

**MINUTES**

**41<sup>th</sup> Presidents' Conference**

**of the**

**European Bar Associations and Law Societies**

**in Vienna**

**7 – 9 February 2013**

**“Vienna Advocates’ Conference”**

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

Ladies and Gentlemen, It is a great pleasure being able to welcome you to the 41<sup>st</sup> European Presidents' Conference here in Vienna.

On 1 February 1973 one of my predecessors Dr. Walter Schuppich assembled a small group of presidents of bar associations in order to discuss issues that were of topical interest for bars and lawyers at that time. That was the time of the Cold War. For our colleagues in the neighbouring countries it was not easy to come to Vienna and to get permission to leave their country. One colleague told me yesterday that in those days you had to leave your family members behind back home, more or less as pawns. So, you could not take along your wife or your children when coming to Vienna to attend the 1<sup>st</sup> Presidents' Conference. We are proud therefore that the times have changed for the better in Europe.

I would like to welcome, in particular, our speakers at today's Presidents' Conference. Dr. Julia Laffranque, Judge at the European Human Rights Court in Strasbourg, welcome! I would like to welcome the President of the Austrian Supreme Court, Dr. Eckart Ratz. A cordial welcome to you! I would like to welcome the Deputy Editor-in-Chief, Mr. Kurt Kuch, of *News*, a very popular magazine here in Austria. Last but not least, I would like to welcome Mr. Michel Benichou, Third Vice-President of the Council of the Bars and Law Societies of Europe (CCBE). Welcome to you! A cordial welcome to all our guests of honour! I would like to welcome, in particular, the President of the Austrian Administrative Court, Univ.-Prof. Dr. Clemens Jabloner. Let me welcome the Vice-President of the Austrian Constitutional Court, Dr. Brigitte Bierlein, and the Procurator General, Prof. Dr. Ernst Eugen Fabrizio, and the First General Prosecutor, Dr. Franz Plöchl. I would like to welcome the former Federal Minister of Justice and current President of *Österreichischer Juristentag*, Dr. Nikolaus Michalek, as well as the former Federal Minister of Justice, Dr. Harald Ofner. Let me welcome the Directors of the Federal Ministry of Justice, Dr. Georg Kathrein and Mag. Christian Pilnacek, as well as the Head of Unit and Senior Public Prosecutor, Mag. Michael Aufner, and also our Legal Protection Commissioner, Dr. Gottfried Strasser. I would like to welcome Madam Ambassador and former First General Prosecutor, Dr. Christine Stix-Hackl. I have not seen her yet; perhaps she will join us later. And it is a very special pleasure for me to cordially welcome the two Honorary Presidents of the Austrian Bar, Dr. Klaus Hoffmann and Dr. Gerhard Benn-Ibler!

I would like to thank, in particular, our sponsors: the City of Vienna, *Uniqa* insurance company, *EDV 2000 Systembetreuung GmbH* and Bank Austria UniCredit Group represented by Mr. Erich Czermak, Head of the Centre for Physicians and Other Liberal Professions of the Bank Austria UniCredit Group. He will address us briefly after my welcome statement.

I would like to take this opportunity to say something that is often forgotten at the end of a conference, namely to thank the organising team – my Secretary-General, Mag. Silvia Tsorlinis, and her collaborators – for all the work that they put into preparing this congress. I know she arrived at Palais Ferstel at 7 a.m. today in order to check everything, so that our conference will run smoothly. I also would like to thank – and this is also often forgotten – our interpreters. We have interpretation into English and French and also into German.

I would also like to especially welcome Dr. Spenling, Senate President at the Supreme Court and President of the Supreme Appeals and Disciplinary Commission of the Austrian Bar.

Let me make a few comments concerning our schedule today. The 41<sup>st</sup> European Presidents' Conference differs slightly, as far as our time table is concerned, compared to the programme of previous European Presidents' Conferences, which some of you may have attended. We will not have a lunch break. Nevertheless, you will not be starving, because we have scheduled two coffee breaks, one at about 10.30 a.m. and the other at 12 a.m. We have scheduled 15 minutes for each of the coffee breaks before returning to our discussions.

At 2 p.m. there is the reception by the Federal Chancellor at the Federal Chancellor's Office. We can walk there easily, as it is very close. In order to have sufficient time to get our coats we will close the conference at 1.30 p.m.

I look forward to our very lively discussions because we will be dealing with a very topical and important subject: "Fundamental Rights under Pressure". On account of the economic crisis in the countries of the European Union, and in Europe altogether – speaking in geographical terms – there are also restrictions, limitations to the fundamental liberties and basic human rights. We want to counteract this trend, and we will analyse the situation today.

Mr. Czermak, may I ask you to take the floor!

***Erich CZERMAK, Bank Austria UniCredit Group, Austria:***

*Interpretation from German*

Dear Guests of Honour, Dear President Dr. Wolff, Dear Ladies and Gentlemen, I am very pleased to be able to welcome you on behalf of the Management Board of UniCredit Bank Austria.

As was said a moment ago, the European Presidents' Conference is taking place for the 41<sup>st</sup> time today. Our bank has been a sponsor of this event for more than 15 years. This shows how closely we cooperate in a spirit of mutual confidence with our business partners representing the legal professions, in particular with the Austrian Bar and the Vienna Bar. Our services for the liberal professions can offer lawyers tailor-made financial and banking services.

Ladies and Gentlemen, International regulatory packages for the financial sector (buzz word: Basel III) require that, amongst others, banks have bigger equity buffers for a higher risk-bearing capacity, and that they comply with stricter liquidity requirements. This means, on the one hand, new burdens on the financial sector, whereas, on the other hand, these regulatory steps have promoted a return to the core business of banks for a country's economy, i.e. deposit and lending transactions. The imminent regulatory changes have a great impact on the current business environment of companies in Austria and all of Europe and give rise to some uncertainty, as long as not all the details have been settled. During times of volatility, in particular, clear and unambiguous rules and time lines are particularly important for the economy as a whole. At present, the demand for loans is rather restrained in Austria, on account of the economic crisis, as well as some pent-up demand for investments, although interest rates on loans have reached a historic low. However, we cannot speak of a bottleneck in lending activities in Austria. As far as Austria's banks are concerned, we can say that we fully meet our core task for the national economy, which is to provide funding to private households and industry. Banks in Austria and Europe need a regulatory framework based on a sense of proportion so that they can continue to render their services.

Ladies and Gentlemen – During the three days of the European Presidents Conference you will have a number of social highlights such as the receptions by the Federal Chancellor and the Federal President of the Republic this afternoon, or the Lawyers' Ball at the Hofburg tomorrow night. However, these official and informal meetings also serve, of course, to maintain contacts, to exchange interesting news among fellow lawyers and colleagues from various countries and to engage in technical discussions.

For Bank Austria, with its leading network of banks in Central and Eastern Europe, intensive international exchanges provide an important competitive advantage. Our know-how supports the majority of exporting companies in Austria in their cross-border business activities, as we offer our customers homogenous, high-quality financial products and cross-border services, on the one hand, and as we provide our customers with sound information about economic developments, as well as basic legal and fiscal changes in the various countries of Central and Eastern Europe, on the other hand. In our work we focus on the essential issues, which is to assist our customers and be their reliable financial partner. At the same time, we want to conduct our business in such a way that we create sustainable value for our customers and our shareholders.

