Klaus calls for a balance of old rights with new

The president of the Czech Republic, Václav Klaus, opened this week’s conference yesterday cautioning delegates that the assertion of legal rights can sometimes go too far.

Klaus, who is known for his views on what he has called radical human rightism, told delegates they are living in complicated times in which the protection of traditionally recognized freedoms could be compromised by the desire to enforce new rights such as consumer rights.

Klaus joked that it was not his place to tell delegates what to debate this week no matter how much he might like to do so, but added that ill-considered legislation can “complicate life and its quality.” He said he hoped that lawyers, as consumers and initiators of what he described as a legislative wave, would keep this message in mind.

In the past Klaus has spoken of the “creeping undermining of freedom” in Europe. He has also attacked judicial activism, which he says is undemocratic, saying: “Judicial activism...leads to an usurpation by judges of powers rightly belonging, in a democracy, to the political branches of government. Judicial activism, when it undermines parliamentary intent, is necessarily anti-democratic. It leads to the rule of lawyers instead of the rule of law.”

Continued on page 4, column 2

Delegates put privilege in the spotlight

At an all-day meeting yesterday, delegates discussed how attorney-client privilege should be applied in the modern world. Disputes over the limits of privilege have a long history. Osvaldo Jorge Marzorati of Allende & Brea noted yesterday that a king of Prague once tortured his wife’s priest to try to find out what she said in her confessions, something the priest (obeying a rule of secrecy similar to those applied to lawyers) took to his grave. Panellists at the meeting went on to discuss the less violent Akzo Nobel case, which has divided both the profession and regulators. Many lawyers complain that denying privilege for in-house counsel reduces communications and transparency. This can also be expensive, as companies must then pay external lawyers with whom they can guarantee confidentiality.

One of the most controversial differences discussed at the session was the treatment of in-house counsel. Many civil law jurisdictions do not consider legal advisers who work for companies to be independent. They therefore cannot join the bar, are not treated as lawyers and are not covered by privilege.

Among EU members there is a mix of standards. The 1982 ruling in A M & S E u m p e Ltd v Commission of the European Communities is an example of the protection it offers. The judgment protected communications between a client and an independent lawyer entitled to practise his profession in a member state.

This may be changing, however. Voices in the legal profession are arguing that the role of in-house counsel has changed since AM & S and a number of civil law jurisdictions, including France, Germany, Belgium and the Netherlands, are re-examining their rules. A pending decision in the Akzo Nobel case, in which the Dutch company is disputing the seizure of documents it says should be covered by rule of professional confidence and privilege, could also potentially shift EU Commission policy, at least in regards to competition cases.

The issue of privilege for in-house counsel is one that divides both the profession and regulators. Many lawyers complain that denying privilege for in-house counsel reduces communications and transparency within a company. Manangement might be reluctant to talk to their internal legal advisers if they cannot rely on their discussions remaining secret, they say. This can also be expensive, as companies must then pay external lawyers with whom they can guarantee confidentiality.

Sabine Lochmann of Johnson & Johnson in Paris yesterday described some of the difficulties that in-house counsel face as a result of not being granted privilege and called for a modernization and harmonization of standards across the EU.

The meeting also saw an exchange of views between Jan Eijsbouts of Akzo Nobel and Emil...
Lawyers reject media controls

Delegates reacted angrily to the notion that journalists should be held to a code of conduct in a session yesterday discussing terrorism and constraints on the media.

Session chair Kurt Wimmer referred to a recent EU proposal that recommends the creation of such a code for the media. The proposal document suggests that the media should take responsibility for the effect that reports have on their audience, citing certain cases in which the media’s behaviour has encouraged terrorist acts or incited racial hatred.

“Sounds like a predicate for legislation,” said Wimmer as he opened up the floor for debate. Delegates and practitioners rejected strongly the suggestion that a code of conduct could work for the media.

Canadian editor Peter Jacobsen of Beranek Jacobsen Chouette Thomson Blackburn said he could not envisage the media showing any interest whatsoever in this kind of self-censorship. He pointed out the difficulty of judging how a reader would react to a story, and whether or not a story could indeed encourage terrorist acts or racial hatred.

