

### Foreword of the President

Dear Colleagues,  
Dear Friends,

As the year 2024 is coming to its end, it is my great honor to reach out to you with the new edition of AEA-EAL Newsletter. Before discussing our past activities in 2024 and upcoming initiatives in the new 2025, let me first wish you health, success and prosperity, a good time for you and your loved ones for this Christmas. May we all be united by the wish for peace, goodness and becoming better people.

Our Association strives to keep up with the needs of lawyers and respond to the challenges of the changing world. Thanks to the activity of our members and new areas of interest, we are constantly growing. In the last half of this year we involved in numerous activities:

- we were the partner of the 14th Polish-German Legal Forum that was held in Opole and was organized by the Opole Bar Association of Attorneys-at-Law,
- another edition of the traditional market-access conference „Liberal Market Order and Zeitenwende“ was held at the University of Bern and one of our Directors - Philipp Zirkindohr co-organized it,
- our Immediate Past President - Maria Ślāzak represented AEA-EAL at the 5th International Women in Law Conference „Making Law Attractive Again“, held in Vienna,
- another, 9th meeting of the Council of Europe's Committees of Experts on the Protection of Lawyers was held in Strasbourg, where AEA-EAL took part as an observer,
- AEA-EAL was one of the signatories of the Joint Statement calling for the universal abolition of the death penalty,
- our Deontology Committee organized a very successful webinar „Professional Secrecy and Legal Professional Privilege. An International View“ - in this newsletter below you may find the article summarizing the intervention of the Deontology Committee Chair - Nielson Sanchez-Stewart,
- AEA-EAL signed the trilateral cooperation agreement with the MCSU - one of the largest universities in Poland and with the KIIT - one of the fastest growing universities in India,

You will find more information on these events in the Newsletter below.

Let me also invite you to our upcoming events that have been planned for 2025:

- in January we will hold an opening meeting for the second edition of our Mentoring Program, that will be an opportunity to meet with its participants as well as with the participants of the first edition which was very well evaluated by both mentors and mentees,
- our Committees have been planning their online events for the first part of 2025 - the Deontology Committee is preparing the next webinar, following the success of the previous one on the professional secrecy, and there are also upcoming webinars by Mediation, New Technologies and Sustainable Development Law Committees,
- the third edition of the International Conference on Artificial Intelligence and Cybersecurity „Business. Algorithm. Law.“ co-organized by our New Technologies Committee will take place in Autumn 2025.

As mentioned before, our Association is growing. In 2024 we welcomed over 30 new members. I am very glad that more and more lawyers involve in the activity of our Association. I would like to encourage all the new and existing members to participate in the works of our committees that cover many areas of the legal profession.

As you can see the bar is set very high. However, in the new year we do not intend to lower it. I hope that with our actions in 2025 and the interesting topics for debates, the number of members from different countries and jurisdictions will continue to increase. Our Association always remains open to all your initiatives and ideas.

Warm regards,  
David Asatiani

President

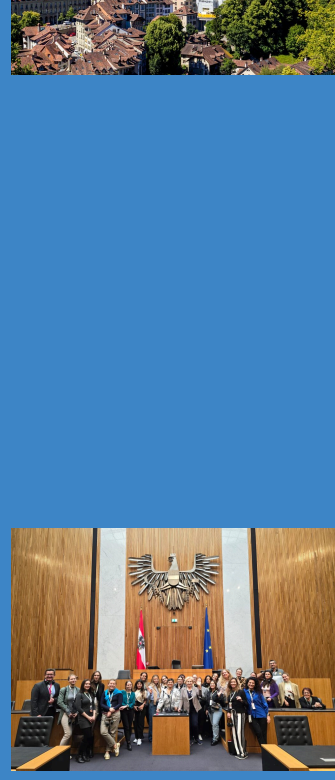
### PAST EVENTS IN 2024

#### 14th Polish-German Legal Forum

The 14th Polish-German Legal Forum was held on 5-7 September 2024 in Opole, Poland. It was organized by the Opole Bar Association of Attorneys-at-Law. The co-organizers are: AEA-EAL, Rechtsanwaltskammer Sachsen, Polish National Bar Association of Attorneys-at-Law (KIRP), Regional Bar Associations of Attorneys-at-Law in Walbrzych, Kłodzko and Kamią Źródnik, Łódź, Wrocław, Fundacja Współpracy Polsko-Niemieckiej and Opolskie Centrum Rozwoju Gospodarki, OCRG - a body of the local government of Opole Province. The Forum was also granted the patronage from the European Commission.

The forum included three days of intensive discussions, networking and integration which resulted in the immersion of topics of AML, international family law and lawyer country identity. Our Association was represented at the event by AEA-EAL Secretary General, Aleksandra Stewicka-Marszałek.

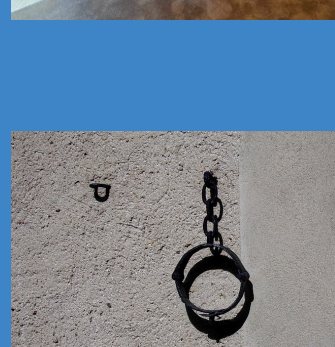
[WEBSITE](#)



#### Conference „Liberal Market Order and Zeitenwende“

On 12 September 2024 another edition of the traditional conference on market access was held at the University of Bern, Switzerland. The problems discussed at the conference included the relationship between Switzerland and the EU and various aspects of the liberal market.

