



# The European Young Bar Association

EuroLawyer

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Sheffield, United Kingdom – EYBA AGM 2010

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### “Adaptability – A New Year for the EYBA”

Editorial August 2010

“First say to yourself what you would be  
and then do what you have to do”

Epictetus

I hope that everyone had a very enjoyable summer and gained some much needed recuperation before the winter rolls in! It is a chance to take a breath after a busy few months since our AGM meeting in Sheffield.

It was a busy year from International Weekend in London, Spring Conference in Lisbon and the AGM in Sheffield, England.

The quote above sets out the way forward following the AGM in Sheffield. We need to re-commit to our vision and use our can-do attitude to move forward and to develop many of the strategies initiated over the last year. A sincere thanks is due to the dedication and service of Gabriella Geatti who was tireless in her work as President. It is also the end of an era with Mary McKeever and Peter Wright leaving the committee and again, many thanks for all their time and support (and craic!) over the past few years.

The outcome of the AGM was a call for greater communication with EYBA members and EuroLawyer provides a perfect forum for this communication. Once again I call upon each organisation to send articles and we shall continue to keep you advised of EYBA events and activities through the EuroLawyer magazine.

International Weekend in London looks like a full and fantastic programme and a chance for us to look forward to another year in the EYBA. Looking forward, plans are well underway in Belfast for the EYBA Spring Conference. The NIYSA are busy ensuring a first-class experience for delegates and further information will follow.

Adaptability has been and will continue to be key for us as young lawyers – new markets and opportunities await. The EYBA are sourcing top speakers for our events to provide guidance and inspiration to our members. The EYBA Executive Committee must also adapt to ensure that communication is key between our members and the organisation.

Together, we all look forward to a new year of EYBA events and to the success of the Association.

Conor Houston

Editor, EuroLawyer



## A New Executive Committee Elected at EYBA AGM in Sheffield



The new EYBA Executive Committee (L-R) – Mariangela Condello, Annalisa Checchi, Conor Houston, Diogo Lopes Barata, Heidi Sandy, Gabriella Geatti & Amina Omar Nieto

Sheffield was the setting for the EYBA AGM 2010.

As promised at the 2009 AGM in Amsterdam, the EYBA aimed at delivering a Conference that would be identifiably different from what EYBA members may have experienced previously in London, which is just one of the very many nuances of the UK.

The Friday Conference offered a varied programme of events, featuring speakers from UK Trade & Investment who run the British Consulates around the world, Nabarro LLP who have a presence in London, Sheffield and Brussels, and an innovative afternoon session with one of Yorkshire's foremost personal development presenters, Jon Colman, who gave an insight into each delegates own individual management style.

It was an opportunity to network, to catch up with existing contacts and forge new ones, throughout the Conference, in settings as diverse as the Leopold Hotel on the newly redeveloped Leopold Square to the Mercure St Pauls Hotel and the EYBA Presidents Reception incorporating the adjacent Winter Gardens, one of the largest structures of its type in the UK.

The Welcome reception on Sheffield's newly redeveloped Millennium Square, facing Sheffield Town Hall, to our Conference in the Town Hall itself opened by leader of Sheffield City Council Paul Scriven, to the opportunity to visit one of the largest and best preserved Country Houses in the UK at Chatsworth along with evening social events at the City's

most prestigious hotels, delegates were able to get a true flavour of what life and legal practice in the UK is like.

The AGM itself allowed members to reflect on the past year and to look forward to the year ahead. The new EYBA Executive Committee was elected as follows:

- President – Heidi Sandy
- Vice-President – Amina Omar Nieto
- Honorary Secretary – Conor Houston
- Treasurer – Annalisa Checchi
- Committee Member – Mariangela Condello
- Committee Member – Diogo Lopes Barata
- Immediate Past-President – Gabriella Geatti

Special and sincere thanks to Peter Wright, ably assisted by Heather Anson for all their efforts and hard work in organising the event and for being such wonderful and dedicated hosts. Many congratulations to Peter and Heather on their engagement and we wish them every success and happiness for the future.

A wonderful weekend in the North of England and the start of a new EYBA year...

