



Le Président
The President

Représentant les avocats d'Europe
Representing Europe's lawyers

Anne Ramberg
Secretary General
Swedish Bar Association
Box 27321
102 54 Stockholm
SWEDEN

Brussels, 27th August 2008

CCBE expresses support for the opposition of the Swedish Bar Association to the new Swedish Act on Signal Surveillance in Defence Intelligence

Dear Mrs Ramberg,

The Council of Bars and Law Societies of Europe (CCBE), which, through the national Bars and Law Societies of the Member States of the European Union and the European Economic Area, represents more than 700,000 European lawyers, would like to express its support for the opposition of the Swedish Bar Association to the new Swedish Act on Signal Surveillance in Defence Intelligence and the accompanying legislative framework.

We understand that the new Act will allow the Swedish Defence Radio Establishment ("FRA") – a civilian agency – to monitor traffic at all operator-owned Internet exchange points for traffic entering or leaving Sweden in search for all types of activities constituting an external threat to national security, and will enable the FRA to tap all cross-border Internet and telephone communication. Unlike the police, the FRA will not be required to seek a court order to begin surveillance.

The CCBE has in the past, during the passage of the EU's 2006 Data Retention Directive, expressed its grave concerns about legislative proposals such as this one, for two reasons:

- *Professional secrecy*: the CCBE believes that the fact of a government or law enforcement agency being able to know when, where, how and how many times a person consults his/her lawyer seriously challenges the confidentiality of the lawyer-client relationship and even the exercise of the right of defence itself. The CCBE believes that this goes to the root of the rule of law and a democratic society;
- *Judicial authorisation*: the CCBE believes that legislative proposals on data retention and access should provide for rules on judicial proceedings for access to the data.

The CCBE of course supports the fight against terrorism and crime. However, we are worried by initiatives which, under cover of the fight against terrorism, are serious infringements of fundamental freedoms and rights. Without ensuring confidentiality, there cannot be trust, and the lawyer will not be able to play his/her specific role in maintaining the rule of law.

Furthermore it is important that national legislative initiatives do not infringe the right to provide and receive cross-border legal services.

Yours sincerely,

Péter Köves
President