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FRAMEWORK FOR ESTABLISHING A EUROPEAN ELECTRONIC ID-CARDS SYSTEM

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Introduction:

The CCBE and its delegations have recently undertaken important steps for the legal profession in the field of Information technology and the technological infrastructure of electronic communication. In this respect, the CCBE issued (please see http://www.ccbe.eu/index.php?id=94&id_comite=11&L=0) the following guidelines and recommendations:

- Electronic communication and the internet – guidance for lawyers
- CCBE recommendation on the implementation of the data retention directive
- CCBE Recommendations on Electronic ID cards for the legal profession
- Guidelines for e-signature projects and for using electronic signatures by legal professionals

Technologies for Bars and Law Societies need to be attributed a very high significance in the future. In this respect, several traditional functions of the Bars and Law Societies are to be adapted to the changing world of technologies in order to be adequately fulfilled today.

Furthermore, it becomes apparent that several EC instruments (electronic communications, establishment, and –most likely- the services Directives) that apply to the profession make it advisable to develop a European wide system for Electronic ID cards. Such a system should be characterised by cross-border interoperability and should consist basically of procedures for exchange of information by electronic means in a better and more efficient way.

The European wide system for Electronic ID cards is envisaged as a voluntary scheme, at this early stage consisting only of a body of minimum technical standards which allow for cross-border interoperability. The participation in the system, the means of the national structure, certification policy and its finances are completely up to the CCBE members to decide according to their national situation. Since the national bars remain the only bodies competent to accredit the professional status of lawyers, they are the only bodies competent to create a national scheme of electronic ID cards.

However, if CCBE member bars decide to embark on a system of electronic ID cards for lawyers, they are provided through the scheme outlined in this paper with minimum technical standards. These standards will be interoperable throughout Europe, and CCBE member bars thus can deliver a valuable and important service towards their own membership. This would allow e.g. a French lawyer with a French certificate to have the guarantee that his/her policy complies with the CCBE standards and therefore would be trusted in another Member State that has adopted the framework.

Role for the CCBE:

In this proposed framework, the CCBE would have a triple function to undertake:

1) The CCBE can be constituted as a competent authority that oversees that the national conditions of emitted Smart Cards are in accordance to European standards and can be recognised for cross-border practise¹. The CCBE would trust the notification of a national bar that the policies of certification fulfil these standards. The national bars might want to undertake a compliance audit in order to verify that its certification policy is in accordance with the CCBE Certification Policy. The Bars and Law Societies holding this certificate could be announced to relevant national, European and international authorities and publicised on the CCBE's web site. The CCBE, upon request of the

¹ The expression "competent authority" is not meant to say that the CCBE should issue any Digital Certificate. "Competent authority" as used in this document is referring to a technical rather than a legal role for the CCBE. The CCBE with the approval of the attached "European Digital Certificate Policy for Lawyers" would only create common technical standards for evaluating and checking national policies of the National Certification Authority.

National Certification Authority would publicise on its web-site that the National Certification Authority issues certificates in compliance with the CCBE Policy. Furthermore, the National Certification Authority could on its on web-site announce that its certificates are in compliance with the CCBE policy e.g. by using a special for this purpose designed CCBE Logo. This would mean for the CCBE a role of entity of trust towards national policies of Digital certification of national Bars. In the long run, this would create a pool of National Certifications authorities that comply with the European CCBE standard and generate a wider acceptance and trust amongst country certificates. The cost of the audit would have to be paid by each member bar of the CCBE.

2) As a European body, CCBE could promote the insertion of chips with digital signature in its own European card for European Lawyers and promote the use of electronic ID cards at European level². The CCBE card is, in this respect, a simple solution to promote the use of electronic ID cards which have already EU acceptance regarding its material/physical side, since the card is edited by national bars which are the only bodies competent to accredit the professional status of the lawyers, a competence which extends also to the internet.

3) The CCBE in the future could also develop contents and services accessible through a secured platform for its members only and/or for EU lawyers at large. The CCBE should benefit from a faster and more secure exchange of information between all the parties involved and more means to overcome the geographical distance between its members.

Conclusion:

Technology is of increasing interest to European Lawyers since in their daily practise, professionals face issues concerning online activity and cross-border recognition, not to mention their special need for earning costs and working time efficiently.

The attribution of the institutional role for the CCBE and of a developing role to national Bars, together with the potential implementation of the necessary tools will consolidate the progress that European lawyers need in order to face the immediate challenges of the future in this field with guarantees and efficiency.

+ ANNEX

TECHNICAL STANDARDS FOR INTEROPERABILITY OF ELECTRONIC ID CARDS

² In order to implement these two objectives, a proposal for an EU certification policy is also annexed to the present document to be used for future cards.