Let me conclude by wishing you a successful and interesting conference, a pleasant stay here in Vienna, and let me thank you for giving me the opportunity once again this year to support this outstanding event. I wish you a very successful conference and fruitful debates!

Thank you very much.

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

I would like to thank our sponsor, Bank Austria UniCredit.

Fundamental rights under pressure – What can we do? Where will our analysis give us an indication of the need for improvement or change?

I look forward to listening to Dr. Eckart Ratz, the President of Austria's Supreme Court, and I give him the floor for his statement.

***Hon.-Prof. Dr. Eckart RATZ, President of the Supreme Court of Austria, Austria:***

(You can download the presentation of Hon.-Prof. Dr. Eckart Ratz, President of the Supreme Court of Austria, at [www.e-p-k.at](http://www.e-p-k.at))

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

Thank you very much, President Dr. Eckart Ratz, for this detailed and highly informative analysis of the protection of fundamental rights in Austria and, in particular, in the field of penal law.

The new option created in 2007, namely section 363a of our Penal Code, shows that a gap has been filled. As President Ratz said, more than 100 landmark decisions have been issued since 2007. This fact clearly emphasizes the need for those provisions.

Mr. President, Dr. Ratz, I am particularly glad that you have just said that Wolff is right. Ratz is right, too, and, in fact, he administers the law. Thank you.

Mr. Benichou, may I ask you now to present your paper on the subject of “Fundamental Rights under Pressure“.

***Michel BENICHO, Third Vice-President, Council of the Bars and Law Societies of Europe (CCBE):***

(You can download the presentation of Michel Benichou, Third Vice-President of the CCBE, at [www.e-p-k.at](http://www.e-p-k.at))

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

Maitre Benichou, thank you very much for this statement delivered with so much “verve”. You spoke also as a philosopher and you have shown us very clearly that the economic crisis in Europe is at the same time a crisis of our fundamental rights, that in Europe democracy – and not only fundamental rights – has come under pressure. You analysed in great detail where fundamental rights, especially but not exclusively access to law, are under pressure at present. You stated that the judicial authorities must not bow to the will of businesses, and that every person looking for justice has the right to have access to the law and access to a judge. At the end of your presentation you explained that, in a modern Western democracy, there must not be any area without fundamental rights as a result of demands by businesses. You have given our audience much food for thought, as well as several ideas as to how fundamental rights can be strengthened and promoted.

I would suggest that you reflect on these thoughts over a cup a coffee and some snacks. Let us therefore break until 10.45 a.m. Thank you.

*Coffee break*

**Dr. Rupert WOLFF, President, Austrian Bar, Austria:**

*Interpretation from German*

After the coffee break, which has given us new strength, we can look forward to the paper by Dr. Julia Laffranque, Judge from Estonia at the European Court of Human Rights in Strasbourg.

Madam Justice, you have the floor!

**Dr. Julia LAFFRANQUE, Judge, European Court of Human Rights:**

(You can download the presentation of Judge Julia Laffranque, European Court of Human Rights at [www.e-p-k.at](http://www.e-p-k.at))

**Dr. Rupert WOLFF, President, Austrian Bar, Austria:**

*Interpretation from German*

Dr. Laffranque, thank you very much for this presentation and for the insights that you have given us into the case law of the European Court of Human Rights and also into pending cases.

What was particularly noteworthy, I think, was your remark that social rights should not degenerate from the right of the poor into poor law. I found it particularly interesting how you assessed the effects of the waves of immigration in Europe on the protection and exercise of fundamental rights. You also made very important statements on the protection of property and the access to justice and to the courts. The decision of the European Court of Human Rights not to charge applicants any fees is a very worthwhile decision. Your statements on the “margin of appreciation” were particularly valuable. Lawyers will be guided by it, certainly also in cases which they have to represent before the European Human Rights Court.

Kurt Kuch has been a leading journalist at *NEWS* since 1996. He has been in charge of political issues since 2009 and Deputy Editor-in-Chief of Austria’s largest weekly magazine since 2011. Kurt Kuch is also an author. In 2011 Kurt Kuch wrote a bestseller “*Land der Diebe*” (“Land of Thieves”). As a result, he was awarded the Dr. Karl Renner Prize for Journalism in the “Print” category in 2012.

We all know the importance of professional secrecy for lawyers, the obligation to keep matters confidential, in the interest of their clients. We are all aware of the importance of the

duty of physicians to observe confidentiality – but what about editorial secrecy? Kurt Kuch has dealt with this subject. I look forward to listening to his statement!

***Kurt KUCH, Deputy Editor-in-Chief of NEWS, Austria:***

(You can download the presentation of Kurt Kuch, Deputy Editor-in-Chief of *NEWS*, at [www.e-p-k.at](http://www.e-p-k.at))

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

Thank you, Mr. Kuch, for this very informative and lively presentation concerning the problems of professional secrecy, freedom of the press, especially your presentation and outline of the events of the past year when, in fact, it was a question of bypassing the procedure for the evaluation of bills in Parliament.

There is a very topical incident - our daily papers today are giving full coverage to it. Yesterday, too, politicians in this country tried to make available retained data to the military, without clear instructions on their use. This attempt was linked to the fact that the procedure for the evaluation of bills in Parliament was also bypassed.

You referred to the new Austrian law on transparency. We, at the bar association, welcome this new legislation. We still need to see what the practical impact will ultimately be.

And, Mr. Kuch, if you called for a change in paradigm at the end of your statement, and when you also demanded that lawyers should join ranks with journalists – especially when it comes to defending fundamental rights in this country – then I can fully share this view. However, I think that all people who associate themselves to the legal values must join these ranks – sometimes even against the politicians of their own country.

I would now like to invite participants to contribute to our discussion. I would suggest that those wishing to take the floor should give me or the Secretary General a sign by raising their hand. When you then take the floor, please give your name and also indicate the country that you come from so that we can record this in our minutes.

Mr. Ewer from Germany, the President of *Deutscher Anwaltverein*!



***Prof. Dr. Wolfgang EWER, President, German Bar Association, Germany:***

*Interpretation from German*

Thank you very much, President Dr. Wolff. Dear Colleagues, dear Guests of Honour, The topic “Fundamental Rights under Pressure” shows quite clearly that we need to ask the critical question about the state of protection concerning fundamental rights, and whether and, if so where, there are gaps. This relates to legal practice, on the one hand. Mr. Benichou showed us very impressively where there are deficits.

However, this also relates to the system of granting legal protection in the area of fundamental rights. Here, too, I can see a problem. I think that, in this context, we have to distinguish three levels. First of all, there is the level of fundamental rights in the national constitutions and the protection of the fundamental rights by the national constitutional courts. As we heard, things work quite well here in Austria. We can say the same for Germany. The fathers of our Constitution, and the few mothers of our Constitution that we had at that time after World War II, after the collapse of fascism, quite deliberately decided in favour of a constitutional framework, entrenching in our Federal Basic Law strong and effective fundamental rights and a strong federal constitutional court to defend constitutional and fundamental rights. As was emphasized time and again by Mr. Streck, one of my predecessors, who is also present here today, it was only possible for the Federal Constitutional Court to acquire its specific importance and power because there were lawyers that were courageous and inventive enough and who also dared to challenge restrictions of the fundamental rights which, in some areas, including the legislation applicable to our legal profession, were accepted as being apparently matters of course.