### “A word from the President...” Heidi Sandy, President of the EYBA

I write as your new President of the EYBA following elections of the Executive Committee at the recent AGM in Sheffield . A thank you to all our members who travelled from across Europe to participate in the conference and ensure its success. I hope you found the conference both professionally and personally rewarding.

I am also pleased to introduce the rest of the Executive Committee. We have a diverse committee both in nationality and practice area, which we hope will contribute to a year of exciting member events that will be representative of our member interests.



Amina Omar Nieto, from Barcelona is the new Vice President, whilst Annalisa Checchi, a former President, from London, is the new Treasurer. Conor Houston, from Belfast, is the new Honorary Secretary, who retains his responsibilities for EuroLawyer. Mariangela Condello, from Rome, and Diogo Lopes Barata, from Lisbon, join as Executive Officers, with Gabriella Geatti supporting us all as Immediate Past President.

The AGM provided a useful opportunity for EYBA members to hear from the new Executive regarding our plans for the year ahead and how to improve the EYBA activities for the future. We ensure to listen to our members, and improve channels of communication. I see communication as the key to delivering an effective and successful organisation for the benefit of all our members. In this regard I would encourage you all to join our LinkedIn and Facebook pages as one of the first steps in improving this process and do get in touch! If you would like to get even more involved, we do have a remaining vacancy on the Executive Committee, and my team and I would be happy to discuss this with any member that is interested.

One of the aims of EYBA is to bring young lawyers from across Europe and beyond together for networking and professional development. Therefore, we hope to build a series of opportunities into our programme which will give you the opportunity to meet other members who are currently in the progressive stages of their careers and capitalise on strengthening your international networks. Our next event will be held at the International Weekend in London 23rd -25th September.

Building on the success of previous International Weekends this year's programme promises to deliver further exciting opportunities. There will also be a European Committee meeting and a Meeting to complete outstanding business from the AGM.

I am looking forward to an exciting year as President and the challenges it may bring! I welcome the opportunity to strengthen existing friendships following the AGM and meeting new members in September. I do hope to see you there!



Keep up to date with the EYBA at our new website: [www.eyba.org](http://www.eyba.org)

### “One field; too many balls”

EU young lawyers discussion on the creation of a ‘European Judicial Culture’  
European Parliament, Brussels

I had the honour of representing the European Young Bar Association (EYBA) at the European Parliament, Brussels at a meeting organised in co-operation with the Associazione Italiana Giovani Avvocati (AIGA) and hosted by Italian MEP, Erminia Mazzoni, entitled “Young Lawyers exchange views on the creation of a European Judicial Culture.”

The meeting brought together young lawyer representatives from across Europe and was Chaired by Jonathan Ames, Editor of the European Lawyer Magazine.

The Stockholm Programme was established by the EU Commission and it has set out a vision for creating a ‘European Judicial Culture.’ As the EU has expanded and developed, co-operation between legal systems and cultures have been one of the few areas of life in Europe that has not been fully utilised.

I was privileged to formally address the meeting on behalf of the European Young Bar Association (EYBA). I outlined to the delegates the role and work of the EYBA. Central to my submissions was that the EYBA is an established and well regarded network of young lawyers who are willing and able to advance these discussions through our organisation and in collaboration with others.

Discussion centred round the actual meaning of a ‘Judicial Culture’ and it is fair to say, that it is very difficult to define. There is obviously a political argument surrounding whether this relates to creating a single European legal system with a ‘European lawyer’ or whether it is about greater co-operation between EU states on legal affairs. In essence, the very definition of a ‘judicial culture’ goes to the heart of what we want the EU to be.

It was agreed by all present, that the meeting was a first step, in bringing together young lawyers to discuss ideas and to create a network of young lawyers across Europe.

My colleague, Christoph Raudonat, Executive Director of the International Association of Young Lawyers (AIGA) agreed that the EYBA and AIGA could collaborate on this discussion and debate between young lawyers as to how we would create a European Judicial Culture.

Our host, Ms Mazzoni MEP stated that the first step will be to create a network of young lawyers to begin dialogue as to how we better share the common European legal space.