“I can’t imagine a media outlet anywhere in a western democracy that would be prepared to self-censor,” he said. “It’s a half-baked nonsense idea,” said one delegate. Practical implications would make a code impossible to enforce. As Sandra Baron of the Media Law Resource Centre in New York pointed out, any code is only ever going to cover mainstream media, and would be extremely difficult to code without being overly broad.

Jan Constantine of the US News Corporation recalled the willingness of the press to co-operate with the US administration’s request not to show full footage of Osama Bin Laden’s appearance in court, in court he was manipulating the media to send messages to terrorists. The media aired the footage but either not in full or focusing only on his face. This example shows that, while the media would reject a code, networks would individually accommodate a government request in an extreme situation, on a case-by-case basis, she said.

Baron said that imposing such a code would be against the First Amendment in the US and so could never become law in her country. “But the media is pulling some punches,” she said, saying editors have been more cautious by what is known as the Newseum factor. Newseum’s misreporting of certain facts about Guantanamo Bay led to anti-US riots in Afghanistan and other Muslim countries. Reporters are now holding back controversial stories that could have a similar effect, she said.

Not all reporters can be relied upon to act responsibly. One delegate from Bulgaria talked about a recent case in her country in which a news station was fined for showing graphic images of torture on prime-time television.

The problem with a case-by-case approach to deciding what should and shouldn’t be published is that it relies on the media being able to trust governments, said one delegate. A government could mislead editors, citing a matter of life and death when it is really just a matter of political embarrassment. Said Jacobsen: “Where there is obvious danger involved, it has always been standard for the media to act responsibly. The problem is if you’re being spun. Reporters need to be responsible but a little bit cynical, which is tricky because a reporter will never know the full story until after the fact.”

What Baron thought “particularly insidious” was the US government’s approach to suppressing reports on government actions, where it is suggested that the media is responsible for the adverse affects in the Middle East of making US wrongdoings public. Allowing governments to suppress information about war crimes and allegations of misconduct is unthinkable, she said.

Five speakers went on to discuss the effect of anti-terror legislation such as the US Patriot Act on the media industry.

Psychiatrists join talk on obsessed litigants

In a session yesterday entitled The obsessed litigant: how does one cope? Psychiatrists and judges shared their views on how best to deal with litigants who simply won’t give up. A small number of baseless claims that use up court time and public resources can cause disproportionate problems for the judicial system. Panelists agreed that the key to handling such cases is to identify problem claimants and unreasonable applications at the earliest possible procedural stage.

“The solution is to ensure efficient administration,” said Wynne Rees, district judge at Cardiff civil trial centre, Wales. “And the best approach needs to be incorporated into the judicial process.”

“One obsessive litigant I came across issued a claim against the entire judicial system of England and Wales,” recounts Rees. “The claim’s value was for the maximum amount available.” Another litigant issued claims against the police and local authority alleging that they had tampered with CCTV footage of an assault by the applicant, which the prosecution did not even rely upon at the applicant’s trial.

Obsessive litigants are more likely to appeal against decisions and many refuse to accept the finality of judgments. Often they begin actions with representation, but later drop counsel to pursue the matter personally. Counsel sometimes become the subject of litigation themselves.

The system demands equal access but obsessive litigants abuse the spirit of the law, said the M McGoll of the supreme court of New South Wales, Australia.

Many obsessive applicants have not been diagnosed as having psychiatric problems, making them harder to identify. “The problem is identification of useless claims is a delicate process,” said consultant psychiatrist Frank M brunch. “But paranoid behaviour is the key to understanding and identifying obsessive litigation.”

The courts of many jurisdictions do have specific powers to handle obsessive and disruptive litigous behaviour. In England and Wales the civil procedure rules contain provisions allowing claims that lack reasonable grounds or an abuse of process to be stayed. In addition, courts may grant civil restraint and procedure orders to curb vexatious actions. But, although these procedures are quick they are often issued only after the applicant has made multiple claims.

