

CCBE President José De Freitas ENCJ GA Bratislava Speech

Dear President of the ENCJ,

Dear Excellencies,

Dear Friends,

I'm pleased and proud to address you today in my capacity of President of the Council of Bars and Law Societies of Europe, the CCBE. The CCBE is an international association of National Bars and Law Societies of 45 European countries.

Our full members are the Bars and Law Societies of the 32 EU member States, the 3 EEA Member States and Switzerland. Next to the Full Members, we have 13 Associate and Observer Members, the National Bars of most of the other European Countries which are member of the Council of Europe.

In recent years, the CCBE and ENCJ have developed more closer working relationships. Lawyers and judges are active in the same "Ecosystem" and even if our roles and interventions in there are fundamentally different, we share several interests and concerns about the evolution of this Ecosystem.

We at the CCBE are convinced that if we can join some of our efforts and voice our shared concerns together, we can have a bigger impact. For the CCBE, the ENCJ is an important ally in the promotion of Justice and the strengthening and the Rule of Law.

This cooperation has been fruitful at many levels, both practical, such as the digital transformation of justice processes, as more political, such as sharing information and supporting each other's messages.

I wish to reiterate the intention of the CCBE to further strengthen the collaboration with the ENCJ and combine forces wherever this is feasible.

The CCBE and its Manifesto

I was invited to speak today about the CCBE Manifesto and about the role and use of a Manifesto in general. I am happy to share the CCBE experiences in this area with the ENCJ.

The word manifesto traces its roots to the Latin word *manifestum*, which means clear or conspicuous. A manifesto is defined as a declaration of one's beliefs, opinions, motives, and intentions.

It is simply a document that an organization or person writes that declares what is important to them.

Today, I will focus more on why the CCBE has been drafting Manifestos, and issued them at the occasion of European elections and the formation of a new Commission.

Our first aim is to influence the (political) Manifestos of the mainstream political parties at EU level.

Most of the political parties nowadays prepare Manifestos ahead of the political campaigns before elections. This exercise of drafting a party Manifesto has obviously three objectives:

- Develop a broad internal consensus about the party's beliefs, objectives and priorities amongst members and candidates;
- Make these beliefs, objectives and priorities public ahead of the elections, and
- Allow the individual candidates to use this Manifesto, or parts of it, in their individual campaign for the elections.

A Party Manifesto is often a concise version of their more elaborate political party program. A Manifesto has indeed the aim to be more accessible, more emotional and also visually attractive for a wider public of voters.

The 2019 CCBE Manifesto

The Council of Bars and Law Societies has drafted Manifestos for at least 3 European Elections, in 2009, in 2014 and in 2019.

Our Manifestos were successful, since some of our thoughts and proposals were integrated in the Party Manifestos and finally in the new Commission policies. Encouraged by our previous success and alarmed by the concerning erosion of the Rule of Law in Europe, we have started drafting already in 2018 a Manifesto around promoting and defending the Rule of Law.

The reason for this is obvious, we are witnessing a growing lack of respect – and even a growing lack of knowledge! – of the basic principles of the rule of law in Europe every day.

The European institutions are addressing this worrying erosion of the rule of law. The CCBE wishes to actively contribute to the Commission's actions and point out a number of situations where the exercise of the legal profession and the principles of effective judicial protection are directly affected by the erosion of the fundamental principles of the rule of law.

The Manifesto therefore calls first and foremost for the competences for **the rule of law, justice and justice actors** to be brought together in the portfolio of **one single Commissioner**, preferably at the level of the Commission's Vice-Presidents.

The justice system is the forum where breaches of the rule of law are being raised (often by lawyers). It is essential to monitor legislative initiatives in the field of justice and react immediately when such initiatives affect negatively access to Justice through an independent lawyer or judge. Combining the responsibilities for the rule of law and justice into a single portfolio increases the “early warning capabilities” of the Commission and allows it to address the situation immediately and at a very early stage.

Secondly, the Manifesto calls for respect for the independence **of all actors in the justice system**; judges and prosecutors, but also lawyers.

In order to guarantee the right to a fair trial, it is obviously necessary to guarantee the independence and impartiality of judges, but also the independence of – and absence of undue influence on – those who defend and represent the interests of citizens and entities and who bring cases to the courts and to judges: the lawyers.

There is a growing and worrying tendency to set aside the rights of individuals and entities to call upon a lawyer of their choice to obtain advice on their legal situation, as well as to be represented and defended, both in and outside of court.

The CCBE Manifesto aims to raise awareness of this risk and calls on the European institutions to ensure that this right is guaranteed for all individuals at any time during proceedings.

When individuals or entities consult a lawyer to assess their legal situation and possibly represent or defend their interests, lawyers are bound by a professional mandatory non-disclosure obligation for all information entrusted to them by their client.