The second level is the protection of fundamental rights afforded by the European Convention on Human Rights and by the European Human Rights Court, which enforces its guarantees. Dr. Laffranque gave us a very impressive report to what extent this also covers the social sphere. The national constitutional courts (such as our Federal Constitutional Court), too, had to learn in one or the other case (I am only giving you “excessive duration of proceedings” as a keyword) that the European Human Rights Court can take a completely different view of issues relating to fundamental rights. Those who ultimately benefited from this different approach were the persons seeking judicial relief.

But is that enough? We can all notice that with some force and with increasing vigour – and let me underline that it is right that this is happening with increasing vigour – a European level is becoming established, a level where an increasing number of legal fields is being regulated by European Union law, which will certainly lead to more legal harmonisation. I am afraid that the evolution of individual legal protection does not keep pace with the speed of legal harmonization. This also applies in the event that the EU will – hopefully soon – accede to the European Human Rights Convention, as well as in spite of the fact that, at first sight, the EU Charter of Fundamental Rights appears to be a success. After all, the new fundamental rights architecture – if I may use this expression – this division into three levels of protection for fundamental rights, i.e. 1) protection of the fundamental rights by the national constitutional courts, 2) by the European Court of Human Rights, and 3) by the European Court of Justice, will only work if there is effective legal protection on all levels (and thus also on level 3); in other words, if the individual person can also claim a test against the yardstick of the European Fundamental Rights Charter in the event of legal acts determined by EU law. This is what is often missing, at least in Germany. For example, if a person in Germany claims a violation of a fundamental right by a provision under national law which is based on the transposition of an EU directive, the Federal Constitutional Court will not apply the yardstick of the national fundamental rights; rather, it will say with consistency that the European Court of Justice is the ultimate decision-taking instance, because EU law takes priority. So, it refers citizens to the European Court of Justice. However, how does one get there? There is no direct access in such cases, apart from a few exceptions.

In this respect I take a different viewpoint than you, my dear Prof. Ratz. I would not subscribe – at least not for Germany – what you have stated for Austria, namely that the protection of individual fundamental rights is already ensured by the right to preliminary rulings. Sometimes, quite extravagant arguments are put forward on many pages to state that allegedly there is an “*acte claire*”, that the legal basis is unambiguous, that there is no need for a preliminary ruling. If the court needs many pages to explain that everything is so simple, then this is really absurd.

To my mind the result is three violations of fundamental rights: 1) the right to effective legal protection, which is also a fundamental and human right. Judge Laffranque specifically pointed to that; 2) the access to the competent judge, at least at the European Court of Justice which must ultimately decide on EU law issues; 3) the required test against the yardstick of the European Charter of Fundamental Rights is also bypassed.

I therefore think that lawyers should increasingly discuss the concept of being able to have access to the Court (perhaps in the form of a complaint against preliminary rulings that were not issued, which is contrary to EU law). It should thus be possible for everybody to be able, as a minimum, to complain about violations of the EU Charter of Fundamental Rights. I think this would effectively prevent that fundamental rights come under pressure in the EU.

I would very much appreciate if we could discuss these matters among lawyers on an international level, especially on the European level.

Thank you very much for your attention.

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

Thank you, Professor Ewer.

To re-establish the “equality of arms”, I would like to give the floor to Mr. Ratz.

***Hon.-Prof. Dr. Eckart RATZ, President of the Supreme Court, Austria:***

*Interpretation from German*

Let me say just one sentence about Austria. Well, when it comes to relative figures, then Austria holds a leading position in Europe concerning requests for preliminary rulings, and until a short time ago it was actually the absolute leader in preliminary rulings. Apparently, we have accepted preliminary rulings both in ordinary proceedings and in administrative proceedings.

Thank you very much!

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

Thank you!

Yes, please, Mr. Strasser!

***Dr. Gottfried STRASSER, Legal Protection Commissioner, former Procurator General, Austria:***

*Interpretation from German*

Ladies and Gentlemen, - I do not want to bore you with my position as the Legal Protection Commissioner. This is a position that you do not find in any other jurisdiction. Let me just say

the following: this position was established when large-scale surveillance and wire-tapping operations were introduced, and it was ultimately extended to small-scale surveillance and wire-tapping operations. It was then enlarged to telephone surveillance operations against persons with professional secrecy commitments. This brings us to a specific and delicate aspect of today's topic.

What is at stake here today is the professional secrecy obligation of lawyers. If proceedings are conducted against a lawyer, which require that his telephone is to be monitored, then one needs the advance authorisation by the prosecution office for such an application by the Legal Protection Commissioner, which then needs to be granted by the court. Of course, whenever a lawyer or another person committed to professional secrecy is entitled to refuse giving evidence, any relevant material cannot be used. In other words, if the telephone surveillance of the accused lawyer also includes conversations with his clients, then this material cannot be used. It is quite understandable that the police will transcribe these conversations, as they are not entitled to judge whether a specific conversation falls under professional secrecy or not, and whether it can be used or not. However, whenever such recordings and their transcripts become part of the court file, they must primarily be excluded from any disclosure to third parties and must be destroyed as quickly as possible. This is required on account of the current legal situation. In the future more detailed statutory provisions may be required in this context, as this issue is gaining in importance in connection with big white-collar crime cases.

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

Thank you very much, Mr. Strasser, for this clarification.

There is a request for the floor by Mr. Vandenberghe.

***Hugo VANDENBERGHE, Dean, Nederlandse Orde van Advocaten bij de Balie te Brussel, Belgium:***

*Interpretation from French*

Thank you, Mr. President, It has obviously not been planned that a president sitting in the second row would be taking the floor, I will therefore be brief.

Let me introduce myself. I am the President of the Flemish Bar of Brussels. I will address an issue that was already mentioned by Judge Laffranque, namely that the preamble of the

Convention speaks once again of subsidiarity and the margin of appreciation, under the influence of the United Kingdom and other countries.

This certainly causes a problem, although these concepts are not absolute. After all, the preamble is a guide to interpreting the Convention. As to subsidiarity – we know this concept in European law. We know how difficult it is to transpose this concept.

What precisely is subsidiarity? Federal states or confederations also have certain difficulties with the concept. However, the margin of appreciation is an instrument. You said it is something mystic or mythical, which ultimately allows you not to take any decision.

At this point I would like to follow up on the argument of Maitre Benichou, who said this refers to denied access to judges. Whenever politicians have difficulties in dealing with the working method of the European Court, when they speak about the excessive length of proceedings, then I quite understand this. However, is it not so that with these measures the protection of fundamental rights is reduced, because protection was influenced by Strasbourg? The dynamism of its jurisdiction was not in being the final instance; rather, this was a different perspective of the human rights. This is where attempts are now being made to push it to the background. Let me draw a comparison. In the 1980s there was a bilateral application against Turkey. It was eventually settled by the European Human Rights Commission, on certain conditions and with Turkey's obligation to acknowledge that Turkey's citizens had the right to effective legal remedies. In this context Turkey undertook to respect freedom of the press and freedom of opinion, etc.

Now, 25 years later, we can actually say that only the European Court can offer an effective legal remedy. Dozens of lawyers continue to be in prison, the press is subject to control – so, this is what subsidiarity and margin of discretion look like in a country that is part of the Convention. The concepts may be quite convincing, but if one really wants to expand the human rights culture – as you advocate – then I am not so sure that subsidiarity is really the right instrument – unless you can give me a satisfactory definition for this concept. Thank you very much.

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

Thank you, Mr. Vandenberghe! Thank you also for speaking in favour of the right of free expression from the backbench, so to speak.

