



*Secrétariat des Commissions*

## **REPORT ON FBE COMMISSIONS**

**Presidency Meeting - Lucca, July, 9<sup>th</sup> , 2018**

### **PERMANENT COMMISSIONS**

#### **COMMISSION ACCESS TO JUSTICE - LUCCA**

*President : Enrico Lattanzi - Vice President : Suzanne Stern - Secretary : Elena Picchetti*

Following report has been sent after the meeting of the commission in Bologna by President LATTANZI :

#### **COMMISSION PROJECT**

*The Commission is carrying on an outline of access to justice, examining how it has been guaranteed in different legal systems.*

*We have already got contributions on*

*1 – LEGAL AID*

*2 – LAWYER'S FEE*

*and we are currently collecting materials on*

*3 – MATERIAL EXPENSES*

*4 - ADR (alternative dispute resolution)*

*5 – ACCESS TO ENVIRONMENTAL JUSTICE.*

#### **COMMISSION WORKS**

*During thursday Commission meeting we discussed lawcosts issues in Italy, Netherlands and Bulgaria which just joined us.*

#### **Introductory costs**

*In Italy a claimant needs to pay standard fee for beginning the trial (i.e. the so called "Contributo Unificato") that has replaced all the other costs previously requested.*

*In Bulgaria instead - according to law on Court fees amended in 2005 - all costs for civil cases are paid before the proceedings begin while in criminal cases costs must be covered by the amount specified in the budget of the respective Court.*

*In the Netherlands the costs of a case depend on the type of proceedings and the kind of parties to the case (different fees apply to for example companies, private actors), the field of law and the value of a claim.*

*A fixed introductory charge has to be paid by each claimant as soon as a civil case is referred to a court and by each defendant who appears before the court.*

*Apart from the introductory court fees, courts levy no other fees. Administrative law and civil law proceedings involve court fees. Such fees are not mandatory in criminal proceedings.*

*The applicability and height of the court fees are to be found in several statutes.*



*Under Dutch law, the general rule is that the losing party has to compensate the costs of the other party. However, with regard to lawyer's fees, a so called 'scheme of liquidated costs' applies; this entails that only specific acts and services of the attorney will be compensated for by a certain fixed (by law) sum.*

*Other additional costs will not be compensated by the losing party.*

*The general rule that 'the loser pays all' is not without exceptions as the court may "compensate" the costs in full or in part in certain situations (especially in the context of family proceedings). In these cases, each party bears its own costs.*

*The above also applies in administrative cases but not in criminal proceedings.*

#### Lawyers' fees

*Italian lawyers can negotiate their fee with client or determine it making reference to schedules provided by law but after recent changes (Bersani Decree) there is no obligation to charge fixed or minimum fees.*

*Bulgarian Lawyers have the right to remuneration for their labour, fairly agreed in a contract between the attorney-at-law and his or her client. In the absence of a contract, the Bar Council must determine it.*

*The remuneration (fee) is regulated in line with the Ordinance of the Supreme Bar Council No 1 from 2004.*

*During our discussion we understood from our Colleague that there have been recent Court decisions guaranteeing the respect of a minimum fee.*

*In Holland lawyer's fees are not regulated and the Lawyers Code of Conduct only requires them to charge 'reasonable' fees. The question what is reasonable in a given case depends on many variables and is ultimately subject to the disciplinary or the civil judge.*

#### **FURTHER DEVELOPMENTS**

*We trust that it would be wise to:*

- carry on the effort to centralize information on costs of justice at the national (or even at European level),*
- develop e-justice proceedings and to that extent we have joined the new technology Commission on Thursday to get a wider understanding of how e-justice can be an important tool of access to justice or whether it will work out to be something useful for everybody or not.*

The composition of the commission has also been updated according to the information provided by the President.

### **HUMAN RIGHTS COMMISSION - POZNAN**

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

The FBE First International Oratory HR Competition took place the 29 and 30 June 2018 in Poznan.

Following report, which has been published on the website, has been sent by President WIERZBICKI.