“Multiple claim issuers are often exempt from paying fees,” said Rees. “The number of applications could be limited, but even this requires administration to manage and a the use of minimum fees penalizes everyone.”
Judge Michael Fysh of the Patents County Court in England called for the creation of dedicated IP courts around the world, speaking in a session yesterday. At the moment only four countries have specialized courts that exclusively hear IP cases: Turkey, Thailand, the UK and Korea.

Judge Fysh told the IBA Daily News: “I’ve been pushing for this for years. It’s a question of convenient processes and the smooth disposal of litigation.”

Technical cases required specialized judges with a background in science, he said. Without this, practitioners might take weeks explaining the fundamental scientific principles behind the patent litigation. This is particularly important for litigation of technological, biochemical and genetic engineering cases, he said.

Fysh said the length and cost of litigation in non-specialized courts means countries that fail to set up an IP court will lose money. “If inward investment is to be attracted into a country then the efficient enforcement of IP rights is hugely important,” he added.

Judge Susanne Werner of the Federal Patent Court in Munich, Germany echoed Fysh’s views. She argued that specialized courts help smaller IP owners protect their rights.

“IT a housewife somewhere in the Black Forest gets an innovative idea, she will be supported as long as it squares with German patent law,” said Judge Werner.

Germany has a specialized IP division within its court system with 58 technical judges that have an academic background in science.

A 2005 IBA survey of 85 jurisdictions found that 38% of countries, including Cuba, Latvia and Saudi Arabia, do not have specialized IP courts and are not intending to set them up. Jurisdictions with specialized IP divisions as part of the court system made up 34% of respondents and included Brazil, Italy, Finland, the Netherlands and India.

Judge Fysh said he had been to India to give advice on dedicated IP courts. He recommended that three courts be set up in Delhi, Bombay and Calcutta, with four specialist judges devoted to hearing IP cases.

“I have been fermenting this in India because they no longer are copiers of innovation but originators, and they are not well served by the current system.”

He said he had also received a delegation from Taiwan last week who expressed interest in setting up IP courts. The delegation of six sat in the English Patents County Court for a day and observed proceedings.

According to the IBA survey, 11 jurisdictions have explored creating specialized IP courts. At the June G8 meeting in Gleneagles, the member countries emphasized the importance of protecting IP rights, making it item seven of the G8 resolution.

Meanwhile, judges and corporate counsel at the session also discussed controversial plans for a specialized central IP court.
Litigants with patents filed under the EU Community Patent scheme could use the court to defend their IP rights, they said. Patents under this scheme, which has twice reached the drafting stage but failed due to lack of support, would be valid in all EU member states.

Urho Ilmonen, chair of the International Chamber of Commerce’s IP Commission and chief security officer at Nokia in Finland, said the national courts in Finland do not have enough experienced IP judges to provide a good level of legal certainty. As a result, most cases are settled out of court. “It would be a good idea to have a centralized system to resolve patent disputes,” he added.

But Judge Susanne Werner drew attention to the problems of centralizing IP courts. She said that the plans could cost time and money and ultimately alienate IP judges in national courts:

“The de-centralized system has high levels of efficiency and expertise. The future should build on this.”

Responding to the president’s comments at a press conference after the opening ceremony, IBA president Francis Neate said the law of human rights is relatively new. Only in the past 60 years have fundamental human rights been recognized, he said, and the process of determining a consensus for what rights should be enforced is continuing. “It involves delicate issues that we don’t expect to be easy,” he added.

A consensus is yet to emerge on how far new concepts of rights such as the rights of consumers should go, said Neate, but part of the IBA’s role will be to help establish that consensus.

IBA executive director Mark Ellis said that nations facing new threats such as international terrorism should have the right to protect their people but shouldn’t be inconsistent with human rights in doing so. “It is a balance that countries must meet to ensure the rule of law is upheld,” he said.

In his own address at the opening ceremony, Neate told delegates that the rule of law is under threat even in countries where respect for it seemed well established. He went on to announce his intention to table a resolution at the next meeting of the IBA Council later this week that criticizes this trend and said he would call on all IBA members as well as multinational corporations to support the initiative.

