



**JANUARY 2008**

*The*  
**IN-HOUSE COUNSEL**

Newsletter for the Member Associations of ECLA

**PRESIDENT OF ECLA BENGT GUSTAFSON RESIGNS. PAUL DE JONGE BECOMES INTERIM PRESIDENT.**

At the Dublin ECLA Board meeting President Bengt Gustafson informed his fellow Board members that due to his new position as general counsel for SECURITAS, at their Stockholm headquarters, he must resign as president of ECLA. The Board regretted Mr. Gustafson's resignation. Paul de Jonge took over the helm at the end of the meeting and indicated that his term will be as long as necessary to find a replacement for Bengt Gustafson. Paul De Jonge has enough experience and drive to lead ECLA through a period of consolidation and more professionalization of staff and Board. In his acceptance speech during the formal dinner, Paul de Jonge reflected on Bengt Gustafson's achievements during his presidency. ECLA moved away from a sole purpose organization which focused on Legal Professional Privilege to an organization with broader goals. New sponsors joined ECLA and the first paid Secretary General came on board. Bengt was praised for his personal management style and great sense of humour.

Paul de Jonge accepted the Presidency by summing up his personal objectives which

include bringing in one new sponsor, one new member, one regional conference and one new paid personal assistant to the Board. This all is to be achieved by the end of the second quarter of 2008.

**IWONA MIROSZ APPOINTED TO THE EXECUTIVE BOARD REPLACING SABINE LOCHMANN**

At the Dublin meeting Sabine Lochmann resigned as ECLA Executive member. Sabine moved to a commercial position at her employer, Johnson & Johnson, and therefore is no longer eligible to call her self juriste d'entreprise under the bylaws of the AFJE. Bengt Gustafson and all the executive and board members thanked Sabine for her many contributions to ECLA during her tenure and her creative ideas and wonderful esprit de corps.

Iwona Mirosz, representative of Poland in the Board was welcomed as replacement of Sabine Lochmann and keeps the female content of the Executive at similar level, be it not at par. Iwona's membership of the executive represents the growing number of ECLA membership countries stemming from the new EU member states. Iwona is based in Warsaw and works for a Swedish bank. She holds several records in different sports which she won at lawyer Olympiads in Poland.

## **FRANCE APPOINTS ALAIN-MARC IRISSOU BOARD MEMBER OF ECLA**

The French association, AFJE, has appointed Alain-Marc Irissou board member of ECLA replacing Sabine Lochmann, who resigned due to her new job assignment. Alain-Marc, who works for Total, has also been elected President of AFJE on 4 December 2007.

## **PRESIDENT'S REPORT IN DUBLIN**

Bengt Gustafson reported on the progress in light of the 2002 ECLA Program. The four pillars of the ECLA Program were: (i) Representing in-house lawyers. (ii) Providing education for in-house lawyers, (iii) Increasing networking opportunities and (iv) Improving access to training and information. *Ad* (i) ECLA has been actively involved in the monitoring and commenting the AKZO NOBEL Case in the Court of First Instance in Luxembourg. Jettie Van Caenegem led the task force and has been succeeded by Paul de Jonge. ECLA was represented during the trial by Maurits Dolmans of Cleary Gottlieb Steen & Hamilton and Kristine Nordlander of Sidley & Austin. Paul de Jonge was present during the hearing. Han Kooy and Paul de Jonge were present during the session in which the decision was given. ECLA was the first to make public that it would intervene in the appeal against the decision of the Court of First Instance. Cleary Gottlieb, Steen and Hamilton has graciously offered to be ECLA's counsel in the intervention for the European Court of Justice ("ECJ"). *Ad* (ii) ECLA has experienced increased success with its annual ECLA/ERA conference in Brussels. The Unidroit Principles on International Commercial Contracts are under revision and Francesco Benigni is the designated ECLA representative. *Ad* (iii) ECLA is still the best networking venue for in-house lawyers in Europe. This requires active participation of ECLA members and their individual members. *Ad* (iv) The use of the

ECLA website has increase including access to training and more information. Through the ECLA website third party conferences are offered with considerable discounts.