Are there further requests for the floor? Please, Mr. Filges, from the German Federal Bar !

**Axel C. FILGES, President, German Federal Bar, Germany:**

*Interpretation from German*

Dear colleagues, After the very eloquent statement by Mr. Benichou I noticed that there was general agreement, but only from the perspective of persons passively affected – in the sense of “yes, he is right”. This is the way things are today. Apparently, we do not succeed – as lawyers or bar associations – to take any general action to counter these identified deficits, to counter the pressure to which the fundamental rights are exposed. Actions may be successful in individual cases, for example when bills are pending in Parliament, but not in a general sense.

I wonder – and in Germany we are asking ourselves these questions against the background of structures in Germany – namely: Are there perhaps also underlying structural reasons? So, it is a question of access to justice and to financial resources but it is also a question as to whether the system is the right one, in which we are currently defending fundamental rights.

Earlier, Professor Ratz referred to the distribution of roles: the judge, the prosecutor and the lawyer. Judge Laffranque called for a dialogue with lawyers. However, all of this is happening only on the other side of the bench in court. We, as lawyers, are also before the court. We defend our interests. We defend our clients and their fundamental rights vis-à-vis the court. The current situation in Germany is that not a single one of 16 judges of the Federal Constitutional Court has expertise and experience as a lawyer, so that he can contribute the experience of lawyers to the deliberations of the court. I think it is a very important aspect, especially if we look at the general situation and the figures: There are 160,000 lawyers in Germany, and there are 30,000 judges and prosecutors. This means that lawyers account for the largest part of the justice machinery, if I may call it that. We do play a role; yet, only on this side of the bench. If we really want to defend fundamental rights effectively, and if we want to avoid that the fundamental rights come under pressure then, I think, it is indispensable (I am not criticising judges) that the expertise of lawyers also has an impact on the panel of judges. After all, we – as lawyers – can see very clearly in our day-to-day work with clients where the fundamental rights are being exposed to pressure.

The German Federal Bar and our international conference in March (22 and 23 March 2013) – you already received an invitation – will therefore deal with this issue of structures in Europe, because we really deplore the situation in Germany. By the way, this is a project which the German Bar Association and the German Federal Bar are carrying out jointly. So far, we have always failed in our political talks and when applying much pressure in order to get politicians

to appoint lawyers as judges at the Federal Constitutional Court. So far, they have been quite ingenious in avoiding such appointments. We think we know the underlying reason. – So, a cordial invitation to you all to come to Berlin.

What is important is to discuss these matters. Shouldn't we make sure that lawyers can also sit on the other side of the bench and play a decisive role as members of the panel of judges?

Thank you.

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

Thank you, President Filges.

You, too, are calling for a change in paradigm, you are saying that lawyers should also be represented on the panels of judges of the regular courts – I can certainly support this demand, and I would also support it on behalf of Austria.

We also need a change in paradigm. It should be mentioned, though, that this has become the practice here in Austria in the highest public-law courts, in the Administrative Court and Constitutional Court.

There is another request for the floor – by Mr. Rozenbergs from Latvia.

***Janis ROZENBERGS, Bar Council Member, Bar Council of Latvia, Latvia:***

Dear participants, - My name is Janis Rozenbergs. I am a member of the Bar Council of Latvia.

I would like to turn your attention for a couple of minutes just to one of the specific aspects of fundamental rights and about pressure in Latvia. I would like to continue the topic of the threat to professional secrecy. It is a common fact that secret surveillance has become a threat to the rule of law in modern society in Latvia. However, it has recently posed a threat to the independence of the legal profession, which is inevitable, since the independence of the legal profession is part of any democratic system and a guarantee against the arbitrary use of power by especially empowered so-called “secret services”. In any legal system, I believe, there is a risk of abuse of secret services or secret powers that exist. As the European Court of Human Rights stipulated in the classical case of *Malone vs. United Kingdom*, the powers exercised by secret services entail risks of arbitrariness. Therefore the state must take all the measures to provide for strong control mechanisms to exclude the possibility of abuse. Where the state fails to provide sufficient legal ground for controlling the operations of the secret services, it

is inherent that authorities would use the uncontrolled powers in order to benefit from such lack of checks and balances, sometimes even turning against the representatives of legal professions.

The Latvian legal system generally recognises the commitment to European democratic values. There is a grey zone with regard to the powers granted to the so-called “state security services”. There are, in fact, at least four powerful services of a police nature in a country of two million people, I mean in Latvia.

What is so dangerous about the secret services in Latvia? First of all, it is the lack of proper control, also a lack of proper parliamentary control. It was not a surprise that the Deputy President of the Latvian Parliament who has tried to initiate statutory changes in order to define precise terms and conditions of secret surveillance and to strengthen judicial control over the secret measures has very soon been refused access to state secrets and therefore denied to participate in the relevant committee in Parliament. It is allowed in Latvia to conduct secret surveillance of a person outside of any criminal proceedings lodged against him, even if the basis for such secret surveillance is just an allegation that the person committed or plans to commit a crime. So, instead of initiating a regular criminal investigation on a suspicion of crime, any secret service may order investigatory operations depriving the person of the rights and guarantees inherent in criminal proceedings. Unfortunately, such a deficient system has allowed attacks against lawyers in connection with the exercise of the legal profession.

As an example we can mention the case of one of the state security services that performed an investigatory process against a lawyer (an attorney) and wire-tapped the conversation between the lawyer and his client in prison. The conversation, what is important, later was sent to the police to be used against the lawyer’s client in unrelated criminal proceedings. Later it was acknowledged that the evidence so gained was not admissible in the case against his client. But it is needless to say that no subsequent criminal or any other proceedings have been initiated against the lawyer. No suspicion of any illegal activity has ever been blamed on him. But until now we are unaware of how many of lawyers’ conversations with clients have been wire-tapped and how they will be used in the future. The only thing we learned by chance is that the investigative case went on for at least 18 months.

An example of another case: One particular person was placed under surveillance for seven years and was the object of an investigatory process. At one point his defence attorneys were summoned to interrogation about the content of the defence they are providing to the client.



He later learned that he was most probably subject to wire-tapping and control of correspondence for almost a year. In fact, you are deprived of the possibility to be officially informed about the effects of wire-tapping and all those activities.

All of these cases presented or to be presented to the European Court of Human Rights make us feel unsure about the future of the independence of the legal profession in Latvia. The pressure is growing. Although it is clear that the legal profession carries with it not only rights but also obligations, it is evident that any act affecting lawyers in their activities in defence of their clients is a threat to the rule of law. The Council of Bars in Latvia has taken an active position in defending its members. We also have informed society on the situation and intend to achieve full transparency in similar cases where I can share my opinion with Mr. Kuch and his speech.

Thank you!

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

Thank you, Mr. Rozenbergs. We support the Bar Council of Latvia fully in its efforts to ensure the protection of lawyers' professional secrecy. Whenever you need our assistance, please turn to us.

Madam Scott-Moncrieff from the Law Society of England und Wales, you have the floor.

***Lucy SCOTT-MONCRIEFF, President, Law Society of England and Wales, United Kingdom:***

I really just wanted to give you a point of information about the relationship between lawyers and the judiciary in the United Kingdom.

I think I can speak for all my colleagues here in this corner, if you allow me. We do not have a professional judicial class. Many of our judges are not lawyers at all, at the lowest level. At more senior levels, judges start off as part-timers, and most of them are drawn from the profession although it is also possible, for instance, to come in as an academic. Then, as you get more senior, you become full-time but you would always have a legal background. So, the understanding between judges and lawyers is very, very strong in our little cold island.

