



Moria detention centre, Lesbos

CCBE *Info* Special Edition

Migration

EDITORIAL - EUROPEAN LAWYERS IN LESVOS

Speech is our first weapon, together with the law; we need to speak time and again to denounce attacks on human rights and in particular the crises, both humanitarian and ethnic, we are witnessing with the increase of migration in Europe. This migration peak is the result of the war in Syria and in Iraq, which cause population displacements towards Europe, which is, despite all criticism, an oasis of peace and prosperity.

Lawyers must also denounce the agreement between the European Union and Turkey, the legal basis of which is weak, and which considers that Turkey would be a 'safe third country', providing protection under the International Convention relating to the Status of Refugees.

But speeches are not enough. We need to act:

- Act through law by offering new systems for asylum and European harmonisation;
- Act by imagining standard texts of fair procedures to be applied to any detention or retention of asylum seekers in the territory of the European Union;
- Act by intervening with the EU Commissioners in charge of the matter, be it the Migration Commissioner, the Justice Commissioner, or officials from the European Council;
- Eventually act by being at the hotspots, providing legal advice, being impartial observers of the legal situation, and

helping migrants in the maze of procedures and the right of asylum.

This is the decision taken by the CCBE at the initiative of the DAV with strong support from the Greek Bars. The detention of asylum seekers on the Aegean islands' hotspots may be incompatible with the requirements of the Convention for the Protection of Human Rights and Fundamental Freedoms. If we accept a lawless area within the European Union, then nothing is excluded.

Our call to local and national Bars to fund this lawyer action was heard. The budget we have gathered has allowed us to start the operation immediately. We would like to thank those Bars for their generosity and humanity. Naturally, it can be disappointing to see the terrifying silence of larger Bars, as well as powerful and wealthy national organisations.

However, through this action, the Council of Bars and Law Societies of Europe wishes to recall the foundation of our commitment as lawyers. We act in the name of Law and humanity.

We see the world as it is, but we do not give up the idea of changing it.

We are also guardians of the Other.

Michel Benichou
CCBE President

THE MIGRATION CRISIS - THE CCBE PERSPECTIVE

It is important to state clearly at the outset of this CCBE Migration Newsletter that the rule of law cannot be sacrificed or suspended no matter the challenge posed to our society in the present climate. At present there is a great temptation for politicians of all hues across many European countries to respond to the enormous numbers of migrants seeking refuge on our shores and to threats from jihadists with hasty, ill-conceived and populist measures such as internment of suspected terrorists, the sequestration of assets from asylum seekers, the banning of particular apparel and the effective closure of borders. In the current circumstances it is crucial for the legal professions to remain vigilant to any undermining of the rule of law and to emphasise that the right to claim asylum is a fundamental human right recognised since the Second World War by every democratic European state.

In the absence of any genuine solidarity at European level the migration crisis has provoked in some quarters sentiments of nationalism, protectionism and sectarianism. Many of the measures taken by EU Member States in recent times have no place in modern Europe. These include legislation and initiatives providing for payments by asylum seekers to maintain themselves; the requirement to deliver up valuables; the extension of the length of time from one year to three years for family reunification for refugees; the introduction of unnecessarily strict border control checks; the restriction of opening hours at border crossings; the requirement for passports or national identity cards from migrants including unaccompanied children coming from war-torn countries; the introduction of numerical quotas for applications for asylum status and in at least one case a statement from a head of government that no refugees at all would be admitted. These measures constitute a clear and serious abdication by civilised European countries of the duties imposed under the Geneva Refugee Convention, the EU Charter of Fundamental Rights and the EU's asylum directives. There are also legitimate concerns that the March 2016 EU-Turkey Joint Action Plan may breach the fundamental instruments governing the right to seek asylum and simply acts as an illegitimate attempt by the Union to out-source the question of international protection to a third country in respect of which there are genuine concerns about the rule of law and its commitment to the right to obtain international protection and the standards required within the Union.

Sadly, whilst there have been efforts to address the crisis at Union level there has also been a significant level of disharmony between EU Member States. The 2015 agreements to relocate 160,000 refugees have been a complete failure on a practical level given that only a tiny number have actually been relocated. Even with the most dedicated attempts by the European Commission it will take years to address this wholesale undermining of the protection system enshrined in European Union law by the instruments mentioned above.



