

## REPORT FROM THE FBE HUMAN RIGHTS COMMISSION

LUCCA 4 OCT 2014

**Present:** Artur Wierzbicki, Konrad Frank, Marc Wesser, Marion Pietruisky, Sara Chandler

**Apologies:** Diana Andrasoni

### **Agenda:**

1. Mass surveillance and lack of protection for data collected by the state.
2. Support for lawyers at risk in Turkey and Colombia
3. European Lawyers Day 10 December 2014.

### **Mass surveillance and data collection by the state**

The commission is addressing the problem of the collection of data on individual citizens. We have a working project which is now a work in progress.

At the request of the Presidency, the commission will prepare a policy paper for the FBE to present to the EU Commission and MEPs which will raise the concerns of lawyers and make policy proposals. This has been on the agenda of the Human Rights Commission in Vienna and Kluj. The commission made the following points about the issue:

- The governments of member states have the capacity to collect data about every citizen;
- All professionals who are bound by a code of ethics such as lawyers. Doctors and accountants have confidentiality as a core principle, without which there would be no trust between client and lawyer;
- The Edward Snowden revelations showed extensive data mining of email correspondence, telephone calls, instant messaging software and cloud storage by various governments, especially the USA, and including EU member states;
- This impacts heavily on legal professional privilege and in the lawyer-client relationship;
- Some member states have legislation which protects storage and disclosure of data to 3<sup>rd</sup> parties but this is no protection in the face of governments who do not observe such protection;
- Public officials working in national, regional and local governments must be bound by the same protection of data held by governments;

- Disclosure should carry criminal penalties;
- The EU must have rules in place to prevent data interception;
- Lawyers must publish their concerns at the impact on society, the impact on access to justice and the rule of law if the lawyer-client relationship is broken;
- Many lawyer organisations are making public their concerns with conferences, for eg looking at the relationship between the use of modern technology and the need for confidentiality, interviews on TV and radio, publication of articles in newspapers, magazines and websites, seminars with journalists and human rights organisations, and also educational projects with lawyers talking to students. There is a lot that lawyers can do.

### **Support for lawyers at risk in Turkey and Colombia**

**Turkey:** The United Nations Universal Periodic Review of Turkey will take place in January 2015, when the Turkish government will be questioned by the UN Human Rights Council. Among those questions will be the following issues put by the Law Society of England & Wales, Lawyers Rights Watch Canada, Lawyers for Lawyers Netherlands and Fair Trial Watch in a joint submission:

1. No effective guarantees for lawyers to perform their professional duties without interference and reprisals:

Interference with the Istanbul Bar Association; Abuse of legal proceedings against lawyers, including the Kurdish lawyers; Lack of protection against harassment and attacks on lawyers.

2. Improper identification of lawyers with their clients or their client's causes.
3. Violation of the right to confidentiality in relation to communications and consultations between lawyers and their clients within their professional relationship and for the role of a lawyer in court.

**Colombia:** The International Caravana of Jurists (the Colombia Caravana) visited Colombia in August 2014 to investigate and monitor the situation of lawyers and judges who defend human rights.

68 lawyers from 12 countries, including France, Belgium, Netherlands, Germany, Spain, Italy, Ireland and the UK visited 7 regions in the Colombian countryside. The interim report of the Caravana is attached with this report.

## **European Lawyers Day 10 December 2014**

The first ELD will be held in order to establish a national day throughout Europe that celebrates the rule of law and the legal profession's central role in defending the rule of law, through the promotion of lawyers' common values and contribution to the justice system.

The 10<sup>th</sup> of December has been chosen because it is World Human Rights Day, which was launched in 1950 by the United Nations General Assembly to bring attention to the Universal Declaration of Human Rights as the common standard of all.

A theme will be chosen each year, and for this year it is mass governmental surveillance. This is the topic of the Human Rights Commission's project.

We call upon every FBE member to assist with this vital project in 2 ways:

- a) Answer the following question: what legal protections exist in your country for the protection of citizen's rights to privacy when the state gathers data about each citizen? Please give details;
- b) Organise an event to celebrate European Lawyers Day on 10 December and incorporate the FBE in the event.

Thank you

**Professor Sara Chandler**

**President, Human Rights Commission**