A representative from the European Commission developed this concept of an EU legal area by linking it to the principle of EU freedom of movement rights and gave examples of common rights for EU citizens across Europe e.g. gender equality, right to translator, etc.

This is an interesting perspective from which to examine the purpose of a European Judicial Culture – as an EU citizen, with freedom of movement within the EU, surely it is a right to know your legal rights and the process within other EU countries. A common ‘European code of practise & procedure’ could be agreed to cover areas such as arrest and charge within each EU country.

Indeed, looking at the area of criminal law, this is of course an area from huge development within the EU. There are many ‘transborder’ crimes requiring co-operation between various legal jurisdictions within the EU and there will continue to be growth in areas such as extradition, cross-border evidence, etc.

AIGA called for common rights for all European citizens – to know your rights within any EU state. This will provide for real freedom of movement within the EU and development of greater liberty, security and dignity of citizens. It is a harmonisation process and will be delivered from the ‘bottom up,’ driven by the future of the profession.

The representatives of various Bar associations then shared their views and experiences on the difficulties of establishing this culture. The Swedish representative gave an illustration of the difficulty facing lawyers on a 'European stage.' He pointed out that if you leave Sweden without being called to the bar, you lose your right to practise there. This raises the issue of mutual recognition of qualifications and the requisite standard that should be applied across Europe, perhaps with the formation of an actual 'European lawyer' qualification as the ideal.



Conor Houston representing the EYBA at the European Parliament, Brussels



Ermina Mazzoni MEP & Conor Houston at the European Parliament, Brussels

Of course, there are many obstacles in the way of forming a European judicial culture. One of the delegates summed up the problem eloquently when he compared the issues facing the EU with that of a football game, in which you have "one field with too many balls."

The first issue is therefore to identify the motivation of this culture – is it a single legal EU state or is it one which encourages greater co-operation between member states?

There is then the real presence of a language barrier, which is a real and practical difficulty in forming a network of any kind and it takes resources to be able to deliver interpretative resources (such as the translators that were present at our meeting)

Finally, the issue of resource is key to developing any network or organisation. I pointed out to the meeting that in order to create and sustain a network, it takes resources. This is not just financial, but also administrative. For a network to work and develop it must have access to a secretariat and also in communicating with members.

I gave the example of the EYBA – an Executive Committee of seven people, spread across geographical Europe, all working full-time for their respective law firms – give their time and energy to the organisation. A full-time secretariat would allow us to develop and maintain our database, communicate better with our members and grow the organisation further – it is an organic process.

In conclusion, what came out of the meeting for me, was the fundamental importance of national lawyer to know European law. This will involve an essential development of EU law education, common across the EU and with the potential of a future European Lawyer qualification.

In order to progress – we need to set out a document of agreed aspirations in relation to creating this judicial culture. This will assist in defining what a European Judicial culture is.

We then need to put this document of agreed aspirations out for discussion amongst young lawyers across Europe to try and create mechanisms to deliver upon these aspirations.

The EYBA is committed to be at the heart of this project and are proud to have been at the inaugural meeting. We stand ready to help in the development of a stronger, young lawyer network to the mutual benefit of all young lawyers across Europe. The vision - One field, great team players.

Conor Houston

## EYBA represented at American Bar Association Spring Conference

The former President Gabriella Geatti and myself had the honour of addressing the American Bar Association (ABA) General Practice Solo & Small Firm Division, Young Lawyer Division at their Spring Conference in the magnificent setting of the US Virgin Island of St Thomas. The ash cloud tried to stop us getting there at all, but we persevered and it was worth the effort!

It was a great honour for the EYBA and demonstrated the valued relationship that we have with the ABA. Of course, the business culture is different in the US but the word that will epitomise the spirit which I encountered will be 'can-do.' Every lawyer that we met had a positive outlook – in every challenging time emerge exciting opportunities. Many lawyer described how they had moved into niche areas, often taking a great risk but determination and hard work are also part of the American culture.



Jay Ray, Mathieu Piche-Messier, Gabriella Geatti & Conor Houston  
Addressing the ABA Conference



The Europeans descend on St Thomas!