#### ***FBE / OIRP Poznań***

#### ***1st International Young Lawyers' and Law Students' Human Rights***

#### ***Oratory Competition, Poznań 2018***

*"All people are born free and equal in respect of their dignity and their rights, they are endowed with reason and conscience and should act towards others in a spirit of brotherhood."*  
*Art. 1 of the Universal Declaration of Human Rights*



*Under this slogan, the European Bars Federation / Strasbourg (FBE) and the District Chamber of Legal Advisors / Poznań (OIRP) organized on the 29 and 30 June 2018 at the headquarters of OIRP in Poznań / Poland, the **I International Young Lawyers' and Law Students' Human Rights Oratory Competition**.*

*The organizers, through this event, invited young lawyers and law students (age up to 30 years of age) to disseminate the values of the Declaration of Human Rights.*

*This year, we celebrate the 70th anniversary of the United Nations Assembly's adoption of the Universal Declaration of Human Rights (Paris, December 10, 1948) as a set of human rights and their application. Many young lawyers, law students, responded to our invitation addressed to them. After the preliminaries, 9 semi-finalists from such countries as The United Kingdom, Spain, Serbia and Poland were invited to participate in the Competition. The theme of the oral presentation of each of the semi-finalists was the same and was based on the Declaration of Human Rights - well known to everyone.*

*The participants of the competition were: Mr. Christopher Banks (London), Mrs. Paola Cuenca Chamorro (Madrid), Mr. Aleksa Filipov (Vojvodina), Mrs. Klaudia Goźdz (London), Mrs. Nekane Legorburu (Bilbao), Mrs. Paola Moctezuma (Madrid), Mrs. Elizabeth Smith (London), Mr. Rafał Sokół (Warsaw), Mr. Darrieux Raposo Roi (Bilbao).*

*The speeches of individual participants during the two days of the contest struggle were subject to a broad but objective assessment of the international jury composed of: Artur Wierzbicki, (Poznań) - Jury President, Professor Sara Chandler (London) - Jury Member, Mrs. Monique Stengel (Paris) - Jury Member, Mr. Marc Wesser (Berlin) - Jury Member.*

*On the first day of the Competition, the final four were selected. On the second day, with a slightly changed formula of the speeches, as a result of the Jury's deliberation and its unanimity, the winning four were selected:*

- 1. Mr. CHRISTOPHER BANKS** (London) – 1<sup>st</sup> place
- 2. Mr. RAFAŁ SOKÓŁ** (Warsaw) – 2<sup>nd</sup> place
- 3. Ms. PAOLA CUENCA CHAMORRO** (Madrid) and **Mr. ALEKSA FILIPOV** (Vojvodina) – 3<sup>rd</sup> place ex aequo



*The competition was an excellent opportunity to practice oratory skills of young lawyers and law students as well as exchange experiences in this group. The next, second edition is planned for next year.*

***Artur Wierzbicki,***

***President of FBE Human Rights Commission FBE***

Following report ghad also been sent the 16<sup>th</sup> of June to the Secretariat of the Commissions :

*Dear Sirs,*

*in a few words, I submit to you a report on my participation in the celebration of the 25th anniversary of the European Convention on Human Rights in Poland.*

*The whole event was organized by the Ministry of Foreign Affairs in Warsaw on June 13, 2018, under the patronage of the Speaker of the Senate of the Republic of Poland in the person of Stanisław Karczewski.*

*The main theme of the event was "How the European Convention on Human Rights has lost the face of Polish law and practice over the last 25 years".*

*Invited speakers shared their experiences in this area.*

*We discussed, among others:*

- 1. new standards of operation of public authorities in Poland as a natural complication of Poland's membership in the ECHR system,*
- 2. individual ECtHR judgments and their impact on the Polish criminal procedure and their impact on Polish law in the aspect of civil law,*
- 3. mechanisms of execution of ECtHR judgments in individual European countries and the role of support of the secretariat of the Council of Europe*
- 4. the role of Seantu RP in the implementation of the ECtHR.*

*This event was of great importance to the entire system of human rights protection in Poland and throughout Europe.*

*Among the speakers, one could meet Polish practitioners such as Prof. Krzysztof Drzewiecki, rpr. Justyna Chrzanowska, Prof. Małgorzata Wąsek-Wiaderek . The language of the Conference was English*

*Best regards,*

**ARTUR WIERZBICKI**  
**PRESIDENT HRC**  
**FBE**

### **ETHICS COMMISSION – BILBAO**

*President : Michael Auer - Vice President : Rod Mole - Secretary : Nazario de Oleaga*

There was no information sent to the Secretariat of the Commissions since February 2018.