“In the developing world we tend to take the rule of law for granted,” he said. “We cannot do this.”

Neate went on to describe how the IBA had been instrumental in filing an amicus brief this week in the UK House of Lords on the admissibility in English courts of evidence gained under torture. He talked also of the recent work of the IBA’s Human Rights Institute in Iraq as well as in countries such as Russia, where the Institute has raised concerns about political interference in the trial of jailed businessman Mikhail Khodorkovsky. “The IBA will continue to bring issues like this to the eyes of the world,” he said.

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“The de-centralized system has high levels of efficiency and expertise. The future should build on this.”

Francis Neate
Corporate governance

Study links good governance to higher stockmarket activity

The results of a study released in Prague this week show that countries with strong corporate disclosure regimes have the highest levels of stockmarket activity. Using a survey of over 100 countries, and codified results for 71, the World Bank and Harvard University study reveals that strict disclosure requirements for self dealing are good for the economy. Requirements for shareholders to approve such deals, which are business transactions between companies controlled by the same shareholder, have a similar positive correlation to levels of market activity.

"The strongest single message that has come from the study is that improving investor protection can lead to higher levels of stockmarket activity and therefore better economic performance," said Melissa Johns, private sector development specialist at the World Bank.

The study focused on a simple business transaction between hypothetical buying and selling companies, both controlled by the same individual investor. In cooperation with nine Lex Mundi law firms, the survey tested, in each jurisdiction, who is required to approve a self-dealing transaction, what needs to be disclosed, and how the matter can be challenged and by whom.

Main findings

• The approval of self-dealing transactions by directors or interested parties, rather than disinterested shareholders, is associated with smaller stockmarkets.
• Extensive disclosure requirements are associated with large stockmarkets.
• Where decisions regarding self-dealing transactions are made by fully informed, disinterested shareholders, markets are larger.
• Stock markets are larger where there is more extensive post-transactional reporting.
• Markets are more developed where it is easier for minority shareholders to prove wrongdoing in court when challenging transactions.
• Stock markets thrive where self-dealing transactions are reported in periodic filings and minority shareholders face fewer constraints in litigating.
• The extent of anti-self-dealing measures on stockmarket development is large: moving from a low score for rules on self-dealing in the Netherlands or Austria to a high score in Singapore adds 64% to the predicted stockmarket-to-GDP ratio.
• There is no reliable association between stockmarket development and public enforcement.
• Switzerland is extremely friendly to insiders and hostile to outside shareholders, yet has an extremely valuable stockmarket.
• Strong anti-self-dealing measures are associated with more listed firms. This is consistent with the notion that minority shareholders receive a larger fraction of firm value, and are willing to pay more, in countries where conflicts of interest are regulated. Similarly, controlling shareholders receive a smaller fraction of firm value, making control less financially valuable.
• Controlling shareholders pay a lower premium for control in countries where private control over self-dealing is strong. Conversely, high public enforcement is associated with a higher value of control.
• Regulation of self-dealing has no reliable effect on ownership concentration.

Self-dealing can take various forms, such as transfer pricing or asset stripping. Self-dealing transactions, however, often have a legitimate business purpose, making their prohibition unsuitable. Most countries choose to regulate self dealing through a combination of private enforcement mechanisms and regulatory action.

The study’s findings show disclosure of self-dealing, transparency and legal standing for minority shareholders when approving such deals are all linked to share dealing across the world’s exchanges. The results are the same for all countries with active stockmarkets and are not confined to the systems of richer nations. "The message is that the detail of the law matters," said Johns. "Greater transparency is linked to greater stockmarket activity."

Findings show that it is typically easier to hold a controlling party to account in common law countries than in civil jurisdictions. Common law nations have more valuable stockmarkets relative to the size of their economies. Common law countries also have more listed firms and initial public offerings per million people, and ownership of stock is less concentrated.

