

IBA Council Meeting

AGENDA

For the meeting to be held on
Thursday 3rd November 2011
14.30 – 17.30

Sheikh Maktoum Hall C, Ground Floor
Dubai International Convention
And Exhibition Centre
Dubai

Sign in from 1400



the global voice of
the legal profession

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1430 - 1730

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7. GUIDELINES ON TRAINING FOR BAR ASSOCIATIONS

Memo

To: IBA Council

From: Peter Köves

Date: 12 September 2011

Re: Training Guidelines for Bar Association

The Policy Committee of the IBA Bar Issues Commission set up its Training Working Group in 2006 because it was felt that training and education had become a focus of the Member Organisations. The members of the Training Working Group have been Olufunke Adekoya, Mikiko Otani, Horacio Bernardes Neto as the members of the Policy Committee and Kay Maxwell from the Academic and Professional Education Committee has been co-opted. The Training Working Group has been chaired by Péter Köves.

The Training Working Group has organised training workshops at the IBA main Annual Conferences in 2007-2008 to identify the main issues regarding training and education for the Member Organisations. The Faculty of Advocates of Scotland provided valuable help to organise these workshops. The three main areas of concerns identifies were

1. training the skill-set for lawyers at the university level before graduation;
2. post-graduate training for future lawyers;
3. continuing legal education for lawyers.

At the Bar Leaders' Meeting in 2008 the issue was discussed and priority was given to the 2nd area i.e. post-graduate training. The bar leaders also expressed the demand for guidelines in this area.

At a later stage in the preparation of the guidelines it was felt that due to the various training systems applied in different countries the 1st and 2nd area cannot be really separated and now the guidelines cover both (this is why it is marked by "I") while later similar guidelines are going to be prepared for continuing legal education ("II").

The Training Working Group decided after the Bar Leaders' Meeting that an online questionnaire should be sent to the Member Organisations in order to produce a catalogue of the various systems used in the training of future lawyers including the training providers, the content of the training, the length and costs of the training, the roles of the bar associations in the training, the role of ethics in the training etc. Finally a questionnaire consisting of 16 questions was prepared mainly in multiple choice form of an online questionnaire which went online in January 2009. After the first set of responses were received, they were discussed by the Training Working Group at the Mid-Year meeting in 2009 but because further responses were received later the final results were discussed at the IBA Annual

Meeting in 2009. There were 48 responses received out of 39 jurisdictions and with this and it was one of the best received questionnaires in the history of the IBA.

At the Bar Leaders' Meeting in 2010 in Copenhagen, the results of the survey were presented to the Member Organisations and the drafting of the guidelines started as well.

In the meantime the PPID also set up an Education Resolution Working Group consisting of Alejandro Ogarrío, Jim Klotz, David Stewart, and Robin Westbrook. The two working groups and Bop Stein met in Vancouver in 2010 and decided that the work of the two working groups should be unified a guideline for the training of future lawyers should be presented and guidelines for the training of future lawyers should be presented to the Council as a draft resolution regarding education.

Then the guidelines were further developed with the contribution of the members of the two working groups and the draft was presented to the BIC Policy Committee in 2011 for approval. The BIC Policy Committee has approved the guidelines for submission to the Council for approval.

The guideline was prepared with a view to have a short but useful document which can be used in every jurisdiction regardless of the system in which future lawyers are educated. The documents emphasising the necessity of the availability and affordability of such training, the emphasis which should be put on ethical-deontological considerations and underlines the need for the bar associations to be involved in such education in various forms.

These draft guidelines are respectfully submitted to the Council for approval.

Peter Koves
Chair

IBA POLICY GUIDELINES FOR TRAINING AND EDUCATION OF THE LEGAL PROFESSION

I. GUIDELINES FOR TRAINING OF FUTURE LAWYERS

These Guidelines were prepared by the Bar Issues Commission's Training Working Group. They have been developed based on a detailed survey of the various forms, methods and practices used to provide training to potential entrants into the profession in various jurisdictions around the world and reflect the observations and recommendations made to the Training Working Group. The results of the survey were analysed in thorough consultation with various bars and were presented to the bar leaders who expressed an interest in having such guidelines.

The Guidelines propose best practice for Bar Associations and Law Societies with respect to the specialised training requirements for preparing new entrants for the practice of law to become well-prepared members of the legal profession. They are not intended to replace the curriculum requirements for undergraduate or graduate training programmes in the various legal systems of the world, but recognise that differing educational accreditation systems, traditions and mechanisms exist in various jurisdictions.

1. Taking into consideration the role of the legal profession in serving the rule of law in a democratic society and within the justice system, the importance of proper legal education and training is of the highest importance and necessitates that no individual should enter into the legal profession without appropriate training.
2. The members of the legal profession, and the Bar Associations and Law Societies as their professional organisations, have prime responsibility to the legal profession to ensure that the specialized training programs available to intending entrants before they become full members of the legal profession provide adequate and appropriate preparation for the practice of law.
3. Although law is practiced around the world in various forms and in various fields, certain common requirements derive from the critical role of the profession and its close connection to the justice system and rule of law; therefore, Bar Associations and Law Societies should work to ensure:
 - a. that there is continuous improvement to the quality of preparation provided to intending entrants to the profession, at the undergraduate or postgraduate level, as appropriate to the practices and qualification requirements of their respective jurisdictions;
 - b. that such training incorporates both practical and theoretical knowledge and provides the necessary level of legal knowledge and skill-sets necessary to provide useful legal services to the public;
 - c. that such training gives special emphasis to ethical-deontological considerations and issues and incorporates ethical workshops developed by or with the assistance

of the Bar Associations and Law Societies into training programmes for the purpose of explaining the importance of ethical-deontological issues in real life situations;

d. that such training is available and affordable to future lawyers,

regardless in all the cases above of whether the training is organised, supervised or accredited by the Bar Association or Law Society (or with its active involvement) in the jurisdiction in question.

4. Bar Associations and Law Societies should always consider whether and how they can play a more active and positive role in ensuring the quality of legal education programs (including the content of curricula), inter alia by accreditation or other forms of involvement, including using their role in the approval of new applicants for admission to the practice of law, taking into account the varying structures of legal education and training as well as the differing regulatory frameworks governing the profession and the certification of new entrants thereto.