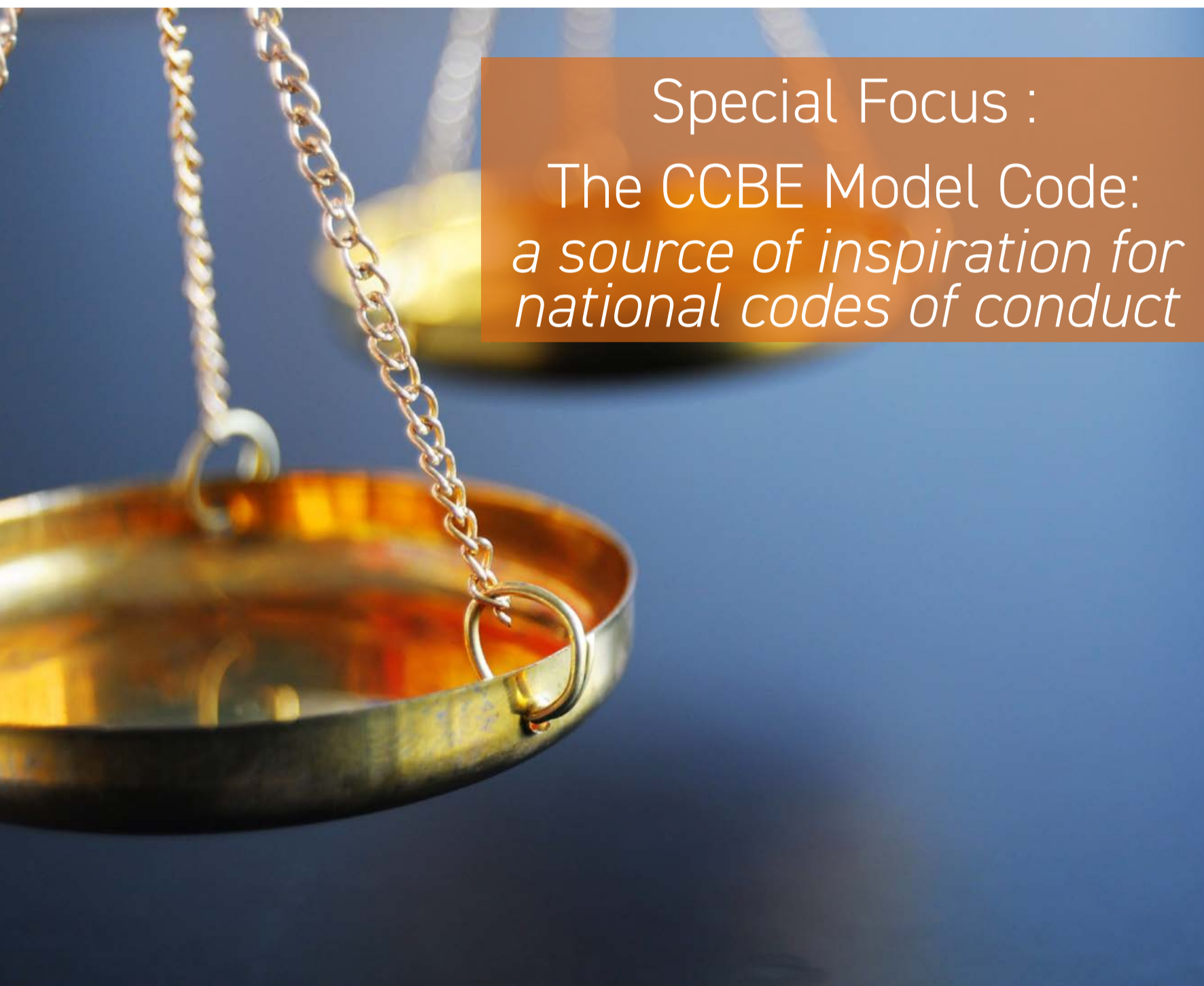


# CCBE-INFO

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# Special Focus: The CCBE Model Code: a source of inspiration for national codes of conduct