### **LEGAL EDUCATION COMMISSION - MADRID**

*President : To be determined - Vice President : To be determined - Secretary : To be determined*

There was no new information sent to the Secretariat of the Commissions since the Presidency meeting in Bologna.

## **AD HOC COMMISSIONS**

### **ARBITRATION COMMISSION - NAPOLI**

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

There was no new information sent to the Secretariat of the Commissions since the Presidency meeting in Bologna.

### **COMMISSION PROFESSIONAL INSURANCE - ANTWERP**

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

There was no new information sent to the Secretariat of the Commissions since the Presidency meeting in Bologna.

**EASTERN BARS COMMISSION - CLUJ**

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

There was no new information sent to the Secretariat of the Commissions since the Presidency meeting in Bologna.

**MEDIATION COMMISSION - BARCELONA**

*President : Eugenia Gay - Vice President : No information - Secretary : No information*

There was no new information sent to the Secretariat of the Commissions since the Presidency meeting in Bologna. As the Secretary of the Commission, Marta Isern, left the Barcelona Bar in order to work within the *Consejo General de la Abogacia*, the President of the commission has been invited to appoint a new Secretary.

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

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

There was no new information sent to the Secretariat of the Commissions since the Presidency meeting in Bologna.

**COMMISSION FUTURE OF THE PROFESSION – THE HAAGUE**

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

There was no new information sent to the Secretariat of the Commissions since the Presidency meeting in Bologna.

## COMMISSION NEW TECHNOLOGIES - WROCLAW

*President : Iza Konopacka - Vice President : Francesco Tregnaghi - Secretary : Anna Materla*

Following report has been sent to the Secretariat of the Commissions after the Presidency meeting in Bologna.

*Report of the New Technology Commission.  
Bologna 17th May 2018*

*Izabela Konopacka, Wrocław.  
Francesco Tregnaghi, Verona.  
Christoph Munz, Dresden  
Katarzyna Barańska, Warsaw*

*There were 5 items on the Agenda:*

- 1. The Law Firm of the Future Competition-the draft rules for participants.*
- 2. How can AI facilitate e-Justice programme?*
- 3. European Parliament Proposal for Regulations on Promoting Fairness and Transparency for Business Users of online intermediation services*
- 4. AI Lawyer in Rolce-Royce case.*
- 5. How could New Technologies improve training for junior lawyers?*

*The NT Commission reviewed the draft rules of the „LAW FIRM OF THE FUTURE” Competition for young lawyers, the Competition to be held at the Wrocław Bar Association on 7 th September.*

*As this is the initiative of the two Commissions the rules will be sent to the Future of the Legal Profession Committee and to the FBE Presidency for acceptance.*

*The Commission also discussed the European Parliament Proposal for Regulations on Promoting Fairness and Transparency for Business Users of online intermediation services and all the members unanimously agreed that the instrument should be implemented since both lawyers and their clients are active online platform users and there should be rules regulating the providers of the online platforms, especially with respect to professional secrecy and data storage in case of for example the referral platforms.*

*As the next point the Commission focused on the possible use of different IT solutions in the e-Justice programme. There is a need to develop a European level solution for the service of documents and identification of lawyers in electronic court procedures, also using the CEF Building Block eDelivery. In order to reinforce the quality of cross-border judicial processes and their compliance with the rules of procedure, such a mechanism could also provide information on the applicable rules of procedure, forms and time limits etc.*

*Moreover all European lawyers should have the access to court files and personal data in court files via electronic legal filing/electronic legal communication which is a proper instrument for lawyers to get relevant information in cases when a lawyer ensures the rights of victims. There is also a need to develop a single platform through which the evidence would be available, in a secured way for all relevant parties (such as judges, law enforcement authorities, lawyers or other relevant stakeholders).*

*Last but not least the members of the Commission would like to draw your attention to the so-called Rolce-Royce case which involved reviewing 30 million documents. and it turned out that the technology used the AI lawyer was up to 80% cheaper than using outside counsel to review those documents and identify legally privileged material.*

*The NT commission will continue to work on these issues.*

**EQUALITY COMMISSION - PARIS**

*President : To be determined - Vice President : To be determined - Secretary : To be determined*

Information is awaited from the Paris Bar Association regarding the presidency and the composition of the commission.

**COMMISSION LAW WITHOUT BORDERS - FFM**

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

There was no new information sent to the Secretariat of the Commissions since the Presidency meeting in Bologna.