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

Thank you!

President Djordjevic from the Serbian Bar Association, please!

***Dragoljub DJORDJEVIC, President, Serbian Bar Association, Serbia:***

Rupert Wolff, distinguished colleagues, Independent and self-regulated advocacy is the cornerstone of fundamental human rights.

The Serbian Bar Association recently got the results of a questionnaire conducted by the PECO Committee of the CCBE regarding the constitutional status of the legal profession within EU Member States. As a result of our concern regarding the results of that questionnaire, we put an initiative to the presidency of the CCBE and to the Chairman of the PECO Committee to take action for the precise determination of advocacy in EU state constitutions as an independent and self-regulated profession, as a guarantee of the fundamental rights of citizens. It is our initiative as a result of our concern that it is obvious that the public authorities in many state – whether democratic or less democratic – should not intend to control advocacy and – through advocacy – control citizens. So, we need action, and we took that initiative as a result of our concern.

Thank you.

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

Dr. Lutz Simon, Fédération des Barreaux d'Europe, please!

***Prof. Dr. Dr. Dr. Lutz SIMON, President, European Bars Federation, President of the Bar of Frankfurt, Germany:***

*Interpretation from German*

President, Ladies and Gentlemen, - Last year we decided at the FBE that the most important feature of lawyers was their independence and autonomy. I am truly convinced that this independence and autonomy are in danger. We can see it time and again – it is the case in Greece, as we have just heard, and we hear lots of things from Spain and Italy, namely that we are losing a growing number of professional rights, and this also affects the fundamental rights of citizens. In fact, it is my opinion that we should close our ranks more tightly, both

nationally and internationally, so that not every organisation has to take action against its government. Perhaps we can form a committee comprising all the international and national committees that there are, the national bars, the CCBE, IBA, UIA, FBE etc., in order to deliberate what joint action we can actually take. I think it is only if we pursue a common approach that we will be strong, but not if every organisation does the same thing but uses different words. I think that this might help us and this might also help citizens.

Apparently, many governments and states are of the opinion that they impart human rights to people. People are born with their inherent rights. Our only task is to defend their human rights whenever they are restricted. This is a right that lawyers have always had, ever since there have been lawyers. In the Roman Empire, too, there were lawyers who opposed the state. And states have always tried to restrict fundamental rights – by open measures but also by concealed ones. It is only by taking action against such attempts that we will achieve something.

We are organising a congress in Frankfurt from 30 May to 1 June which will mainly deal with the question of how we can react as lawyers to what the Troika and the EU have imposed on us. This will not only be an FBE congress but also the World City Bar Leaders Conference, i.e. the presidents of the bar associations of the biggest economic and financial centres in Germany. We have learnt in informal talks that the financial crisis has also had an impact on lawyers and law societies in the USA and in Asia, and that they were also confronted with the closure of courts, for example, in other words with interferences with the rights of lawyers and citizens. I would therefore invite you to come in large numbers to this discussion which will certainly be very interesting. Thank you!

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

Thank you, Mr. Simon, thank you also for the report about your organisation. We support your call for joining forces among bar associations; it is something that we have done for 40 years by providing this platform, the European Presidents Conference.

I still have several requests for the floor – Dr. Posch from Upper Austria and then the *Bâtonnier* De Baerdemaeker from Belgium, our colleague from Hungary and Ivo Greiter from the Tyrol.

It is my intention to then call for a coffee break. So, please take the floor in the order in which I have read out your names.

***Dr. Peter POSCH, Honorary President, Bar of Upper Austria, Austria:***

*Interpretation from German*

Thank you, Mr. President. Although it is a big surprise for me that democracies that are becoming more mature and that have lasted for decades, increase their trend to restrict fundamental rights, which of needs are a main feature in the work of practising lawyers. However, I think that the discussion and the statements here have shown that this is a European phenomenon. It is an established tradition of this European Presidents' Conference that if there is agreement on an issue, then a resolution is adopted.

I suggest that we adopt a resolution, namely that the fundamental rights and liberties which are necessary to exercise the legal profession – when working as an independent lawyer – must definitely be preserved and protected. Thank you.

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

Thank you, Mr. Posch from Upper Austria.

Mr. De Baerdemaeker!

***Robert DE BAERDEMAEKER, President, Ordre des Barreaux francophones et germanophone, Belgium:***

*Interpretation from French*

Thank you, Mr. President, I am Robert de Baerdemaeker. I am the President of the French and German Bar of Belgium. I would like to share with you one thought or idea, respectively, which addresses one fundamental right which is also a need of every person, namely to have access to a judge. This is an important topic today. I think that each and every one of us in our respective countries has been able to identify the questions and problems which we are currently facing. In general, they are more or less the same. In this context, we come up with various suggestions and proposals. Now we are talking about a resolution. Here I would like to ask the following question: With all the experience that we, as CCBE, can contribute, and with all the experience that we as lawyers have – couldn't we go one step further. And that step would be to propose some kind of partnership to our countries, to our political leaders and to our ministers of justice – a partnership that will be cost-effective, because this also plays a very important role and could accelerate this access to judges for citizens. After all, our citizens need this increasingly on a day-to-day basis.

We know how the justice sector operates. We know what type of proceedings citizens need. We should therefore be in a position to propose models for how these proceedings could function. Bar associations could provide support and contribute expertise, which would also improve the interventions by lawyers and make them more cost-effective, which is even more important. So, this is a kind of partnership that we could offer. It was said this morning that we should work on that, cooperate with the courts in our countries but also with the international courts, because they will play an important role concerning progress in the future. I think we should primarily think of progress. We must bear in mind what progress the justice sector will be able to achieve on an international level.

Thank you!

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

Thank you! Our next speaker is Mr. Szecskay from Hungary.

***Dr. Andras SZECSKAY, Vice-President, Hungarian Bar Association, Head of CCBE Delegation, Hungary:***

Thank you, for making the effort to pronounce my name, which is a very tongue-twisting, Hungarian name.

I would like to give you a small bouquet of concerns which we have in Hungary and the Hungarian Bar Association regarding the unorthodox government and the unorthodox legislation of the Hungarian Parliament, which is very highly influenced by the governing party. This small bouquet we will go through very quickly: a couple of issues which concern the core values of the legal profession and also some fundamental rights.

One year ago I spoke about some unusual and weird regulations of the Media Act, which is still in existence and which grants the right to the Media Council (the supervisory body of the media authorities) to grant access to the source of information, very similar to the topic which one of the speakers has mentioned during his presentation. We tried to seek an interpretation of this law. It is still not clear whether it can go so far as to have access to professional, confidential information.

Another law grants the right to a governmental inspection office to obtain and request information even from lawyers and law firms if the governmental inspection office is conducting a procedure for contracts and relations to which the government was a party. We

have requested the assistance and intervention of the CCBE in a pending lawsuit where this question is the subject-matter of the lawsuit.

And a third point which I would like to mention here is that the government at the end of 2011 from one day to another – without any consultation with the legal profession and primarily with the Hungarian Bar Association – changed the text of the oath which lawyers have to take when they are admitted to the bar after successfully passing the bar examination. They removed the wording regarding the preservation of confidential information and implemented some hardly interpretable text into the text of the oath.

