

49th EUROPEAN PRESIDENTS' CONFERENCE

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ACTIVITIES REPORT 2020

LUXEMBOURG BAR ASSOCIATION

Facts:

**The Luxembourg bar association presently has 3008 members, of which 188 are companies.
The acting president of the bar association is Maître Valérie DUPONG.
This is a short overview of a few of the 2020 highlights.**

COVID-19

As all independent professions in our country, the Luxembourg lawyers were seriously affected by the pandemic.

A constant challenge in such an environment is the permanent lawyer training in order to ensure the continuous quality of work. In this respect the Bar is co-organizing conferences on legal topics with the Young Lawyers Association, organizing regular trainings in matters such as AML or DAC 6 and is a driving force in a governmental working group drafting a new law on the conditions for admittance to the Bar and the permanent training of trainees until their final admittance as Avocats à la Cour.

Not only were we confined from mid-March until May, but the whole legal system, courts included, was at a standstill. Fortunately, court cases started to resume after a month, although proceedings shifted from oral to writing and at distance. The bar cooperated with the courts to keep things going.

The bar authorities managed to negotiate some financial relief for those bar members who were impacted hardest, but not all our efforts were successful. We managed to obtain financial assistance similar to other professions. In particular our younger members benefited from punctual and fast support.

Some lawyers decided to quit the profession, mainly because of financial insecurities linked to it.

We suspect some of our members to suffer from anxieties linked to the crisis and we certainly witness more cases of depression and psychological distress. We are currently putting in place a team which will provide help and advice to those in need of support.

Our Ministry of Justice regularly requested the bar's assistance in relation to the legal texts issued during the state of emergency and after in matters related to our profession, the legal system and other fields of interest.

LEGAL AID

The Luxembourg bar is currently employing a staff of 10 in the legal aid department.

Legal aid was granted 4028 times in 2020, which represents a difference of 15% compared to 2019.

Most legal aid requests concern criminal law, refugee law and family law. Lawyers are paid on the basis of a legally fixed hourly fee. These hourly fees were slightly raised, for the first time in 10 years, following the first national lockdown due to COVID-19.

To be eligible for legal aid, applicants must prove that they are in scope of the legally fixed income rates.

Legal aid is either granted 100% or not at all. Currently the Ministry of Justice is working on a new level-based system which would benefit a larger number of people. The Luxembourg bar is closely associated to these reforms.

AML/CTF law-GAFI

The Luxembourg bar and its members have always been very serious about complying with AML/CTF rules.

A new law came into force on March 25th, 2020 as regards anti-money laundering, pursuant to which new competencies were assigned to the council of the Luxembourg bar. It was quite a challenge to quickly enforce the new rules and reorganize the bar council and staff in a minimum of time.

Luxembourg is currently preparing for the visit of GAFI to the Grand Duchy initially due in March 2021, now postponed to later this year due to the pandemic.

2020 was an extremely busy year for the bar as regards preparing this very important visit which we do not underestimate. Following the general risk assessment of our profession, the bar is now concentrating on assessing those among us practicing in-scope activities (sub-sector risk assessment).

The Luxembourg bar raised the number of the members of the control commission whose responsibility it is to control AML compliance of the lawyers and law firms. Both off- and on- site controls are done and we try to keep a rhythm of two on-site controls a week. Those controls include a test of AML knowledge, analysis of their written procedures (AML, KYC etc.), in-situ control through random studies of files of the firm's ability to assess the risk due to clientele, type of work, money flow etc.

Since first January 2020, 103 suspected money laundering transactions were declared by Luxembourg law firms.

The bar also put in place a whistle-blower address.

BREXIT

The Luxembourg bar is facing quite a challenge in implementing Brexit, as companies such as English LLPS and lawyers practicing under British home-country professional titles and/or of British nationality may be impacted.

In November 2020, 24 companies and 30 lawyers were still on our Brexit list. Not knowing what the final trade deal would be didn't help.

The bar gave all those concerned a heads-up warning, followed by several reminders to put their situation in order, if possible. Some did with success; others were not so lucky and will have to depart the bar under the current legal circumstances.

WORRIES

Professional secret and confidence rules are essential to our profession. The Luxembourg bar has witnessed some more or less subtle attacks on this principle at the base of the rule of law. Sometimes new European legal frame works such as DAC-6 are the occasion to try and erode confidentiality principles. At other times it is just the lack of knowledge by the Luxembourg authorities of the legal principles at the base of our professional work or the pressure they feel they are under as they need to thrive on the international (financial) parquet. Our bar has been very vigilant and very active in upholding our essential principles whilst still cooperating with our government and legislators.

The Luxembourg bar has also felt negative pressure as regards its self-regulatory privileges and rights and is currently slightly at odds with the government when it comes to a correct implementation of the proportionality directive.

OTHER CHALLENGES

The number of Luxembourg bar members is constantly growing, which means more work and more staff. Permanent staff has now reached the number of 20, tendency growing.

The “paperless justice” project is still ongoing, but slowly. The Luxembourg bar is ready but the sharing platform for courts, lawyers, notaries and bailiffs is still in the making. Thanks though to the sanitary crisis, electronic means of communicating with the courts are now allowed, although the situation on the whole tends to be a bit chaotic without a proper legal frame.

The bar is aware that social, financial and psychological support to its members is essential to protect the profession and the clients and is intensely working on a project involving volunteer work by lawyers and professionals such as social workers and psychologists.

The bar is also currently focusing on bringing the profession closer to the public. This will include PR actions and publicity campaigns.

Another concern of the Bar is to get a proper understanding of the working conditions of young lawyers and to intervene whenever it believes that young trainees and associates may not be treated fairly. For such purpose the Bar in association with the Young Lawyers Committee has launched a questionnaire as part of a satisfaction survey which will lead to new initiatives to enhance working conditions and avoid any abusive situations.

Luxembourg, January 29th, 2021