Gabriella and I spoke at conference at a session on the 'Do's and Don'ts of International Networking' which was moderated by the wonderful Jay Ray (long-standing friend of the EYBA) and joined on the panel with Mathieu Piche-Messier from Quebec. It was a very stimulating session and it was wonderful to share our experiences from European and Canadian perspectives



American & Europe building bridges



St Thomas, US Virgin Islands



Jay Ray, Conor Houston & Kelly-Ann Clarke

It was a very stimulating session and it was wonderful to share our experiences from European and Canadian perspectives with our American colleagues. Of course it was an opportunity to build new relationships and rekindle friendships. All at the ABA were extremely welcoming and made us feel at home! Special thanks must be given to Jay Ray and Kelly-Ann Clarke for extending their kind invitation and for making us feel part both the working sessions and the social events!



Conor Houston & James M Durant III



Delegates at the ABA Spring Conference

The EYBA look forward to continuing our great relationship with the ABA and sharing ideas, solutions and great times together!

### International Bar Association News

(please visit <http://www.iba.org>)

#### IBA Arbitration Committee

##### Counsel Ethics in International Arbitration Survey

In 2008, the IBA Arbitration Committee formed a Task Force on Counsel Ethics in International Arbitration to investigate the different and often contrasting ethical and cultural norms, standards and disciplinary rules that may apply to counsel in international arbitrations. As part of the Task Force's information-gathering mission, it has prepared a survey to solicit the input and experiences of international arbitration practitioners. The deadline for receiving answers to the survey is **Wednesday 15 September 2010**.

Visit [www.iba.org](http://www.iba.org) for further information.

#### IBA Legal Practice Division awards scholarships to attend IBA Annual Conference in Vancouver

This year the sections and committees of the IBA Legal Practice Division have awarded scholarships to 16 young lawyers to attend the IBA Annual Conference in Vancouver, Canada.

The scholarship award includes free registration and a contribution towards travel and accommodation costs while attending the conference. Scholars will also be awarded two years' free membership of the IBA and a free registration to either the next IBA Annual Conference or a specialist conference of one of the committees within the awarding section in 2011.

#### IBA conference scholarships

##### Scholarship to attend the IBA 4th Law Firm Management Conference

The European Regional Forum will also be awarding a scholarship to a young lawyer, practicing in a European country, who wishes to participate in the IBA 4th Law Firm Management Conference, but may have financial difficulties in doing so.

This scholarship award includes:

- free registration for the IBA 4th Law Firm Management Conference, 25-26 November 2010, Moscow, Russian Federation;
- a contribution towards travel and accommodation costs to the conference; and
- a ticket to the evening dinner on Thursday 25 November.

The deadline for applications is **Tuesday 21 September 2010**. Applications received after the deadline will not be considered.

Visit [www.iba.org](http://www.iba.org) for further information.

## JLD Annual Conference and Ball 2010

*Heidi Sandy, Chair of the JLD committee gives an overview of the 2010 conference*

Having travelled to Birmingham last year, the annual JLD conference returned to London in 2010. 200 students, trainees, NQs and paralegals attended at the Law Society. The conference was opened by Lord Collins of Mapesbury, the first solicitor to be appointed a High Court Judge direct from private practice and now the first solicitor member of the Supreme Court. He offered words of inspiration and advice to members who as solicitors might not traditionally look to a career in the judiciary. Widening access to judicial appointments is an issue the JLD supports and encourages members to think about career planning at an early stage (rather than something they may stumble upon in their later years of practice).

Jane Jarman of Nottingham Law School provided words of wisdom and offered essential techniques for conducting successful negotiations. As junior lawyers we don't always recognise that we utilise negotiating skills on a daily basis. It is these smaller examples of negotiation in our everyday lives that we should develop and ensure they are polished when we need to deploy them in professional circumstances.