I am happy to tell you that as a result of the discussions between the Ministry of Justice and the government, on the one hand, and by the Hungarian Bar Association, the text of the lawyers' oath has been taken back to its original form. It now contains again the obligation to preserve confidential information.

Interestingly, the Deputy of the Minister of Justice interpreted (when he was invited to a meeting recently held in Budapest) that by saying that they tried to analyse how many countries have this text regarding the preservation of confidentiality rules in the lawyers' oath. They realised that quite many countries do not have this in the text of the lawyers' oath. However, the Deputy of the Minister of Justice failed to realise that we are speaking about the preservation of confidential information, privileged information. It is different when this subject-matter is discussed in Hungary, which has been watering the grass for 20 years, and when we speak about the same topic in the UK, which has been watering the grass for many, many centuries. But we are back on track, and it is again part of the lawyers' oath.

Thank you Mr. President, thank you colleagues!

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

Thank you, Mr. Szecskay, for this contribution from Hungary.

There is one more request for the floor by Ivo Greiter. This will be the last speaker before the coffee break. Mr. Greiter!

**Dr. Ivo GREITER, Committee Member (Austrian President WJA, Vice-President ÖRAV, Vice-President ÖJT), Austria:**

*Interpretation from German*

Thank you. Dear colleagues, Dear guests, I am speaking here as the Austrian National President of the World Jurist Association and as the Vice-President of ÖRAV. I am a lawyer in Innsbruck.

I must say, I am greatly impressed by what Mr. Kuch has presented to us, what great personal effort high-grade journalists have to make to walk the tightrope, as it were, so as not to become liable when they expose deplorable states of affairs. We all know that the discovery of grievances has always been a great achievement of the Austrian press. I think we have to thank them for doing this. They deserve our gratitude.

However, when a case is pending in court, it must only be the court takes the decision. Here, in Austria we have had the nuisance since 1981 (since the new Media Act which contains this section 23) that the media – in contrast to earlier times – can speak very freely about the course that a trial will take, and about what outcome can be expected. In other words, during pending proceedings the media must not have any direct or indirect influence on the discovery of the truth by the court and the outcome of the proceedings.

A classic example, as I see it, would be the first major bank case (BAWAG and Mr. Elsner), where *NEWS* on 26 June 2008 (before your time as editor-in-chief) ran the headline, “Elsner must go to prison!” This was before a judgment had been issued. This, I think, is absolutely wrong and this has to be stopped by all means.

So, this is the reason why I asked for the floor: For a long time I was of the opinion that our judges are so self-confident and so independent that they are not influenced by such headlines on title pages.

In November 2012, though, I heard a lecture by Professor Kepplinger at the Concordia Press Club about the influence of the media on the administration of justice. He reported about a study in Germany where 447 judges were questioned. They were asked: “Is there any influence of the media on the outcome of penal trials?” 3% of the judges answered “yes”. It is unbelievable for me that a judge should say so. After all, if there are a few who think that there is such an influence on penal proceedings (here on the question of guilt or innocence) and actually say so, then there must be many more who also feel that way but did not dare to say so. The next question was: “Do media reports have an influence on the outcome of

criminal proceedings with regard to the judgment?” 25% of the judges said “yes”. 25%! To me this means that there were those who felt that there was an influence, but that they would not be influenced being independent judges, in other words, the ones who did not actually say so, would have to be added to this percentage. To my mind this is a dangerous development that the media (whose valuable task it is to discover grievances) continue to exercise an influence on judgements. This report from Germany, this expert opinion that one quarter of the judges believes that media reports have an influence on the sentence is something incredible. We have to make sure here in Austria that media reporting on pending cases is not of such a kind that it also comprises speculations about their outcome

This is an appeal in two directions: I appeal to the media that they should be more guarded, once a case is before court; and I appeal to politicians to make sure that this toothless section 23 of the Media Act will be reformed in such a way that independent judgements can be ensured. Thank you!

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

Thank you! Dear Colleagues, - We shall now have a 15-minute break. We will then come back here to listen to the country reports from the various organisations.

*Coffee break*

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

This is the last stretch of the 41<sup>st</sup> European Presidents’ Conference. At 1.30 p.m. I must close this meeting. So, I would like to ask the international bar organisations to briefly take the floor. Please take account of the fact that we must end our meeting at 1.30 p.m. sharp. I would like to ask our colleagues to shorten their statements to the essential points.

I give the floor to Evangelos Tsouroulis, the President of the CCBE.

***Evangelos TSOUROULIS, President, Council of the Bars and Law Societies of Europe, CCBE:***

Mr. President, Dear Colleagues, Ladies and Gentlemen, – Greetings on behalf of the one million European lawyers represented by the CCBE, the Council of the Bars and Law



Societies of Europe, with 31 full member countries and eleven associated and observing countries.

Mr. President, congratulations on the excellent organisation of the 41<sup>st</sup> European Presidents' Conference, which – thanks to the Austrian Bar's initiative and efforts – has become a long-standing institution for Europe's legal profession to look forward to. Thank you for your hospitality, which you have generously extended to all of us throughout this splendid event, which traditionally marks the start of our annual legal calendar here in Europe.

Naturally, I fully endorse what my good friend and Vice-President Michel Benichou has said. At this conference I give you the undertaking that with his help and the help of my other Vice-Presidents Aldo and Maria and – naturally with the help of all of you – we shall endeavour to put into effect the proposals and objectives outlined by Michel so that they will not only remain philosophical objectives of utopian dreamers. The professional goals and the citizens' liberties and freedoms can be materialised. It has been said that the French lawyer was the man who had the courage to stand up and defend his fellow men against injustice, force and violence, using reason, logic and rhetoric as his weapons. Historically, the genesis of the lawyer as an institution has its roots in ancient Greece, initially in the form of interpreters of the laws in Athens and Sparta, and soon after that in the form of orators and speechwriters, who prepared submissions in various proceedings. However, lawyers, similar to today's legal practitioners, organising in bars, the colleges appeared for the first time in ancient Rome, with the advocate. Since the times of the first lawyers, the image of the legal profession has undergone radical changes, but what has not changed is the substance and intent, the fundamental role of the lawyer and the bars to uphold the principles of democracy, to defend the rights of the citizen and human rights and to promote the rule of law and the proper administration of justice. This unwavering dedication to the institution of our core principles is what distinguishes lawyers from other liberal professions. These core principles (which include lawyers' independence, professional privilege or confidentiality and the avoidance of conflicts of interest) are what the CCBE is committed to defending and promoting. Vigorous defence of these core principles was at the forefront of the activities of the CCBE in 2012 under the leadership of my predecessor – your Marcella Prunbauer-Glaser – who deserves our heartfelt gratitude and sincere congratulations.

The main points were: First – the current economic crisis we are all at present experiencing is of an unprecedented scale and has left very few states unscathed. Most important are those questions concerning the protection of human rights, in general, and the protection of the legal

profession's core principles, in particular, in the face of the acceptable and enduring demands made by the Troika in the bailout countries Greece, Ireland and Portugal. Strong and effective representations were made to the Vice-President of the European Commission and Commissioner for Justice Viviane Reding and to the Head of the IMF Christine Lagarde.

In 2012 our ex-President Marcella flew to Ireland and participated in a very important meeting concerning the independence of the Bar and Law Society of Ireland. She then headed to Thessaloniki (Greece) for a meeting with the plenary of presidents of all the Greek bars and representatives of states affected by the financial crisis. On this important and effective stage the CCBE has not only fought for the dignity, integrity and independence of Europe's legal profession and our national bars, but it particularly defended the very pillars upon which European society is founded, i.e. democracy and the rule of law.