An exception to the finding that stronger investor protection and governance leads to higher levels of stockmarket activity is Switzerland. In Switzerland the legal environment, from the perspective of disclosure, approval, and the burden of litigation, is friendly to corporate insiders yet hostile to outside shareholders. The country has, however, an extremely valuable stockmarket. The possibility is that Switzerland has developed mechanisms for protecting minority shareholders other than the law.

Countries with successful stockmarkets are characterized by giving shareholders the information they need and the power to act. These powers extend to voting and litigation. Public enforcement, however, was not found to show the same level of correlation. "Countries in which it is easier to prove wrongdoing have higher stockmarket capitalization, but these countries do not rely on regulatory enforcement," said Andre Shleifer, a professor of economics at Harvard University.

"It is going to be more difficult for shareholders to prove wrongdoing and have their claims heard," said Johns. "This is likely to mean that they are going to come to lawyers more often because they have less prospect of success and will be more willing to settle."
Firms pinpoint growth sectors as Czech privatizations run out

Managing partners in Prague have found life more difficult now that the state sales of the past decade have ended. Ben Moshinsky looks at how firms can get ahead in the changing Czech market.

"...like having two jobs," says Michal Douhou, co-head of White & Case's Prague office. A day spent attending to the needs of clients is often followed by hours planning the firm's next strategic initiative. Part of Douhou's job, like that of most managing partners in Prague, is to ensure his firm stays ahead of the competition. And the Czech legal market is maturing fast, signaled by the departures of Dewey Ballantine and Hogan & Hartson this year, as firms come under pressure to rethink their strategy after the privatization boom of the 1990s.

For a decade after the collapse of the communist regime in 1989, frequent privatizations provided law firms with a stream of projects to work on. In communist Czechoslovakia, nationalization had gone further than in other east European countries, and the private sector accounted for only 4% of GDP at the end of the 1980s.

Law firms that opened early and cultivated government contacts, such as Kocián Solc Balabek, in 1990 and Weil Gotshal & Manges in 1992, benefited from years in which the government completed Ckt.1.5 trillion ($63 billion)-worth of privatization transactions.

"Whatever we did with the same Czech Telekom, Czech Steel, Czech Airfili... rings a bell with me," says Karel Muzikar, managing partner at Weil Gotshal & Manges. "Clients like that give you a chance to staff entire practices. They pay a lot of money and allow you to build up your practice." Deals such as the $3.3 billion sale of Czech Telecom to Telefónica in 2004 provided work not only for the firms advising the successful parties but also for those advising other bidders. In the case of Czech Telecom there were six failed bidders in total, each with its own set of lawyers. Since then, however, there have been no similar deals.

Fortunately, the state's retreat from the economy has been accompanied by rapid growth in the number of entrepreneurs needing legal advice. By 2002 the private sector accounted for 4% of GDP at the end of the 1980s. The new law, which came into effect in 1990, has increased the number of registered businesses from fewer than 10,000 in 1990 to over two million.

In response, some firms, notably the larger international firms such as Weil Gotshal, Allen & Overy and Linklaters, have sought to take advantage of their size to win clients in growing industries such as telecoms, real estate and banking. Their success depends on picking the growth sectors early, while their size means they are able to risk having to walk away from some deals, says Kocián Solc's Petr Muzikar. The assumption is that happy clients will hire their lawyers from a successful acquisition for later (and not necessarily related) corporate or litigation work.

M&A instructions also bring international exposure because about three-quarters of M&A transactions involve a foreign company buying a Czech business. In a country where foreign investment reached 13.4% of GDP in 2002, contacts from abroad often lead to future business. Meanwhile, the Czech government continues to seek to attract overseas investors, planning to cut the corporate tax rate of 28% to 24% by 2006. Further tax breaks for business will mean an effective tax rate that is even lower.

For many lawyers searching for next year's growth areas, fresh bankruptcy legislation to protect creditors and speed up proceedings should generate work advising on company restructuring and litigation matters. "We have a large percentage of investor-ade clients and we're looking forward to the new law," says Martin Solc at Kocián Solc Balabek. "The whole process should allow creditors more control."