In the very difficult present circumstances it is important to recognise and pay tribute to our member organisations and to the legal practitioners involved in the migration crisis. In this regard particular mention should be made of the Special Committee of the Bar of Athens which - amongst the many initiatives of the different Greek Bars - is currently providing both legal and humanitarian assistance to refugees and asylum seekers across Greece as well as providing crucial assistance, both logistical and administrative, to the national and international efforts to introduce basic legal aid in the hotspot islands. The Italian Bars are also playing a significant role in addressing the problems posed by the numbers of migrants arriving in Italy. Special tribute should also be paid to those individual migration lawyers working on the frontline especially in Greece and in Italy in particularly difficult conditions and in situations where the caseload is overwhelming and sometimes traumatic.

I should also like to make special mention of the European Lawyers in Lesvos project which endeavours to ensure that the legal professions were not found wanting in this hour of need. This is the joint project of the CCBE and the Deutscher Anwaltverein (DAV) and aims to provide legal aid to persons who are in Lesvos and who are in need of international protection from visiting volunteer lawyers over the next year. First instance advice on the entitlement to protection is being provided and any subsequent legal representation is to be provided through the good offices of the Lesvos bar. The project has benefitted

enormously from the generosity of 37 European Bars and Law Societies through both financial and practical assistance. At present two project co-ordinators are in place in Lesvos who manage the project on the ground including the training and coordination of the visiting volunteer lawyers. There have been ten visiting lawyers so far and over 100 persons have been provided with first instance legal aid. Notably the CCBE and DAV signed a Memorandum of Understanding with the Greek Government in July 2016 to provide for formal access to the Moria Detention Centre where need for legal advice is perhaps greatest and I would like to express my personal thanks to Ioannis Mouzalas, Alternate Minister of Interior and Administrative Reconstruction (responsible for Migration Policy of the Hellenic Republic) and to Vasileios Zisis, legal advisor to the Minister's Office for their invaluable support in this regard.

Please visit www.europeanlawyersinlesvos.eu for more information.

The numbers arriving in Lesvos have increased in recent weeks and there is severe overcrowding at the reception centres. In the event of a possible collapse in the next few months of the EU-Turkey Joint Action Plan (in the absence of an agreement on visa-free travel to the EU for Turks) a large increase in migration to and through Greece would be likely to ensue. The Greek authorities and the Greek legal professions face great challenges as a result and it has been

nothing less than a moral obligation for the CCBE to have been able to found and implement a project which can lend some assistance to those in need at this time.

It has also been a distinct honour to be chairing the Migration Committee at this time and I would like to thank CCBE President Michel Benichou and my colleagues on the Migration Committee and amongst the national delegations for all of their support and encouragement in recent months.

David Conlan Smyth,
Chair of the CCBE Migration Committee

THE MIGRATION CRISIS - THE GREEK PERSPECTIVE

In recent years, the world has been watching aghast as an exodus of refugees come from war-stricken Syria and other parts of the Middle East and North Africa. These refugees, who on dinghies, rubber boats and timber crafts tried, and are still trying, to cross the Mediterranean Sea to reach the haven of the European continent, where democracy, peace, freedom, and the principles of human rights prevail. Unfortunately, a great number of them, instead of finding the much longed territory of the democratic European Union, found a wet grave off the shores of Lampedusa, Italy and the Greek islands of Lesbos, Chios, and Kos.

The plight of these unfortunate and homeless fellow men, women and young children could not and did not leave indifferent and unmoved the Greek lawyers and their Bars. They took immediate steps to deal with the dramatic situation of the thousands of refugees and migrants who landed on the Greek islands and mainland, becoming protagonists and active members of the Migration Working Group, established by the Presidency of the CCBE.

At the same time the Greek Bars, via the President of the Athens Bar and the Plenary of the Bars of Greece and the Head of the Migration Committee of the Greek Bars, made constructive representations and useful proposals to the EU Commissioner for Migration, Mr. D. Avramopoulos, and to the Greek Minister of Migration, Mr. J. Mouzalas.

Teams of volunteers rendered their services in the “hot spots” of Lesbos, Piraeus and other areas where refugees had found shelter, serving their urgent needs (identification, asylum etc.), as well as providing them with food and clothing.

Furthermore, with the valuable cooperation and initiatives of the CCBE and its Migration Committee, training seminars were arranged on issues of European Migration law and

the law concerning the protection of fundamental human rights (e.g. TRALIM and HELP), as well as urgent courses for the training of lawyers destined to serve at the various “hot spots”.