At law school we are taught 'the law' and how to advise clients. However, little guidance is offered to junior lawyers in those essential soft skills which are vital to successful client relationships and bring in new clients to our firms. Yet with so many other pressures such as time recording and meeting deadlines, recognising the importance of attending a client networking event or business seminar is often put off to another day! It is important that our members recognise and take control of their professional development in these areas in order to achieve their career ambitions. Jennifer Overhaus author of 'Juggling the big 3: A career-building plan for developing a personal brand, client business, and a leadership mindset' gave practical advice of how to effectively take control of our careers and develop our personal brand as a solicitor.

Following an opportunity to network over lunch the afternoon breakout sessions gave delegates the opportunity to participate in a number of workshops in areas as wide ranging as alternatives to private practice, instructing external advisors and to how to manage risk effectively as junior lawyers.

Throughout the day, one to one practical interview clinics were also available with students receiving feedback on improving their interview and communication skills.

The conference concluded with a black tie casino themed dinner at the Grange St Pauls hotel where delegates had the opportunity to make new connections and put the advice provided by our earlier speakers into practice. A charity raffle was held in support of our annual project in conjunction with Raleigh International which this year sees volunteers heading to India to participate in a community development project.

We hope that all our delegates had a thoroughly enjoyable time and we hope to see you at next year's conference in April 2011!

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## Manager's liability within the framework of bankruptcy proceedings. The importance of proper legal and financial advising

The still recent Spanish Bankruptcy Law more fully examines the legal system regarding company managers' liability. This new liability system serves to supplement the system already provided for in the Public Limited Company and Limited Liability Company Laws, as well as the Criminal Code, within the framework of corporate crime.

In effect, one of the areas or sections comprising bankruptcy proceedings shall be the "classification" of such proceedings. Here, the Judge shall examine whether the company manager or managers were involved in any way in the company's bankruptcy situation. If the Judge considers that such is the case, the resulting consequences, as we shall see, constitute a serious threat to managers who have not performed their duties diligently.

Below, we shall analyse the issue in further detail, clarifying the following points:

- when the bankruptcy classification section is going to be created, which, as mentioned above, shall lead to the Judge's analysis of the managers' liability

- which managers shall be affected by the liability system set forth under the Bankruptcy Law
- when the bankruptcy proceeding shall be considered guilty
- what the consequences will be for the managers if the bankruptcy is classified as guilty.

Before analysing each of these points, we should point out that the Judge may order the seizure of the manager's assets at any time during the bankruptcy proceedings if he considers that there is evidence pointing to the latter's liability in the insolvency and that the company's assets may not be sufficient to settle all its debts. Section 48 of the Bankruptcy Law sets forth such action and Commercial Courts have issued orders to this regard in numerous bankruptcy proceedings.

As regards, the first of the points mentioned above, we must clarify that the bankruptcy classification section is not always created, but rather, only in the following cases: firstly, whenever the bankruptcy proceedings lead to the winding up of the affected company. And, secondly, when the bankruptcy proceedings lead to an agreement with the creditors in which a partial acquittance of over a third of the amount owed or a grace period of over three years is established.

In the event that the bankruptcy classification section is employed, the threat of liability not only affects the company's current managers, but also:

- managers appointed in the last two years,
- so-called "de facto managers". In this case, these are individuals who, despite not having been formally appointed as managers and there being no such record to this end in the Trade Registry, are in fact managing and administering the company in reality. In our experience, this situation is common at subsidiaries of foreign companies, in which the individual appointed as the manager acts according to instructions given by executive (s) of the parent company. Therefore, the Judge may assess the liability of these de facto executives or managers and pass sentence against them as stated below.

Within the classification section, the Judge may classify the company bankruptcy as accidental or guilty. The managers shall only be liable in the latter case. Hence, the bankruptcy will be charged as guilty, and managers shall consequently be held liable, in the following cases, mainly:

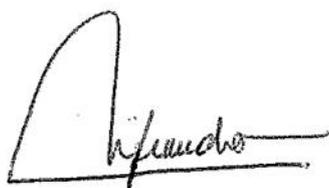
- when the company substantially fails to comply with the obligation to keep accounting records, or relevant irregularities are committed in keeping such records,
- when the documents submitted by the company within the bankruptcy proceedings framework contain serious inaccuracies,
- when the company conceals or disposes of all or part of its assets to the detriment of its creditors,
- when the company has performed actions intended to simulate a fictitious picture of its assets.