The present Czech Bankruptcy and Composition Act suggests a penalty of just Ck150,000 if a debtor fails to produce accounting records. As a result, court proceedings can stall at the first stage after bankruptcy is filed due to the lack of available documentation. A 2004 survey by the Organization for Economic Co-operation and Development, the insolvency courts have a backlog of almost 10,000 cases. The new law will curb company incentives to delay application for bankruptcy and make it easier for investors to salvage the valuable parts of the business more quickly.

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Ten steps to rainmaking success

Marketing and sales skills are becoming increasingly important at every stage of a lawyer’s career. So much so that some firms have begun to set business development and marketing expectations at each year of qualification, so that even newly qualified lawyers are involved in making contacts with their peers in other law firms or commercial organizations. The following 10 simple steps will help to make selling more productive, enjoyable and satisfying for those who joined the legal profession to be a lawyer rather than a salesman.

Step 1: Think like the client
Keep in mind the pressures that clients are under. In-house counsel may have several hundred internal clients across several jurisdictions. With litigation in particular, clients might feel daunted by the thought of a threatening workload, arrogant about needing external legal help, afraid of escalating costs and concerned by negative publicity. They might feel the issue is a distraction from their core business. They might even feel defensive, asking themselves whether they are responsible for the litigation or could have prevented it. Therefore, work on the basis that you need to link to your client’s legal, strategic, financial and non-financial goals. When you approach the client, make suggestions and proposals that you should communicate with them (for example by asking questions rather than waiting to be told), that emails and documents you send to the client should be concise, focussed and relevant and that you should not wait to be asked, but offer to help.

Step 2: Understand how clients choose their lawyers
Organizations buy legal services when they have a commercial imperative. They require those services to help achieve their strategic goals. They want lawyers who understand their business and the commercial implications of any advice given. However, clients are also looking for lawyers with whom they get on. They want their advisers to be as committed to achieving their goals as they are, to give them the comfort of experience without being blasé, to treat them and their matter as unique, special and interesting, to understand their perspective and feelings and to allow them to sleep easily at night.

You can’t get a client to want or need litigation, but you can get them to want you when that is required.

Step 3: Write a business plan
Assess where you are now in terms of skills, experience, profile, maturity of market and your competition. Then clearly write where you want to be. The expectations of the decision-makers (such as: “I thought we could meet to give you an update on recent changes in European legislation and the ringing (such as: “I thought we could meet to give you an update on recent changes in European legislation and the...”)

Step 4: Keep in touch regularly
The following are all ways to keep in touch:

- When you return from an event, make notes on all the conversations you had, pass on information and follow up all the commitments you made.
- Maintain potential clients and referers, so that you can respond appropriately when, for example, they have been promoted, have won an award, changed jobs or changed organizations.
- Contact a client when their company’s results or a re-organization are announced.
- Write a note whenever you hear of the effects of new legislation on their company – but do not tell them for it.
- Maintain your profile through targeted newsletters, updates on judgments and notification of relevant changes within the firm.
- Offer training, seminars and secondments.
- Offer your firm’s hospitality, at small, specific, targeted and not necessarily costly events.
- Tell individuals about a relevant matter you have worked on or on an article you have written that might be of interest.
- Highlight the key parameters.
- Call clients occasionally to ask: “How are things going?”

Step 7: Arrange to meet
To obtain a sales meeting you need to pick up the telephone. Don’t make arrangements by email at this stage. One high-ranking corporate executive, regularly overwhelmed by too many incoming emails, deleted any that did not come from his superiors. He has six stages of a successful call: Make the introduction clear, say your name and that of your firm and clearly. Ask whether now is convenient to talk. Make it easy for the person to remember you. State the reason for ringing (such as: “I thought we could meet to give you an update on recent changes in European legislation and the potential impact on your industry”). Highlight what’s in it for the client gives you a better chance of them agreeing to meet. Seek agreement and fix the date, time and place to meet. Follow up by confirming all the details in writing.

