

# CCBE RESOLUTION ON CONTINUING LEGAL EDUCATION

29/11/2013

## **PREAMBLE:**

**The Council of Bars and Law Societies of Europe (CCBE) represents the bars and law societies of 32 member countries and 12 further associate and observer countries, and through them more than 1 million European lawyers. The CCBE notes that:**

1. the continuing legal education of lawyers is a competence of the Member States which has been developed and extended in recent years, but which is not a legal requirement in all Member States, and whose scope and recognition varies in different Member States;
2. lawyers who are members of a Bar or Law Society in two or more Member States with mandatory continuing legal education are likely to be forced to comply with two or more different training obligations, resulting in extra burdens on their time;
3. the mutual trust in different legal systems that co-exist in the European Union is of utmost importance for the creation of a European legal area;
4. it is very desirable that legal practitioners acquire knowledge about each others' legal systems;
5. joint training courses with lawyers from different Member States contribute in achieving this knowledge and would be promoted by the recognition of training course received in one Member State by other Member States;
6. the EU has helped to develop programs and training incentives for lawyers from different Member States that need to be recognized prior to or after the training in each Member State;
7. there exist providers of continuing legal training courses and lawyers' organizations which organize training courses on a European and International level which have to obtain recognition of their courses in each Member State or for which the participating lawyers have to obtain such recognition from their respective Member States of origin;
8. some national Bars or Law Societies, being members of the CCBE, have reached an agreement for automatic recognition of continuing legal education for their members.

## **Further noting that:**

1. **the CCBE RECOMMENDATION ON CONTINUING TRAINING** (November 2003):
  - a. is intended "to encourage the adoption of continuing training regimes and to confirm a culture of quality and training for lawyers, in the public interest";
  - b. "bearing in mind Article 5.8 of the CCBE Code of Deontology that encourages the improvement of trust, mutual confidence and co-operation between European lawyers, which is promoted by extending their knowledge of each others' national procedures and laws and by participating in the training of lawyers from other Member States";

- c. "that for European Economic Area migrant lawyers double continuing education requirements should not be required in accordance with the CCBE Guidelines on the Implementation of the Establishment Directive (98/5/EC of 16th February 1998) paragraph 13, thus promoting the mutual recognition of training";
  - d. and the specific mention of "control over fulfilment of continuing training obligations (including the consequences of non-completion) could include a system of self-certification by lawyers subject to checks and should be administered by the competent Bar or Law Society on the basis of domestic law or other rules or regulations where appropriate".
2. **the GUIDELINES ON THE IMPLEMENTATION OF THE ESTABLISHMENT DIRECTIVE (98/5/EC OF 16TH FEBRUARY 1998) ISSUED BY THE CCBE FOR BARS AND LAW SOCIETIES IN THE EUROPEAN UNION, (November 2001), point number 13 regarding continuing education states:** "In order to avoid the multiple application of continuing professional education schemes, where a lawyer is established under the Directive in a Member State other than that in which he or she is qualified, the lawyer shall be subject to the continuing professional education rules of the host State bar, except where the home State bar has rules which oblige the lawyer to continue home State professional education wherever he or she is based. In addition, the bars and law societies of all Member States are encouraged to develop flexible continuing professional education rules which will permit migrant lawyers to satisfy them by undertaking continuing professional education not only in host state law but also in home state law".
  3. **the CCBE RESOLUTION ON TRAINING FOR LAWYERS IN THE EU (November 2000) states:**
    - a. **General conclusion 2:** "However, it is essential to guarantee that every lawyer who gets to a Bar within the European Union, has received an education allowing him to apprehend the European dimension of his profession: this implies a training fitting to professional practice of Community law".
    - b. **Action 5:** "compulsory continuing training, with minimum components relating to the number of hours that all EU lawyers should complete annually and the proportion of hours dedicated to Community law and European comparative law".
  4. **the EUROPEAN TRAINING PLATFORM,** a project developed by CCBE with financing of the EU that will permit the gathering of information about the training of lawyers throughout Europe and which will make it easier to undertake training in other Member States by providing a 'search tool' for foreign legal courses which is likely to increase the number of training activities followed by lawyers abroad and, in turn, underlines the need for easy and flexible instruments for the recognition of such training.
  5. many continuing training regimes already allow lawyers to attend and take recognized courses abroad because many national continuing training systems are flexible in this regard.

#### **GENERAL CONCLUSIONS:**

1. Continuing legal training helps to ensure the quality of services provided by lawyers.
2. The competent authorities of Member States should establish clear and straightforward mechanisms of recognition without the necessity of providing sworn translations of the contents of training received or that otherwise make the recognition of a training course unduly cumbersome.
3. The realization of joint training courses by lawyers of different countries, in particular, training in European Union law and European comparative law is a very positive step to establish a legal culture in Europe and to generate confidence in the respective legal systems. For this reason, providers of such training courses should not be required to ask for recognition of these training courses in every Member State. Likewise, lawyers who receive such training should not have to undergo a recognition process unless the applicable national system also provides such recognition for national training courses.
4. The competent authorities of each Member State which establish a system of compulsory continuing legal education should expressly regulate the situation of lawyers under the Establishment Directive and which are confronted with dual compulsory continuing training requirements. Thus,

- a. they should develop flexible continuing legal education rules that will permit migrant lawyers to satisfy such rules by undertaking continuing legal education not only in host state law, but also home state law and EU law, regardless of where such training takes place.
  - b. the trust in the competent authorities of other Member States which require compulsory continuing legal education should prevail.
  - c. additional national continuing training requirements may only be established if national lawyers are required to have specific knowledge in particular legal areas or in order to comply with a minimum number of hours of training.
  - d. continuing legal training should never be a barrier to the freedom of free establishment.
5. The competent authorities of the Member States which establish systems of compulsory continuing legal education should implement an easy mechanism for the recognition of:
- a. courses offered by service providers that have been accredited or recognised by the competent authorities of another Member State in which systems of compulsory continuing legal education exist (system of pre-accreditation of courses).
  - b. courses followed by lawyers that have already been accredited or recognised by the competent authorities of one Member State in which systems of compulsory continuing legal training exist (system of post-recognition initiated by the participating lawyer).
6. In order to facilitate and simplify the recognition of continuing legal education, it is recommended to require that such courses follow a common system of recognition that is suitable to the legal profession.

**ACTION TO BE UNDERTAKEN BY:**

1. The European Bars and Law Societies represented in the CCBE undertake to promote the necessary changes and adapt, as necessary, their rules and regulations to comply with the conclusions in this Resolution.
2. The CCBE will publish and promote the instruments adopted by the EU to apply said conclusions.
3. The European Bars and Law Societies represented in the CCBE shall facilitate the exchange of information about the existence or lack of compulsory continuing legal education in their home jurisdictions through the CCBE. Likewise, they shall inform the CCBE about any changes that may occur in such regimes.
4. The CCBE undertakes to keep at least basic information on its webpage.

The CCBE asks its Training Committee to prepare further detailed recommendations about recognition systems or possibilities, after further consultation with Member Bars and Law Societies.