The present program 2004-2007 addressed: (i) Improved financials (ii) long term sponsorships (iii) the use of third party suppliers (iv) improve the administration and financial reporting (v) restore confidence and improve communication with members (vi) real and visible benefits to the individual members and (vii) the creation of task forces.

*Ad* (i) Improvement of the financials has been achieved by sponsorships by Eversheds, Translegal, Ius Laboris, Law Europe and Voxius. The financial situation of ECLA is now better than ever.

*Ad* (iii) Thomas de Keyser is now responsible for accounting and for creating the Belgium books. Stephanie Schantz is the website manager and the general secretary position has now been taken by Francesco Benigni.

*Ad* (iv) The re-designed ECLA website has improved communications.

*Ad* (v) The In-house Counsel has improved communications between ECLA and its member organisations. The access to Top Legal-magazine is another visible benefit for ECLA members. Several sponsors provide written material on respective areas of law and Translegal provides a free language portal. Voxius powers the free career corner.

### ECLA in the Future

ECLA will improve cooperation with all its members, improve and add benefits for the individual member and increase its lobbying activities.

### Priorities

ECLA will continue the diversified program by attracting new members, using ECLA funds for the direct benefit of the individual members. ECLA will also continue lobbying with European policy makers, expand the education of In-house lawyers, and improve its finances.

### Changes in the Executive Board

Han Kooy will replace Paul de Jonge as President in April subject to election by the board.

### **CROATIA AND PORTUGAL COMPANY LAWYERS ASSOCIATIONS NEW MEMBERS OF ECLA**

The Board of ECLA at its meeting of 16 November 2007 in Dublin unanimously voted the admission of two new members: the Croatian Corporate Lawyers Association and the Portuguese Company Lawyers Institute. Croatia, whose president is Silvijska Skerlev, was represented by Marina Kralj Milisa. The Croatian association has more than 100 members. Portugal was represented by the president Joao Lourenco and the Institute has more than 200 members. All board members welcomed Croatia and Portugal as the ECLA 18<sup>th</sup> and 19<sup>th</sup> member.

### **THE THIRD "FORUM FOR IN-HOUSE LAWYERS" CONFERENCE IN BRUSSELS, 24-25 APRIL 2008**

The third "Forum for In-house Counsel", organised by ECLA and ERA, Academy of European Law, will be held in Brussels on 24-25 April, at Management Center Europe -MCE conference room in Rue de l'Aqueduc, 118. Topics have been already selected among European law subjects of great interest, such as the lessons learned from the decision of the Court of First Instance on the Akzo Nobel case. The topics have been posted on the ECLA website and the programme will be soon finalized with the speakers and all members of ECLA are invited to participate to this very important event. This year, for the first time, the conference languages will be three: not only French and English, but also German. Please visit the ECLA website [www.ECLA.org](http://www.ECLA.org).

### **ECLA SUPPORTS THE IBA 7<sup>TH</sup> ANNUAL CORPORATE COUNSEL CONFERENCE ON 17-19 FEBRUARY IN FRANKFURT AM MAIN**

ECLA is supporting the IBA 7<sup>th</sup> Annual Corporate Counsel Conference which shall be held on 17-19 February in Frankfurt am Main. Francesco Benigni, ECLA secretary general, has been invited by IBA to attend the conference.

### **ECLA REPRESENTED AT THE CONFERENCE OF THE BELGIUM INSTITUTE IN BRUSSELS**

President Paul de Jonge and Han Kooy attended a scientific day of the Belgian organisation for in-house counsels. The subject was Sanctions in trade and industry. Maurice Lippens, chairman of Fortis as well as of the Belgian governance committee (Code Lippens) gave a very interesting presentation where he elaborated on the practical experiences with the Code.