Step 8: Research and be prepared for anything
Research as much as possible on all the individuals you are meeting from the client’s organization: their experience, knowledge, likes, dislikes and their views of lawyers. Who would they want to meet? Consider taking a colleague. Research the client organization, industry, sector, market, competition and the problems they face. Research and know your own client and the colleagues you are meeting at the meeting. If you have agreed with the client to meet for a casual chat be aware that it might actually be a beauty parade, and so require structured preparation.

Step 10: Ask for the work
All the effort you have put in so far will come to nothing unless you close the sale. So how do you spot the signs that the client is ready to buy? Most importantly, they must have a strong commercial need. Some of their indicative questions might be about your other commitments, potential conflicts of interest; the amount of work involved; how you and your team will work together; how much time you will be able to devote to the client; and what resources you have. If these questions arise, then show your enthusiasm for the work. Make a clear and genuinely enthusiastic statement: “I would like to do this work for you.”

Pippa Blakemore (pippa.blakemore@pop-partnership.co.uk) is presenting three sessions at this week’s conference. Given a winning presentation on W ednesday morning, Turn contacts into clients on Thursday afternoon and Increase the value of current clients on Friday morning.
Barnocas Sarmento Neves has an unrivalled Project Finance practice having advised on the development and construction of the most significant infrastructure projects in Portugal.

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The partners and associates of SCA ADVOCADOS are lawyers with a dynamic, energetic and creative spirit, whose characteristics and energy are directed towards supporting their Clients and to competently solve any and all legal matters they present.

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**Today's sessions**

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<th>TIME</th>
<th>TOPIC</th>
<th>LOCATION</th>
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<td>Conflicts of interest in the financial services industry</td>
<td>South Hall, PCC</td>
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<tr>
<td>All day</td>
<td>Development and marketing of hotels and casinos in Eastern Europe</td>
<td>Club B, PCC</td>
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<td>All day</td>
<td>Managing, motivating and developing your partners</td>
<td>North Hall, PCC</td>
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<td>All day</td>
<td>Public procurement</td>
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<td>Restrictive covenants in employment contracts</td>
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<td>and other mechanisms for protection of corporate confidential</td>
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<td>information</td>
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<tr>
<td>Morning</td>
<td>American Bar Association breakfast</td>
<td>Bellevue Hall, Corinthia Towers Hotel</td>
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<td>0830 – 0930</td>
<td>Buy-out of a private owner of a business enterprise</td>
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<td>0930 – 1230</td>
<td>Cape Town: the practical details of the</td>
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<td>Convention and how it impacts aircraft financings</td>
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<td>Cross-border real estate investment</td>
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<td>Disability discrimination – EU Framework</td>
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<td>Displaced populations/displaced borders</td>
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<td>Duty to deal with others – the limitations of competition law</td>
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<td>European Constitution</td>
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<td>Investment treaty arbitration workshop</td>
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<td>Judicial oversight of director action: legal</td>
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<td>management and investor perspectives</td>
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<td>Liability of pharmacogenomics</td>
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<td>National reconciliation: history and law</td>
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<td>O’Neill tax sheltering schemes: fair means or foul?</td>
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<td>Professional rules for in-house counsel</td>
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<td>Rules and models for cooperation and engagement outside counsel</td>
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<td>Telecommunications regulation and practice in the ten new EU Member States: progress and problems</td>
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<td>Lunch</td>
<td>African Regional Forum lunch</td>
<td>Restaurant G ibota, PCC</td>
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<td>1230 – 1400</td>
<td>Corporate Counsel Forum lunch</td>
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<td>Latin American and Caribbean Forum lunch</td>
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<td>Use and abuse of IP rights on the internet</td>
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<td>Afternoon</td>
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<td>Exploring the challenges for buyers presented</td>
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<td>the world; impact of the Third EU Money</td>
<td>Corinthia Towers Hotel</td>
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<td>Laundering Directive and other international initiatives on lawyers</td>
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<td>International Criminal Court</td>
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<td>Litigators’ forum: the doctrine of economic duress in business and commercial litigation</td>
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<td>Repossession war stories and what changes, if any. Cape Town would have wrought</td>
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<td>Young Lawyers’ Writing Competition Final</td>
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<td>Evening</td>
<td>Newcomers’ Reception</td>
<td>Exhibition Area, 2nd Floor, PCC C</td>
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<td>1715</td>
<td>Intellectual Property and Entertainment Law C committee dinner</td>
<td>Palffy Palace</td>
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<td>1930</td>
<td>Committees on Taxes and Individual Tax and Estate Planning, Wills, Trusts and Succession joint dinner</td>
<td>Bellevue</td>
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<td>1945</td>
<td>Committees on Communications Law and Outer Space Law joint dinner</td>
<td>Belvedere</td>
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<td>Aviation Law C committee dinner</td>
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<td>Investment Companies and Mutual Funds Committee dinner</td>
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LexisNexis provides fast, easy access to authoritative legal news and business information - local, national and global. Quick. Precise. Thorough. Only LexisNexis. LexisNexis is proud to sponsor “Today’s schedule”
Lawyers yesterday called on international governments to increase their legal aid funds to prevent millions of people being denied access to justice.