## Adoption on 10 December 2021

The [Model Code of Conduct for European Lawyers](#) ("Model Code") was adopted by the CCBE at its Plenary Session on 10 December 2021. This Plenary Session therefore completed the work started in 2007, enabling the CCBE to adopt its third instrument on professional ethics. The aim of the Model Code is to **provide a coherent and evolving set of deontological rules to serve as an inspiration for bars and law societies.**

## Background and aim

The Model Code complements the CCBE [Code of Conduct for European Lawyers](#), adopted on 28 October 1988<sup>1</sup>, the main objective of which was to define rules applicable to all lawyers in the European Union and the European Economic Area, particularly in the event of cross-border disputes. It also complements the [Charter of Core Principles of the European Legal Profession](#), adopted on 24 December 2006, which is intended to apply directly to all lawyers in Europe and to assist bars which are struggling in emerging democracies to gain recognition of their independence.

## Objectives

The discussions on the Model Code therefore started following the adoption of the Charter in order to provide European lawyers with uniform European deontological rules in their professional practice, without necessarily having a cross-border dimension. Among the options considered, the CCBE decided to opt for the model approach with, therefore, an instrument which draws a common line of sight to all the bars that will be inspired by it.

## A structure consisting of 6 articles on the main principles of lawyers' deontology

**The structure.** The process resulted in the adoption of a preamble and six articles, between 2 December 2016 and 10 December 2021. The articles are unnumbered and of equal importance and are presented in a consistent manner.

<sup>1</sup> The Code was amended three times: in 1998, 2002, and 2006.

- » The **preamble**, adopted on 8 October 2021, sets out the objectives of the Model Code and its place in the deontological rules developed by the CCBE since 1988.
- » The model article on **independence**, adopted on 19 May 2017, contains two paragraphs, one relating to the importance of the independence of lawyers and the other detailing the terms of such independence.
- » The model article on **conflict of interest**, adopted on 2 December 2016, is organised into six paragraphs dealing with lawyer's obligations in the event of a conflict or potential conflict of interest.
- » The model article on **confidentiality**, adopted on 2 December 2016, is the longest article. It contains nine paragraphs, one of which states that confidentiality applies both in litigation and advice.
- » The model article on **relations with clients**, adopted on 27 November 2020, lists the rights and obligations governing the relationship between lawyers and their clients.
- » The model article on **fees**, adopted on 8 October 2021, provides for the principle of freedom to negotiate fees with a client, while setting limits on this freedom.
- » The model article on **relations between lawyers**, adopted on 21 May 2021, consists of two paragraphs.



## Commentaries

Each article is accompanied with commentaries which, paragraph by paragraph, guide the interpretation of the Model Code. They are intended to be used as much as the articles and illustrate potential applications of the Model Code to concrete situations.

## A multi-faceted instrument

**A tool at the service of bars and law societies.** The Model Code is a **tool for bars and law societies.** This tool will achieve its objective if bars and law societies use it as a basis for their own national regulation. The guiding principle in its conception is to offer bars and law societies a model which goes beyond the lowest common denominator to consider deontology in a way which is both modern and adapted to the current challenges of the profession.

**An evolving instrument.** The Model Code is an evolving instrument. In order to continue to inspire bars and law societies in the years to come, the Model Code will have to be updated in line with the emergence of new practices by lawyers and new deontological issues for the profession. These six articles, far from constituting a fixed list, should therefore be considered as a basis for further reflection and proposals.

**Towards recognition by European and international organisations.** This Model Code, like the Code of Conduct recognised by the European institutions<sup>2</sup>, will be **brought to the attention of international institutions** so that they have a better understanding of the ethical duties of lawyers. The Justice and Home Affairs configuration (JHA) of the Council of the European Union already referred to it<sup>3</sup>.