Still further, the Greek Bars, via the Migration Committee, welcomed and participated in the programmes and projects of the CCBE and the German Bar (DAV), whilst the generosity and valuable help of many other European Bars (Members of the CCBE) and of a great number of ordinary European lawyers, who volunteered to serve at the “hot spots” together with many NGOs, was much appreciated.

Today, in view of the uncertainty about the proper implementation of EU-Turkey agreement concerning the fate of the refugees and illegal migrants and the policy of “protective walls” adopted by certain EU Member States, more than 90.000 refugees are stranded in the financial-crisis stricken Greece. The Government, local authorities, the Church, various NGOs, and Greek lawyers are doing their best to deal and will deal with the issues and problems created by this situation, but the ultimate solution must of course be found by the Authorities of the European Union and all of its Members.

In any event, the constructive steps taken by Greek lawyers and by all of our European colleagues, under the auspices of the CCBE, in dealing with the tragic consequences of this refugee exodus have demonstrated that lawyers are not mere liberal professionals, but they are leaders of society with a responsibility to uphold the rule of law and the principles of human rights, and to offer valuable services to those who need help.



Evangelos Tsouroulis,
CCBE Past President

EUROPEAN LAWYERS IN LESVOS - REPORT FROM THE GROUND

The 'European Lawyers in Lesvos' project, which was launched in July 2016, aims to work closely with the Mytilene (Lesvos) Bar Association in order to provide legal aid – in the form of assistance and advice – to applicants for international protection located in the Moria Reception and Identification Centre on the island of Lesvos.

There are around 4,200 people in the Moria Reception and Identification Centre, out of a total of over 5,000 on Lesvos. They are from a variety of countries, primarily Syria, Iraq and Afghanistan. Many have been here for four or five months, some longer.

Under the project, there are up to five volunteer European asylum lawyers on Lesvos providing legal aid in the Moria Reception and Identification Centre, for up to a month each. So far, there have been ten volunteers, from countries including Greece, France, the Czech Republic, The Netherlands and Spain. All have contributed a significant amount of time and effort to the establishment, development and success of the project. The volunteers' time is split between the project's office in central Mytilene and the Moria Reception and Identification Centre.

There have inevitably been challenges in setting up a new project in such a high-pressured and fluid environment. The legal aid landscape in Lesvos, and in the Moria Reception and Identification Centre in particular, has undergone significant change even in the past couple of months. At the same time, the island is under increased pressure as the number of new arrivals increase.

The project has had to adapt and evolve in light of these changing circumstances. Having spent the first couple of weeks becoming familiar with the nuances of the Greek legal procedures and the operational context on Lesvos, the project's volunteer lawyers began assisting the unaccompanied minors in the Moria Reception and Identification Centre, of whom there are well over 150 at any given time, with their applications for family reunification, as the legal assistance available for these particularly vulnerable individuals was limited. The project then began providing assistance for adults' family reunification as well. Now, the project continues with both of these activities whilst also providing legal advice to individuals before their first instance asylum interview.

This type of independent, pro bono legal aid is absolutely vital. The vast majority of individuals, both adults and minors, are attending their first asylum interviews without having spoken to a lawyer. Many have a very limited understanding of the asylum process, the criteria that are applied and their rights and are unaware of the possibility of reunification with their family in other EU member states.

Through its activities, the project aims to ensure that every person seeking international protection is able to consult a lawyer and that the rule of law is preserved. The project is

one of only a small number of legal aid projects with access to the Moria Reception and Identification Centre and the only one focused on providing information, practical support and tailored advice for individuals at the first instance stage of the asylum process.

Working in close cooperation with local Greek lawyers and the other organisations operational in the Moria Reception and Identification Centre, the project has made significant progress. The project's volunteer lawyers are working to help 41 unaccompanied minors and 64 adults lodge their family reunification applications and have provided first instance asylum advice to 17 individuals. These bare statistics do not, however, tell the whole story. For me, the fundamental importance of the project is demonstrated by a recent legal intervention, whereby one

of the project's lawyers provided emergency legal advice to an individual who had escaped severe suffering and danger in his home country and whose asylum interview was imminent. However, this individual had limited understanding of the asylum process and was not able to articulate his case. He therefore had a strong case in principle, but would likely have been unsuccessful in his application. Following the consultation, he understood the process and his rights and was able to set out his case in a way that demonstrated his need for international protection. Cases such as these illustrate why the project believes that access to a lawyer is a fundamental right and show that the project can be of potentially crucial importance to individuals in the Moria Reception and Identification Centre.