In other situations, the Bankruptcy Law provides for presumptions of bankruptcy guilt that do admit proof to the contrary, such as:

- when the company fails to fulfil the duty to file for bankruptcy,
- when the company fails to fulfil its duty to collaborate with the Judge and the bankruptcy administration,
- when the company has not prepared its financial statements or submitted them for audit, being required to do so, or if, after they are approved, it fails to deposit them at the Trade Registry for any of the last three periods. This presumption of guilt highlights the importance of depositing the financial statements at the Trade Registry, an obligation that companies often fail to comply with, in a bid to avoid publicising their economic situation.

The classification section concludes with a sentence that, as mentioned before, may declare the bankruptcy as accidental or guilty. If the bankruptcy is classified as guilty, the consequences for the managers may be quite serious, because the Judge may order them to pay the creditors in bankruptcy the amount they do not receive in the company winding-up. Likewise, they may be barred from performing managerial or representational duties for a period of 2 to 15 years. The Judge may even sentence them with the loss of any rights they may have had with regard to the bankrupt company, to return any assets obtained therefrom and to compensate for damages incurred.

Therefore, it is advisable for company managers to take the advice of competent legal and financial professionals in their daily decisions, thereby reducing the severe consequences that failure to fulfil their management and administration obligations would lead to.



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## Your EuroLawyer

EuroLawyer can be found on our new look website at [www.eyba.org](http://www.eyba.org) – just follow the link to download.

The challenge is to retain the excellence of the content of the magazine whilst attempting to create a more user-friendly and colourful magazine that is more attractive and relevant to all our members.

The EYBA Executive Committee hope the re-invigorated magazine to be issued bi-monthly and will have a number of dimensions.

Firstly, the magazine will have a focus on legal news – that is relevant to the legal profession with particular emphasis on pertinent issues and cases in different jurisdictions affecting young lawyers. In our ever evolving internationalised world, looking at judicial decisions and case law of other jurisdictions is essential. It will highlight the seminal cases in the panacea of countries across Europe.

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We are looking for articles on the following:

- topical and interesting developments of law within your jurisdiction and field of practise
- your young lawyer organisation news – what events are you having?
- your comments – issues affecting you as young lawyer?

So why contribute? As you are aware the EYBA represents the interests of over 200,000 young lawyers and is the world's largest young law-yers group.

I ask all our members to ask for your support with this magazine and to ask for your organisations and members to contribute just one article (however short!) every two months on your organisation/ jurisdiction. Indeed, why not write to your local Judge's, governing bodies and ask them to contribute on your behalf? If all 60 of our members from across geographical Europe do this, it will be a vital resource not just for young lawyers, but to lawyers across the globe.

The potential for the organisation and the EuroLawyer magazine is enormously exciting! In these current challenging and unprecedented times, a strong voice from young lawyers is required and necessary – working together and sharing ideas has never been more important.

So please send me your articles to [chouston@johnricesolicitors.com](mailto:chouston@johnricesolicitors.com)

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## Upcoming EYBA Events

### International Weekend – 23<sup>rd</sup> – 25<sup>th</sup> September 2010, London

A stimulating, educational, multifaceted and social programme is waiting for you in London! If you have not registered yet, please do not delay as we have to confirm numbers with the various venues!

We have Preferential rates for EYBA members which is something we promised to offer at Sheffield. This event is a great opportunity to develop your international networks and strengthen existing friendships.

Dealing with formalities there will also be a meeting on Sunday 26 September and a copy of the Notice has been circulated by e-mail.

Visit our website at [www.eyba.org](http://www.eyba.org) for further information.

### Spring Conference – 10<sup>th</sup> – 13<sup>th</sup> March 2011, Belfast

The NIYSA are well underway in planning a fantastic weekend is in store for a pre-St Patrick's Day weekend conference.

Top speakers, world class venues and a VIP Belfast experience await! Further information to follow!



Northern Ireland  
Young Solicitors  
Association



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