The Model Code of Conduct for European Lawyers is a step towards a common deontology for all European lawyers. This objective is in fact not so far away. The discussions which took place during the drafting of this Model Code show that deontology is relatively similar from one Member State to another, which is reassuring. The profession has been built on the same foundations in Europe, and this can be seen on a daily basis in cross-border practices.

Now, this Model Code is bound to evolve. Matters relating to digitalisation and regulatory developments arising from, for instance, the fight against money laundering could be the next building blocks to complete the Model Code.

**Bertrand DEBOSQUE**

Chair of the CCBE Deontology Committee  
Head of the French delegation to the CCBE

<sup>2</sup> See e.g. ECJ, 19 September 2006, Commission v. Luxembourg, Case C-193/05; Opinion of Advocate General Maduro delivered on 14 December 2006 in Case C-305/05, OBF v. Council.

<sup>3</sup> ECHR, 23 April 2015, Morice v. France, Application No. 29369/10; ECHR, 6 December 2012, Michaud v. France, Application No. 12323/11.

<sup>3</sup> Note of 17 February 2022, available [online](#).

## CCBE Standing Committee

The CCBE held its online Standing Committee on 25 February 2022 with the participation of two guest speakers:

Laurent Huet, Criminal Justice Advisor at the Permanent Representation of France to the EU who presented the priorities of the French Presidency at the Council of the EU, in particular in the area of justice,



Laurent Huet, Criminal Justice Advisor at the Permanent Representation of France to the EU

as well as Peter Csonka, Head of Unit and Deputy Director on Criminal Justice at DG Justice of the European Commission, who presented [the 2021 European Judicial Training report](#).



Peter Csonka, Head of Unit and Deputy Director on Criminal Justice at DG Justice of the European Commission

Following the Russian attack on Ukraine, a [CCBE Statement](#) was unanimously approved, calling on the International Criminal Court Prosecutor to commence an immediate investigation with a view to the trial of the President of Russia, Vladimir Putin and his accomplices.



The CCBE also adopted its contribution to the 2022 Rule of Law Report as well as its response to the European Commission consultation on the cross-border protection of vulnerable adults – see more detailed information under the Rule of Law and Family Law sections.

## Main CCBE events and activities

On 12 January, the CCBE President, James MacGuill represented the CCBE in the [conference "Lawyers: key players for effective legal protection in Europe"](#), which was organised in the context of the start of the French Presidency of the Council of the EU. In his closing remarks, James MacGuill provided an overview of the main points made during the event.

Noemí Alarcón Velasco, Chair of the CCBE Migration Committee, spoke in the session: "How to improve the protection of migrants' rights" at the colloquium. The videos of the speeches are available [here](#).



On 10 February, the CCBE President was one of the speakers at the [conference "Lawyers: key players in ensuring effective legal protection in Europe"](#) held in Paris. He gave an opening speech focused on the current challenges of the legal profession and the CCBE priorities. The Vice-President, Thierry Wickers, spoke at the Roundtable devoted to legaltechs in Europe in particular on the situation of France in terms of innovation and legaltech "Paris, Hub of European legaltechs".



James MacGuill speaking at the conference in Paris

## Rule of law

The [CCBE contribution for the 2022 Rule of Law Report](#) was adopted by the Standing Committee on 25 February 2022, in response to the invitation and the public consultation launched by the European Commission.

In its submission, the CCBE highlighted the most important rule of law developments and concerns involving the legal professionals, as well as the threats identified by its members to the independence of lawyers and the Bars within the EU Member States.

In addition, the CCBE referred to its [statement on the 2021 Rule of Law Report](#) adopted on 16 November 2021 where the CCBE called for an equal approach in the next RoL Report with a more developed analysis of the independence of lawyers and Bars as an indispensable component of the independence of the justice system and of the rule of law.

Furthermore, the CCBE expressed the support to the intention of the European Commission to include country-specific recommendations in the next RoL Report and suggested that these should refer, where appropriate, to the need to ensure the independence and safety of all justice actors, including lawyers and Bars, as well as the obligation for Member States to ensure access to justice, legal aid and relevant funding to safeguard such access.