Philip Worthington,
Project Coordinator, European Lawyers in Lesvos

OTHER CCBE ACTIVITIES IN THE FIELD OF MIGRATION

In addition to the European Lawyers in Lesvos Project, the CCBE is also working on other initiatives in the area of migration. The main ones are the following:

- **Reform of Common European Asylum System**

The CCBE is currently preparing a position paper on the reform of the Dublin system on allocating responsibility for the determination of asylum applications in the European Union.

- **Participation in the Council of Europe Drafting Group on Migration**

The CCBE was granted an observer status to the recently established Council of Europe Drafting Group on Migration (CDDH-MIG). The drafting group's mandate is the following: in light of the Court's relevant jurisprudence and other Council of Europe instruments, to conduct an analysis on the legal and practical aspects of specific migration-related Human Rights issues, in particular effective alternatives to detention. The 1st Meeting will be held from 14 to 16 September.

- **Cooperation with European Law Institute (ELI) on the project "Detention of Asylum Seekers and Irregular Migrants and the Rule of Law"**

The CCBE is cooperating with the European Law Institute (ELI) on a project entitled "Detention of Asylum Seekers and Irregular Migrants and the Rule of Law". This project is focused on the due process standards that apply to the detention of asylum seekers and third country nationals illegally present in the territory of the EU. The aim is to produce user-friendly material to be used by judges of EU Member States who are competent to adjudicate or review the legality of administrative decisions on detention, and by decision-makers in administrative procedures.

- **Cooperation with the American Bar Association Rule of Law Initiative (ABA ROLI)**

The CCBE and ABA ROLI are cooperating in the field of migration. As a first step, a survey on the legal needs of migrants in the various Member States was circulated to the CCBE delegations. A roundtable on various topics relating to migration is expected to be organised in cooperation with the Union of Turkish Bar Association (UTBA) before the end of the year.

- **Training of lawyers on migration - European Lawyers Foundation (ELF) project**

The CCBE cooperates with the ELF on a project of training of EU lawyers in migration law, the objective of which is to train 130 lawyers from 5 different Member States (Spain, Greece, Italy, Ireland and Poland) on EU law relating to asylum and immigration from the perspective of the EU Charter of Fundamental rights. Four seminars will be organised in four Member States. The project started on 15 June 2016 and will last for one year. The first seminar will take place at the Spanish Bar in Madrid, on 10-11 October 2016. More information on the project available in the [TRALIM leaflet](#) on the ELF's website.

THANKS TO CONTRIBUTING BARS FOR THE EUROPEAN LAWYERS IN LESVOS PROJECT

We have received a large amount of applications (over 180), highlighting the commitment and dedication of European lawyers to helping those who need it the most. The project will do everything possible to make sure that as many lawyers as possible are chosen to be part of the project. The European Lawyers in Lesvos project would not have been possible without the generous contributions from the following Bars and Law Societies:

Andorra Bar, Avocats.be, Flemish Bar, Nederlandse Orde van Advocaten bij de Balie te Brussel, Supreme Bar Council of Bulgaria, Czech Bar, Danish Bar & Law Society, Finnish Bar Association, Conseil National des Barreaux, Conférence des Bâtonniers, Grenoble Bar, Lyon Bar, Rennes Bar, Paris Bar, Strasbourg Bar, Seine-Saint-Denis Bar, Plenary of Greek Bars, Law Society and Council of the Bar of Ireland, Consiglio Nazionale Forense, DAV, BRAK, Liechtenstein Bar, Lithuanian Bar Association, Norwegian Bar, The Polish Bar of Legal Advisers, Ordem Advogados Lisboa, UNBR, Spanish Bar, Swiss Bar, Ordine degli avvocati del Canton Ticino, Ordre des avocats Vaudois, Dutch Bar, Law Society of Scotland, Bar Council of England and Wales, Law Society of Northern Ireland, Fédération des Barreaux d'Europe.



ELL Volunteer,
Chrysoula Archontaki



ELL Volunteers, Rachid Abderezzak
and Anais Place



DAV President Ulrich Schellenberg
and CCBE President Michel Benichou



ELL Volunteers outside the Moria detention centre,
Thomas Oberhäuser, Isabelle Lendrevie,
Philip Worthington and Jos Hemelaar



Volunteers, Isabel Gomez Reyes
and Jos Hemelaar,
outside the ELL Office



ELL Offices, Mytilene