Second: In order to implement its objectives, rules and policies, the CCBE has regular institutional contacts with European Commission officials (particularly Commissioner Reding) and those members and staff of the European Parliament, the Council and Presidency, who are responsible for dealing with the issues affecting the legal profession. The proposed European sales law played an important role in the CCBE's agenda. Two conferences were organised on the subject: the first in April jointly with the *Consiglio Nazionale Forense* of Italy, and a second in December with the participation of Commissioner Reding in order to stimulate the debate amongst lawyers and other stakeholders on this important subject of the sales law.

Third: Strong links were built with the European Court of Justice in Luxembourg and the European Court of Human Rights in Strasbourg. In November the CCBE plenary session was the first ever to take place at the Human Rights Court in Strasbourg, where the CCBE also organised a round table on issues of common interest to the Court. We aim to reinforce and further develop these links in 2013 and beyond, with the chief purpose of raising the awareness of lawyers and society at large to those issues relating to human rights, the legal profession's core values and matters of European substantive law.

Furthermore, the CCBE intervened in a number of cases pending before the European Courts of Justice and Human Rights on issues affecting the legal profession and the citizens' civil rights and liberties.

Dialogue with our fellow lawyers across the world remains a key part of our work. In 2012 the CCBE maintained its close relations with other international professional legal organisations, holding meetings with IBA, the *Union Internationale des Avocats*, the

American Bar Association, the Japanese Federation of Bar Associations and other lawyers' associations. I would like to assure my good friend Michel that we did not only talk about business, we talked about human rights.

Fourth: While the work of the CCBE encompasses many areas, its efforts in the field of human rights during 2012 were particularly noteworthy. The Human Rights Award 2012 was granted to Mr. Pavel Sapelko, one of the most well-known lawyers and human rights defenders in Belarus. Support was given to those lawyers in many countries who found themselves victims of human rights violations, the CCBE making legal representations and protests directly to the governments of the countries concerned, as well as to EU institutions.

Additionally, the CCBE organised a workshop in October, with a number of European organisations active in the field of human rights to explore the possibility of joint projects to promote the basic principles of human rights, which we strive to protect.

Another important area of the CCBE's work in 2012 was in the field of criminal law and anti-money-laundering legislation. Particular emphasis was given to proposals that try to ensure the minimum procedural rights of accused and suspect persons as well as to proposals for a directive establishing minimum standards for the rights of victims of crime. A response was also prepared that dealt with the obligations of lawyers under the EU Anti-Money-Laundering Directive, maintaining an unyielding position that the lawyers' reporting obligations offend our values and citizens' fundamental rights.

These examples are but a small sample of the significant and successful activities undertaken by the CCBE in 2012, which also included a number of projects financed in part by the European Commission such as "Find a lawyer", etc.

However, rather than tire you with more details, I directly refer you to the CCBE's 2012 Annual Report, prepared by our Past-President Marcella and the CCBE Secretariat, which will be published and made available to you shortly, to be read at your leisure.

Thanks to the invaluable efforts of our Past-Presidents Georges-Albert Dal and mainly Marcella Prunbauer-Glaser, the CCBE has moved to new and more special premises in Rue Joseph II, 40 in Brussels. We have an option to buy.

I have the great pleasure and privilege of inviting you all to the opening ceremony on 21 March 2013. Please do come! We would be most honoured to welcome you, my dearest friends and colleagues, to our new lawyers' home in the heart of Europe.

Thank you!

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

Thank you, President Tsouroulis. We will publish the announced report about CCBE activities on our website [www.e-p-k.at](http://www.e-p-k.at), together with all the other reports by speakers, as well as country reports, including photographs after the end of our conference.

I would now like to ask President Reynolds of IBA for a very short statement.

***Michael REYNOLDS, President, International Bar Association:***

Thank you very much, President. This is the third one of these conferences that I have attended, but the first I attend as President of the IBA. I would like to congratulate you once again on a very well organised and impressive meeting.

To try and describe all the activities of the IBA around the world in two minutes, that is what I have got, is pretty futile, and I have to be selective. We have had a very active year. We had an extremely successful conference in Dublin, the highest number of lawyers we have ever had at our annual conferences. We had a very warm welcome from our Irish hosts, a very great place for a conference.

This year, our conference will take place in Boston from 6 to 11 October 2013. I hope to see many of you there.

Those who are interested in our future annual conferences: in 2014 we will have our annual conference in Tokyo, in 2015 here in Vienna (to which we greatly look forward) and then 2016 in Washington DC and 2017 in Australia.

Our membership has continued to grow, particularly through our group membership scheme by which law firms join the IBA. That covers all those lawyers in those firms, this really gives access – particularly to younger lawyers – to our activities. We have been very pleased to see a growth in the rapidly expanding Indian and Chinese law firms who joined us under that scheme.

During the past year, we signed a memorandum of understanding with the OECD. With the OECD we are preparing a handbook on anti-corruption for small and medium-sized enterprises.

We opened our third regional office outside London, which is in Seoul in Korea. It will help the IBA to promote and expand its activities and put on events throughout Asia.

We work closely with the European Commission. Recently I had meetings with Vice-President Reding and Vice-President Almunia. Very recently we were given a major grant by the European Commission for a major human rights project, which we have in Bahrain. Our Human Rights Institute has been active around the world. I would recommend you to look at the report and website for a detailed description.

I just wanted to highlight a couple of things. We have been continuing our work in Afghanistan, supporting the independent Afghan Bar Association. We have helped them to obtain major grants, which has enabled them to launch a major training programme for women lawyers in Afghanistan, for newly qualified lawyers, and to open five regional offices around the country to help build those very important civil institutions in Afghanistan.

We carried out – through the IBA Human Rights Institute – a major mission to Myanmar, which looked at the whole state of the judiciary, the legal profession and the challenges that it is facing, and how we can best help the very nascent Myanmar Bar Association. We have another mission to Myanmar coming up next month, when we will be meeting Aung San Suu Kyi, the Attorney General and various other leading lawyers in Myanmar to see how the IBA can help in that country with its very particular problems, as that country opens up, and which they have in capacity-building.

We continue to cooperate with other bar associations, particularly in countries which are experiencing rapid economic and political change. Earlier this week, I was in Hanoi in Vietnam, talking with the Vietnamese Bar Association and the Vietnamese Lawyers' Association to see how we can assist them in putting on events in Vietnam, strengthening the bar associations and the growth of the legal profession in Vietnam. I just give you some examples. I have been fascinated to hear the European issues which our Human Rights Institute has been closely involved in. The IBA would certainly wish to continue joining the collaborative efforts to remedy those situations here in Europe.

Finally, as President I set up three new task forces. The first is on climate change and human rights, looking at the relationship between human rights and climate change. Climate change often impacts those who are least equipped in the world to withstand climate change phenomena. Our comprehensive human rights task force, which is about 40 experts around the world, both climate change and human rights experts, will be presenting a showcase session in Boston on that issue. We will be making a major report, which we will be sending to governments around the world urging them to move at a quicker pace towards a comprehensive climate change agreement.

We also set up a major task force on human trafficking, where we are going to complement the work of the United Nations and the Human Trafficking Guidelines and Report of the United Nations. We had a meeting with Ban Ki-moon, the Secretary-General of the UN, shortly before Christmas, in which we discussed how we could advance that through the IBA's own Task Force on Human Trafficking.