The contribution also sets out a number of actions undertaken by the CCBE over the last year addressing various issues related to the rule of law and independence of lawyers and Bars.

The CCBE contribution is accompanied by the Annex with the inputs received from its members. In the conclusion part of this contribution, a summary is provided referring to different intrusions on the independence of the profession. For example, the following issues have been observed in different countries:

- » surveillance of lawyers and breaches of the confidentiality of lawyer-client communications especially when modern technology is used;
- » identification of lawyers with the actions of their clients;
- » violations of the confidentiality and the professional secrecy of lawyers;
- » substantive risk to the independence of the legal profession caused by the transposition of some EU law into the national legislation;
- » possible influence of the media in some countries sometimes contributing to the misinterpretation of the role of lawyer;
- » various other national developments which indicate some trends which may pose a risk to the independence of the legal profession and functioning of justice.

## New CCBE Committee on the Environment and Climate Change

This year, a new CCBE Committee on the Environment and Climate Change has been established and will deal with issues related to the environment and climate change in accordance with CCBE's missions and where relevant for the legal profession. This new Committee will be chaired by Carlo Orlando. Carlo Orlando is a lawyer since 1994 who has been a member of the Italian delegation within the CCBE since 2019, and who has always held top positions within the Italian bar (Consiglio Nazionale Forense (CNF)). He was notably President of the Perugia Bar and was appointed in 2021 as Consultant for the Umbria Regional Agency for the environmental protection.

Although the subject is not new, questions relating to climate change, the protection of the environment and sustainability are more and more pressing and there is a lot of ongoing work in this area. The protection of the environment and the pressing challenges posed by the current climate crisis directly affect the fundamental rights and freedoms of citizens as well as the right of access to justice. As a key organisation representing the legal profession in Europe and defending the rule of law, fundamental and human rights, we think that the CCBE together with its member bars have a role to play in



addressing the climate crisis and its consequences, not only by supporting their clients' efforts in doing so but also in the performance of the daily practice of lawyers. Furthermore, a strong commitment from the legal profession to engage with current and future legislative and policymaking efforts to address the climate crisis is crucial and should be further promoted.

## Surveillance



On 1 February 2022, the CCBE adopted a Statement on the Pegasus scandal which revealed how a spyware has been systematically misused to spy on lawyers, human rights defenders, or journalists. The CCBE expressed its serious concerns in view of the attacks towards the core values of the legal profession, in particular infringements of the confidentiality of lawyer-client communications. Therefore, the CCBE called upon national and European institutions to take steps to protect and enhance this principle which is a cornerstone of the Rule of law. Material protected by professional secrecy and legal professional privilege must be out of scope of surveillance operations. The CCBE invites national and European authorities to follow its [recommendations](#) on the protection of fundamental rights in the context of national security and [guidance](#) on the protection of client confidentiality within the context of surveillance activities.

## Human rights

Day of the Endangered Lawyer 2022 – Colombia



24 January 2022 marked the 12<sup>th</sup> Day of the Endangered Lawyer, which this year was dedicated to the situation of lawyers in Colombia. The purpose of this international Day is to draw the attention of government officials, international institutions, civil society, the media, and the general public to the situation of lawyers in a particular country, in order to raise awareness about the threats that they face in the exercise of their profession.

On this occasion, the CCBE with more than 25 bars and lawyers' organisations co-signed a [report](#) detailing the current situation of lawyers in Colombia. This report notably calls for the full implementation and respect of the UN Basic Principles on the Role of Lawyers as to guarantee that all lawyers in Colombia are able to carry out their professional duties without fear of reprisal, intimidation, harassment or other improper interference in their work.

On the basis of this report, the CCBE also together with several bars and lawyers' organisations addressed a [petition](#) to the Ambassador of Colombia in Brussels in support of endangered lawyers in Colombia, following a demonstration in front of the Embassy in solidarity with Colombian lawyers.