Speakers expressed concerns that lack of state investment is leading to a decline in the number of quality lawyers prepared to work in legal aid programmes or public defender systems.

Governments rarely see legal aid as a priority, either because it is considered the business of the legal profession or because the public do not want to see lawyers given extra funds.

Speakers agreed that public approval for tax funding of legal aid is crucially important. "Historically, lawyers have been seen as unscrupulous, making money out of other people's misery," said Marie Dyrberg, of Victoria Chambers, New Zealand. "We must attack this perception."

Kevin Martin, of the Law Society of England and Wales, said that large parts of the U.K. had become "legal deserts" where no legal aid was available locally. Numbers have declined because of poor remuneration compared with other legal sectors, rather than vocation. According to a survey carried out in the U.K., 50% of U.K. lawyers say they have an interest in legal aid, although only 8% practice it.

Martin also said that the structure of the legal funding system in the U.K. benefited criminal law over civil law. Both budgets are drawn from the same fund, but the growth in criminal law cases has sharply reduced financial resources for aid for social problems such as debt, housing problems and human rights issues.

Speakers made several suggestions on how best to draw lawyers into legal aid. One was to have legal aid lawyers employed by the state. Another was to use increased funds to pay senior lawyers competitive fees, on the grounds that inexperienced lawyers often delay cases or are simply not of high enough quality to provide fair counsel to the defendant.

Mandatory pro bono is another means of ensuring fairer access to justice. Iqbal Ganie of the Law Society of South Africa said that, in the Cape Province, law firms were under obligation to do 48 hours' pro bono legal service each year. Law firms also operate a fidelity fund that is used to support 21 university law clinics. Trainee lawyers provide free legal services to clients under supervision as part of their training.

Panel says governments must fund better access to justice

South Africa, a model government in terms of legal aid provision, is also passing a new legal practice bill, which if passed will make community service compulsory for all trainee attorneys in the country.

In Brazil, on the other hand, only 30% of the population has access to justice, and only 10% of those people receive an effective decision. A Horacio Bernardes Neto of Xavier Bernardes Bragança said: "This illustrates the gap between practice and theory in Brazil."

Brazil is a curious case in point, given that 46% of its lawyers work in legal aid, and yet so few people receive access to justice. Competition for legal aid work became so intense that the Brazilian Bar Association at one point declared pro bono work illegal, so as to prevent firms "poaching" its clients. "At least pro bono work isn't considered to be criminal any more," Bernardes-Neto observed.

In 1996, the IBA passed a legal aid resolution that is yet to be recognised by many governments. South African and Canada are among the few jurisdictions that have implemented a constitutional right to access to justice. Peter Mynard, chair of the session, said he believed there is still much work to be done.

"An individual's civil and constitutional rights are worthless if he cannot enforce them and is disenfranchised of them," he said. "Justice should be blind, impartial and quick."

"Historically, lawyers have been seen as unscrupulous, making money out of other people's misery. We must attack this perception"
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