This obligation is rooted in fundamental rights, namely the right to privacy, a fair trial and the fair administration of justice, both in and out of court.

By questioning this mandatory non-disclosure obligation for lawyers, authorities are questioning these fundamental rights.

In practice, unfortunately, this is increasingly the case.

Once again, the Manifesto raises awareness of this erosion of fundamental rights in recent legislation and calls for special attention to be paid to these rights and a more respectful approach to lawyers' non-disclosure obligations.

The Manifesto further addresses some specific issues, such as:

- The need to further develop procedural safeguards in criminal proceedings and assess the implementation of existing safeguards;
- The need for human-centred artificial intelligence solutions in the field of justice;
- Equal treatment and equality of arms in the EU’s judicial training policy;
- The establishment of legal aid as a standard measure of humanitarian aid; and
- The establishment of e-Codex as a common mechanism for the standardised and secure exchange of cross border information between Member States in judicial proceedings.

How does the CCBE uses its Manifesto?

A good dissemination of the Manifesto is of course crucial for its success. The CCBE Manifesto is spread both to specific Target Audiences as to a broader public.

a) Which are the Specific Target Audiences?

- Relevant Political Parties

To be effective, our Manifesto had to be ready to be send out BEFORE relevant political parties issued their own Manifesto.

This may allow them to integrate some of the messages in their own Manifesto. This implies that we had to find out in advance when the – relevant – political parties finalized and published their Manifesto. The CCBE started to distribute its Manifesto in December 2018 to the Secretariats of the “mainstream” European Political Parties (EPP, S&D, ALDE and the Greens).

- Key people in the Commission, in the Administration

The CCBE has identified some key influencers in the Brussels Administration, who are not affected by the elections, and who may have a strong impact on the new Parliament and Commission. The CCBE has sent its Manifesto to such key persons in the Commission (DG Justice, Migration, etc) as well in Parliament (Secretariat of IURI, LIBE, DROI, ...) etc

- Strong opinion leaders in the European Parliament

After the elections – meaning now, as we are speaking – the CCBE Manifesto will be addressed to new MEPs. We have thought of sending a copy to all of them, but decided that this might not be cost-effective. Therefore we will address the CCBE Manifesto to those MEP who profile themselves as strong opinion leaders (in the mainstream parties).

Once the Political Groups are settled and structured, the CCBE Manifesto will also be addressed to the leaders of at least the Mainstream political groups.

Finally, after the composition of the European Parliament Committees has been published, the Manifesto is communicated to the chairs and members of relevant Committees.

- Strong candidates for (relevant) mandates in the Commission

The Manifesto will also be addressed to politicians who are identified to become candidate for a relevant mandate in the next Commission: president, Commissioner for Rule of Law and for Justice, Migration, Home Affairs, Near, ...

The most effective way to present the Manifesto, its messages, priorities, objectives and values, is in a **physical meeting**: a one-to-one visit, a reception or other event.

b) Broader generic publicity

A Manifesto is also an important and strong communication instrument.

Our Manifesto refers to the CCBE core values and convictions. It enumerates essential concerns, objectives and priorities of our organization.

The Manifesto therefore helps to increase our identity and our visibility as a Representative Organization and we use it to this end.

Therefore, the Manifesto will also receive a wider dissemination through all possible communication channels: website, press release, social media, interviews, etc

Nowadays, an even more accessible graphical presentation – an infographic – accelerates the dissemination and facilitates the understanding of the core messages, especially for people who do not have time to read everything.

Also the use of easy to remember slogans is very helpful. Some organisations have used animated infographics or videos to present their Manifesto. The CCBE has developed a one-page infographic of the 4 key messages of our Manifesto.

The name “Manifesto” is more and more replaced

The latest trend in the preparation of Manifestos is the replacement of the name “Manifesto” (considered to be old-fashioned and obsolete) by more modern or original titles, often linked to relevant profession or industry. We are considering this for a future edition of the CCBE Manifesto.

Doctors would use “Diagnosis and therapy”; Architects would refer to “Plans and Maquette”; Lawyers could use “pleading notes and conclusions” and what have you.

This will allow the Manifesto, as a communication instrument, to develop into an even more attractive and creative document and become more impacting in the future.

Conclusion.

I come to the Conclusion. The CCBE is committed to promote and strengthen the Rule of Law, which implies to support and further:

- The separation of powers and
- A strong judicial power with
- Guarantees for the selection and appointment of independent and impartial judges, as well as
- A well equipped and up-to-date judicial structure and
- A sound legal aid system.

I hope that our Manifesto and our cooperation with the ENCJ may proactively contribute to that.

I thank you.