Demonstration in front of the Colombian Embassy in solidarity with Colombian lawyers

## Defence of the defenders

In January and February 2022, the CCBE sent 14 letters and joined several initiatives in support of endangered lawyers in Belarus, Brazil, China, DRC, Egypt, Mexico, Nigeria, Pakistan, Russia, Sudan, Tunisia and Turkey.

All CCBE letters of support to endangered lawyers and other joint initiatives can be consulted on the CCBE [Human Rights portal](#) “Defence of the defenders”.

# Judicial training

## European Judicial Training Report

In December 2021, the European Commission published its annual [Report on European Judicial Training](#) covering 2020. This tenth report measures the participation of targeted justice professionals, including lawyers, in judicial training on EU law, non-legal skills and language skills. It also helps to monitor the implementation of the new quantitative and qualitative objectives set by the [European judicial training strategy for 2021-2024](#).

As usual, the CCBE supported the European Commission in collecting the data on number of trained lawyers in the EU Member States. The Report confirms that 2020 was an exceptional year in many ways for judicial training and shows that the COVID-19 pandemic has had an impact on national justice systems and challenged the training institutions.

According to the Report, training activities had to be cancelled, postponed or quickly transferred into quality online training activities. Nevertheless, the total number of justice professionals in EU law judicial training marks a new record – more than 318 000 justice professionals

received training on EU law in 2020. **The historic increase in the overall number of justice professionals trained on EU law is mainly due to the increase in EU law training for lawyers and the shift of training activities for lawyers in Italy to online training schemes** such as the HELP programme of the Council of Europe.

However, a closer look at the statistics reveals a substantial decrease in the number of justice professionals trained on EU law for most Member States and professions. This phenomenon applies especially to the training of judges and prosecutors and bailiffs.

According to objectives set by the [European judicial training strategy for 2021-2024](#) continuing training on EU law should reach yearly 15% of all EU lawyers by 2024. In 2020, this objective was even surpassed despite the COVID-19 pandemic due to the high number of participants in online training. However, more than half of the Member States for which the answers were received on number of trained lawyers in 2020 did not reach the 15 % target.

## Conference on “Initial training of justice professionals serving the rule of law”



The conference “Initial training of justice professionals serving the rule of law” organised jointly by the French Council Presidency, The French national School of Judiciary and the European Commission took place in Bordeaux, France. The Plenary Session of this conference was accessible also for online participation. The CCBE was represented in this conference.

Based on the information provided by its members on initial training and following assessment carried out, the CCBE President James MacGuill presented the panorama of initial training of lawyers in the EU stressing the important role of lawyers for upholding the rule of law. He also referred to soft skills needed for lawyers, influence of digitalisation on the training and underlined the need for adequate and sufficient financial resources for training of lawyers.

Furthermore, CCBE Secretary-General, Simone Cuomo, presented the outcome of a workshop that he coordinated at this event on the theme “digitalisation in initial training” addressing the integration of digital tools in the provision of initial training and the digital transformation of the judiciary and legal practice as an important subject in initial training.

The results of discussions which took place during this conference will be summarised and published by the European Commission. Information on the initial training of justice professionals in EU Member States is available on the [e-Justice portal](#) of the European Commission.



James MacGuill speaking at the conference “Initial training of justice professionals serving the rule of law” in Bordeaux

# Family Law



The CCBE adopted a [response](#) to the European Commission consultation in regard to the [initiative](#) on the cross-border protection of vulnerable adults at its Standing Committee on 25 February 2022. The initiative aims to address the disparity between Member States, which arises due to the fact that there is no EU legislation governing this.

Given that only 10 EU Member States ratified the [HCCH 2000 International Protection of Adults Convention](#) (the 2000 Hague Convention), and that there is an ever-increasing ageing population, as well as cross-border movement and ownership of assets, this matter pertinently needs to be addressed.