### **ECLA APPEALS THE COURT OF FIRST INSTANCE DECISION ON THE AKZO NOBEL LEGAL PROFESSIONAL PRIVILEGE CASE**

The European Court of First Instance (CFI) clarified on 17 September 2007 in the AKZO Nobel case the extent to which companies may be able to prevent disclosure of documents during European Commission competition investigations on the basis that the documents are protected by legal professional privilege. In doing so it has confirmed that in-house lawyers do not attract privilege as decided by the European Court of Justice in 1982 in the AM & S case. The CFI has also clarified the procedure that should be followed in the event of a dispute between a company and the Commission about privileged documents. It is now clear that not the Commission but the Court of First Instance must decide that documents are under the LPP protection or not. Such documents must be held sequestered in sealed

envelopes until the court has decided upon the appeal of LPP. AKZO has appealed the CFI's decision. ECLA and other organisations such as the Netherlands Bar Association, IBA, CCBE, ACC, the Law Society of England and Wales will intervene in the case.

### **IMPLEMENTATION OF ECLA LAW EUROPE SPONSORSHIP AGREEMENT**

Representatives of Law Europe, ECLA's new sponsor, gave a presentation at the board meeting of ECLA held in Dublin on 16 November. The board members of ECLA will be contacted by the local contact partner of LE for the practical implementation of the sponsorship agreement. Information on LE is on the ECLA website.

### **IMPLEMENTATION OF ECLA-IDI PARTNERSHIP AGREEMENT**

Representatives of IDI, International Distribution Institute, new partner of ECLA, gave a presentation of the IDI website. The website contains a variety of agency and distribution contracts and related laws and practice and the service can be subscribed to by the ECLA individual members at a discount of twenty per cent on the annual fee. It has been agreed to form a group of ECLA members who could be contacted to organize a conference on Distribution and Agency contracts together with IDI and IDI invited the ECLA members to provide speakers to the next annual conference which will be held in Torino in June on June 6-7, 2008.

### **ECLA AND UNIDROIT COOPERATION**

Francesco Benigni, who represents ECLA at the UNIDROIT working group dealing with the revision of the Unidroit Principles on International Commercial Contracts "UPICC", updated the board members on the works of UNIDROIT. The ECLA member associations should designate among their individual members

representatives who shall be called to prepare an ECLA position paper, when the first draft of the revised UPICC shall be ready, probably at the beginning of 2009. The names of the individuals designated by the member associations should be communicated to Francesco Benigni.

### **ECLA TASK FORCES ON LEGAL PRIVILEGE, MEDIATION, CLASS ACTION, PRECEDENTS DATA BASE**

The President of ECLA, at the board meeting in Dublin, focused on the importance of the ECLA's task forces: Legal Privilege, headed by Paul de Jonge, Class Action, for which a new head should be soon found, after the resignation of Sabine Lochmann, Mediation, headed by Francesco Benigni. A new task force on Precedents Data Base has been established upon the proposal of Edward Smethurst, who shall be the responsible person.

### **NEW ECLA POTENTIAL MEMBERS**

Francesco Benigni, at the board meeting in Dublin, reports that the Lithuanian association has decided to apply for membership in ECLA and that it should do so at the spring board meeting. On January 18<sup>th</sup>, Francesco met in Madrid the president Juan Pablo Nieto Mengotti and the board members of the Spanish association of in-house lawyers (APIE). Juan Pablo confirmed to Francesco that the preparation of the documentation necessary for the application for membership in ECLA is well underway and should be presented in time for the next spring board meeting of ECLA. Other potential members include Spain, Scotland, Hungary and Slovenia. Paul de Jonge reports that he has contacts in Russia with individuals interested in forming a local association. Iwona Mirosz reports that she contacted the Finnish Lawyers Union and they are interested in membership in ECLA. She has provided them with information about ECLA.

**NEXT ECLA BOARD AND ANNUAL  
GENERAL MEETING IN  
MANCHESTER ON APRIL 11, 2008**

Edward Smethurst, ECLA's board member representing the England & Wales association, has confirmed that his organisation shall host the spring Board and Annual General Meetings. The meetings shall take place in Manchester on 11 April.

For the Executive Board

Paul de Jonge  
President

*ECLA is Europe's leading association of in-house counsel in Europe. ECLA represents more than 22.000 individual in-house counsels and is represented in nineteen European countries.*