So, those are the main news from the IBA. There are many more things but I do not have the time to tell you about them.

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

Thank you, President Reynolds!

We have another five minutes. I would reserve one minute to myself for concluding remarks. Therefore I would like to ask you to really bear in mind our time constraints. I would now like to ask President Burguburu of the International Association of Lawyers to take the floor!

***Jean-Marie BURGUBURU, President, Union Internationale des Avocats:***

*Interpretation from French*

Thank you very much Mr. President!

Dear colleagues, dear friends, ladies and gentlemen, presidents of the bar associations, I have attended this conference for many years – always behind the French flag and in different capacities: either as a future president, as a president, as a past president, as a member of the international bar council, or as a member of the CCBE Presidency. For today's conference I left the French flag, and I speak here in a different capacity. This is a problem for me. Our logo has changed. This means that, of course, the little UIA flag also needs changing.

UIA is an institution, as you know, which was founded as early as 1927. It is, in fact, the oldest advocates' association. Behind this new logo, you still have the same issues: First, respect for other cultures and languages. Of course, we can also speak English; we can speak Spanish and German. If I now speak French it is because French is one of the official languages of our institution. Respect for other cultures, for other legal traditions and languages – this means we have a triple role to assume, namely protection of human rights – and this is the subject of our conference today: “fundamental rights”. And as we say in a very modern way, this is part and parcel of the DNA of our institution.

And the rights of lawyers – this is also a topic. There must be protection for those who defend human rights. We are talking here of lawyers who are prosecuted because they protect fundamental rights.

You know that there are dozens of lawyers in Turkey, including the President of the Istanbul Bar Association, who are in prison – not because they were politically active but because they defended those who were politically active. We are worried about their fate; we have sent a mission there, and we will go there again.

Of course, we are also greatly concerned about Tunisia. After all, in Tunisia our colleagues were the ones who, a few years ago, were the spearheads of the revolution which led to the change in regime. However, this revolution is still ongoing; it has not yet come to an end. You have heard about the murder of Chokri Belaid. His funeral is taking place today. I think that our conference will resolve to condemn this murder. It was the assassination of a lawyer. We should stress here the role of the Tunisian lawyers who are fighting for a state under the rule of law. This is very simple and could be done. I would like to ask you, Mr. President, to initiate this.

In addition to defending legal counsels, this also concerns one important pillar of bar associations, i.e. the independence of lawyers. I must say quite openly that it is our general opinion in UIA that – irrespective of the fact that we belong to different legal systems and different law societies – we condemn *alternative business structures*. We believe that this type of operating law firms and law offices does not comply with the essence of our profession. I could discuss this at great length.

Our professional secrecy is also very important. There can be no lawyers unless we have professional secrecy. We know that it does not exist for the lawyer *per se*, but for his clients. They benefit from it. We must therefore stand up against the negative phenomena, in particular against the negative extremes in the fight against money laundering. Of course, we have to fight money laundering, but this cannot be done at the expense of the exercise of the legal profession. We are worried about the effects of the fourth directive. I could also dwell on that for a long time.

And, of course, there is another matter, namely the social role of lawyers, which should also be discussed. Lawyers are not the service providers (in the negative sense of the term) of the justice sector. They are human beings, men and women who defend and protect other people – be it in their personal matters or in connection with social and economic issues. This must

never be forgotten. Here we encompass them all, including those who live under a regime that is not democratic in nature. This is a little arrow in support of my friend Benichou.

Our congress met in Dresden only a few months ago. This year, from 31 October to 4 November, we will have our annual congress in Macao in China – in this special administration zone which belongs to China politically but which legally has its own status – like Hong Kong – a charter, a statute of its own. Macao is a state under the rule of law; it is a system which perhaps will extend into the other side of the frontier, if one thinks like an optimist. Of course, this will not come tomorrow, or the day after tomorrow, or in the near future. We hope that there will be many of you who we will be able to welcome in Macao.

Thank you!

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

Thank you, Mr. Burguburu.

I would like to give the floor to AIJA, very brief, please!

***Thierry ABALLEA, President, Association Internationale des Jeunes Avocats:***

*Interpretation from French*

Mr. Chairman, ladies and gentlemen, presidents of European bar associations, guests of honour, colleagues! It is a great honour for me to be able to take the floor and speak to this high-level audience. I shall be very brief and talk to you about AIJA, our association. I will first speak in French and then address a request to you in English on behalf of us young lawyers.

We have many members in many countries, and every year we organise conferences in many countries. Our next congress will take place in Buenos Aires on 17 September 2013.

I can assure you that fundamental rights and access to justice are important subjects for young lawyers and that our young lawyers pay special attention to them.

*(Original in English)*

Now, this is about young lawyers and for young lawyers. In these difficult times we have a wish. We desire, we wish, we would like you – when you deal with young lawyers, when you manage them, when you hire them, when you make them redundant (because that happens) – we would like you to be sure, we would like you to be certain, we would like you to be



convinced that young lawyers have seldom faced such hard and difficult times. Thank you in advance!

*(Original in German)*

It has been an honour.

**Dr. Rupert WOLFF, President, Austrian Bar, Austria:**

*Interpretation from German*

Madam Hoffmann, AEA, please, be brief. A short report about your organisation!

**Dr. Elisabeth HOFFMANN, President, Association Européenne des Avocats:**

*Interpretation from German*

Mr. President, thank you very much. Thank you, dear colleagues. Congratulations on the perfect organisation of this important and very interesting meeting.

*(Original in English)*

I am continuing in English, maybe this makes things easier. The European Association of Lawyers intervenes equally and several times with governments violating human rights. The result is not guaranteed but I really believe that governments are sensitive to public blame coming from serious professional organisations. And I all encourage you to do so!

The European Association of Lawyers actually prepares a very interesting seminar in common with the Chamber of Legal Advisors of Gdansk on 14 and 15 June 2013 in Gdansk on the new EU Regulation on Trans-Border Succession. You are all more than welcome to participate in that event in one of the most beautiful European cities.

Thank you very much for your attention. I hope it was short enough!

**Dr. Rupert WOLFF, President, Austrian Bar, Austria:**

*Interpretation from German*

Mr. Simon, please help me to make good use of the remaining time budget. Can I consider your previous statement was everything that you would like to say on the preliminary programme that you all received?

**Prof. Dr. Dr. Dr. Lutz SIMON, President of European Bars Federation, President of the Bar of Frankfurt, Germany:**

OK!

***Dr. Rupert WOLFF, President, Austrian Bar, Austria:***

*Interpretation from German*

Dear Presidents, Colleagues, Ladies and Gentlemen, I would like to thank you very much for the excellent presentations. I would like to thank you for your constructive contributions to our discussion. I would like to thank Ms. Katschinka and her team of interpreters.

We shall meet again next year from 27 February to 1 March 2014, here in Vienna.

We shall now leave Palais Ferstel. Please be sure to take your coats from here. We will walk to the Federal Chancellery, where we will be served a light lunch. At 3 p.m. we shall then be meeting the Federal President, Dr. Fischer. His office is just opposite the Federal Chancellery. Please, bear in mind, though, that some time is needed to take care of our coats. So, I would suggest that we leave the Federal Chancellery at the latest at 3 p.m. !

Thank you very much and good bye! I look forward to seeing you next year.

*(End)*