint meeting in Barcelona, President Bas Martens has presented a report on the above mentioned topics.

The commission 'Future of the Profession' is intended to deal with the future of the lawyers and the profession. The Presidency has also asked the commission to deal with the subject of the future of the FBE. Especially, we are asked to focus on two subjects:

- How to increase the attendance at the annual and intermediate congresses;*
- How to increase the membership of the FBE;*

Input was given by: Alessandro Gaglione (Rome), David Stros (Prague), Francois Coutard (Lyon) and Rod Mole (Devon). In Barcelona, the Bilbao Bar has asked to join the Commission.

Rotterdam has expressed the wish to remain in the Commission. Other commissionmembers have not reacted on (repeated) correspondence by the secretary of the commission. One

more attempt will be made to contact the representatives of the bars and the bar-associations that did not react. If they fail to react, we will assume that they do not wish to remain a member of the commission.

Intro

This memo is intended to give an overview of the actions taken by the commission in anticipation of the FBE-conference in Strasbourg May 12-14.

Plans for initiatives to increase membership and attendance to the congresses may have been introduced in the past. Nevertheless, lack of originality of the proposals, does not make them less relevant.

Initiatives should be easy to implement and maintain. The FBE-staff should not be burdened with extra work.

The FBE must be made more relevant in the day-to-day practice of bars and/or lawyers.

A review of the costs of membership of the FBE might be in order to make a better connection with certain bars.

Suggestions made by the commission members:

How to increase membership?

- Open the membership to Young Bars, or young lawyers as the representatives attending the congresses and who are members of the commissions usually are bar leaders or former bar leaders. The young lawyers are the leaders of the future. One may expect that they have the energy and the ambition to grow in an organization as the FBE. The FBE now is to much a 'closed shop'.

- Free membership for the first years;

- Associate membership open to individual lawyers and adjacent organizations;

- To increase the relevance and awareness of the FBE, each country with FBE-members should have a FBE point of contact. This person has the obligation to inform the FBE secretariat on all mayor issues concerning bars and lawyers in his or her country. This person also has the obligation to promote FBE publications in the lawyers-journals of his/her country. In the Netherlands for example, we have three magazines (Advocatenblad, Advocatie and Mr.-online) targeting lawyers. They are always happy to publish articles, and for free.

- To increase awareness, promotion should be done through channels of social media (Linkedin-groups, Whatt-app, Twitter (a Twitter-accountant has been opened @Secr_General) and maybe even on Facebook).

- The FBE could present itself more as a lobbying organization, writing positioning papers, acting proactive on subjects such as the independence of the law profession, the position of bar-associations in the legal field, but also subjects relevant to individual lawyers and clients, such as legal-aid and the professional secrecy.

Attendance to the congresses

- FBE could propose more practical subjects during (intermediate) congresses, linked to the professional actuality (f.e. IT, organization of bar-organizations, harmonization of regulations and practices throughout Europe);

- Choosing interesting topics and good speakers (Süskind?). Each meeting/congress should have a concrete output in the form of a booklet;

- As this meeting is linked to the Saint Ramon festivities, congresses could be linked to other events, such as IBA, IUI or CCBE-meetings;

- For each meeting the FBE should investigate if the attendees can obtain point for their permanent education;

- The fee for attending a congress could be reviewed as the congresses are generally considered as costly.

The Presidency is invited by President Bas Martens to review these initiatives and approve a limited number of them so the members of the commission could work them out in the working sessions in Strasbourg.

COMMISSION NEW TECHNOLOGIES - WROCLAW

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

The new composition has been sent to the Secretariat of the Commissions.

The Commission was asked to give its input on the FBE website and to propose solutions to improve the website, to make it more attractive, efficient and interactive.

President Iza Konopacka informed the Secretariat of the Commissions that an audit is currently conducted by two web designers, Borys Pogoreło and Grzegorz Janiszewski, who are recognized specialists in the website building and designing. The contact details of both web designers have been sent to the Secretariat of the Commissions the 17th of March 2016, as they need more information, especially technical issues, for the assessment of the FBE website. The Secretariat of the Commissions will contact them quickly.

Following the joint meeting in Barcelona, it has been decided to have a specific meeting about the website in Strasbourg.

The commission has also prepared an online survey concerning application of New Technologies in the legal industry.

Immediately after the meeting in Barcelona, President Iza Konopacka has sent a short presentation of the survey as follows :

Dear Representatives of the Bar Members of the FBE,

The New Technologies Commission has prepared an online-survey regarding a growing importance of the new technologies in legal profession.

We would like to ask you kindly to complete the survey (either in English or German) by the end of March.

ENGLISH:

https://docs.google.com/forms/d/1Yv_MqKdOdoaRr1eRKtpKSPOzXJdA8gnRxt05SSIL74E/viewform

DEUTSCH:

<https://docs.google.com/forms/d/1wIx9gercOQRSp4y6OywiDCCDP2yvJkV8Q5-ued-nma0/viewform>

Upon the receipt of your responses the NT Commission will prepare the presentation on the issues contained in the survey for the FBE General Congress in May.

As you are aware the importance of the new technologies can not be overestimated in a legal industry.

Those Bars which are currently working on or have implemented any interesting projects within the field of NT are kindly ask to share them with our NT Commission.

There is every sign that a combination of technological advance and market pressure is about to push law firms into the Artificial Intelligence Age.

A recent study by Jomati, Civilisation 2030: The Near Future for Law Firms, points out that, after long incubation and experimentation, "technology can suddenly race ahead at astonishing speed".

As law firms are currently moving towards the "Martini" option of working-anytime, any place, anywhere -we hope that our NT Commission will be able to share with all the Bar members the newest IT achievements interesting for our profession in May.

Best regards

*Izabela Konopacka
President of the NT Commission*

The information has been sent to the member Bars by the Secretariat of the Commissions the 2nd of March 2016

A summary of the results would be presented during the Congress in Strasbourg.

HUMAN RIGHTS FREEDOM COMMISSION - POZNAN

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

The new composition has been sent to the Secretariat of the Commissions and updated on the website.

The President 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 Bar Associations by Marta Cuadrada in this sense.

COMMISSION LAW WITHOUT BORDERS - FFM

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

Following the joint meeting in Barcelona, President Rudolf Lauda informed the Secretariat of the Commissions that he will work on the composition of the commission and present a program as soon as possible.