The CCBE’s Criminal Law Committee and Family and Succession Law Committee have long been following this topic, the former in relation to [criminal proceedings](#) and the latter especially in regard to ELI’s [project](#) on the protection of vulnerable adults in international situations, which was concluded with a [report](#) in March 2020. Therefore, this recent initiative and consultation launched by the European Commission is an excellent opportunity for the CCBE to express its views and be involved from the beginning in any potential instrument and/or EU legislation created.

As an overview, in its response, the CCBE highlights several problems and challenges which have arisen in relation to the cross-border protection of vulnerable adults. In addition, it strongly emphasised the duty of the EU to ensure that the protection and fundamental rights of vulnerable adults are upheld. While the EU has been playing roles in facilitating the ratification of the 2000 Hague Convention and their cross-border protection, arguably, it has had limited success, and more should be done. In particular, the CCBE considers that the EU should work with the existing Convention to complement it, as well as update and address its weaknesses. In parallel, the EU should work on an EU legislation that covers all necessary aspects and explains the articulation of the two instruments.

## Joint CCBE/ Azerbaijani Bar Association (ABA) webinar



**WEBINAR**  
Join CCBE / ABA webinar on deontology issues  
*Professional secrecy and freedom of speech of lawyers*

12 January 2022 | 9.00 - 12.00 (Brussels time)  
12.00 - 15.00 (Baku time)  
*Simultaneous interpretation in English and Azerbaijani will be provided.*

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CCBE  
EUROPEAN COUNCIL OF  
BAR ASSOCIATIONS

ABA  
AZERBAIJANI BAR ASSOCIATION

A joint CCBE/ Azerbaijani Bar Association (ABA) webinar was organised on 12 January 2022 on deontology issues to discuss such important concepts as professional secrecy and freedom of speech for lawyers. The CCBE Vice-President, Pierre-Dominique Schupp, gave the opening speech, followed by the ABA President. The Chair of the PECO Committee, Roman Završek, moderated this event. Member of the CCBE Deontology Committee, Jean-Louis Joris, made a presentation on the CCBE Charter of core principles of the European legal profession, the Code of Conduct for European lawyers, and the recently adopted Model Code of Conduct. Several presentations of national deontology rules and experiences on profession secrecy and freedom of speech for lawyers were provided by other experts, i.e. Alex Tallon (Belgium), Janez Starman (Slovenia), Irakli Kandashvili (Georgia), Piotr Chrzczonowicz (Poland). In total, 204 participants joined the webinar directly via the Zoom platform and as this webinar was live-streamed on Facebook, more than 500 participants were also able to watch it on Facebook platform. Video recording of this webinar is available on the CCBE website.

## Appointment of new Committee/ Working Group Chairs and Vice-Chairs

The CCBE is delighted to welcome the following new Chairs:

**Carlo Orlando**  
Italy



Chair  
Environment and Climate Change  
committee

**Przemyslaw Kamil Rosiak**  
Poland



Chair  
Permanent Delegation to the Court of  
Justice and the General Court and the  
EFTA Court



### Upcoming Events

**31 MARCH 2022**  
Public Presentation of the CCBE-ELF Guide on the use of AI by lawyers and law firms in the EU (see below)

**1 APRIL 2022**  
CCBE Standing Committee in Brussels

### Public Presentation of the CCBE-ELF Guide on the use of AI by lawyers and law firms in the EU

More information on the programme is available on the [CCBE website](#).

Free registration for online participation at: [event@ccbe.eu](mailto:event@ccbe.eu)

In person participation by invitation only.



Public Presentation  
of the CCBE-ELF  
Guide on the use of  
AI by lawyers & law  
firms in the EU

31 March 2022 | 14.00 - 18.00 (CET)

EUROPEAN COUNCIL OF  
BAR ASSOCIATIONS  
CCBE

EUROPEAN UNION  
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### Council of Bars and Law Societies of Europe

*The voice of European Lawyers*

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