The organizers of the event were Prof. Dr. Michael Hahn (University of Bern), Prof. Dr. Marc Bungenberg (Saarland University) and Prof. Dr. Philipp Zirkindohr (University of Basel), the Member of AEA-EAL Board of Directors.

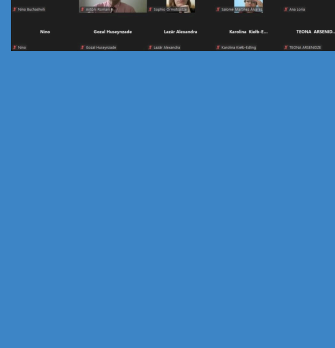


#### 5th International Women in Law Conference „Making Law Attractive Again“

The International Conference „Making Law Attractive Again“ was held in Vienna, Austria on 12-14 September 2024. It was organized by the Women in Law Initiative. The conference covered two main topics: Young Voices: The Future of Law (How can we create a more diverse and welcoming future for law) and Unlocking Equal Pay (How to promote pay transparency and combat the gender pay gap in Europe).

AEA-EAL was represented at the conference by the Immediate Past President, Maria Ślāzak.

[WEBSITE](#)



#### CJ-AV 9th Meeting

The Council of Europe's Committee of Experts on the Protection of Lawyers (CJ-AV) 9th meeting was held on 9-11 September 2024 in Strasbourg, France. It included the revision of the draft of the legal instrument aiming at strengthening the protection of the profession of lawyer and the right to practice the profession without prejudice or restraint; examination of the draft text and the draft explanatory report.

AEA-EAL was represented at this meeting by the Immediate Past President, Maria Ślāzak. This event also included a visit to the Strasbourg Consulate General of Germany.

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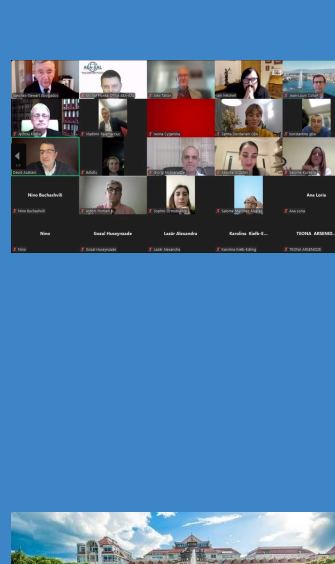


#### Joint Statement calling for the universal abolition of the death penalty

AEA-EAL was the signatory of the joint statement published on 10 October 2024. "As representatives of the profession of lawyer in various parts of the world, committed to the promotion and protection of human rights and the rule of law, the undersigned organisations joined voices in a unified call for the universal abolition of the death penalty, recognising the inherent dignity of every individual and the fundamental right to life".

"Additionally, the undersigned organisations encouraged authorities and all relevant actors of society to engage in constructive dialogues, share best practices, and support one another in the pursuit of alternative, humane, and effective measures to address crime and protect society in a manner consistent with the protection and promotion of human rights and the rule of law".

[WEBSITE](#)



#### Webinar „Professional Secrecy and Legal Professional Privilege. An International View“

On 28 October 2024 AEA-EAL Deontology Committee under its Chair and AEA-EAL Vice-President Nielson Sánchez-Stewart, organized an online webinar dedicated to the problems of professional secrecy and legal professional privilege. The event attracted more than 120 registered participants from various countries and jurisdictions.

The webinar was opened by AEA-EAL President David Asatiani, who welcomed all the participants and addressed the importance of the topics to be discussed. The webinar speakers made very interesting interventions, which were then followed by a vivid discussion which concluded with the announcement of the another webinar to be held by the Deontology Committee.

The speakers were AEA-EAL members: Iain G. Mitchell KC, Jędrzej Klatka, Jean-Louis Collart, Alex Tallon, Vladimir Palamarciuc and Nielson Sanchez-Stewart, whose intervention was published further in this newsletter.

You may also find another presentation of the webinar speakers on AEA-EAL website.

[WEBSITE](#)



#### Cooperation Agreement between AEA-EAL, MCSU and KIIT

On 25 November 2024 the cooperation agreement was signed between the AEA-EAL, the Maria Curie-Skłodowska University (MCSU) in Lublin and the Kalinga Institute of Industrial Technology (KIIT) in Bhubaneswar, India.

The agreement was signed by Prof. Ślāzak (AEA-EAL Immediate Past President), Mar. Dr. Arkadiusz Beresz (MCSU Vice-Rector of General Affairs) and Dr. Varun Suthra (KIIT Director of International Relations). The Parties agreed to support the development of mutual contacts and cooperation in scientific activity, research and development, and in teaching.

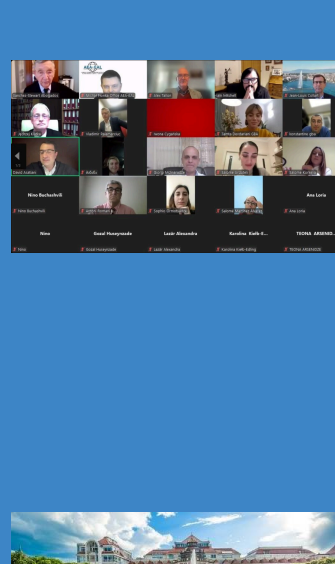


### UPCOMING EVENTS IN 2025

#### Opening meeting with the participants of the Mentoring Program

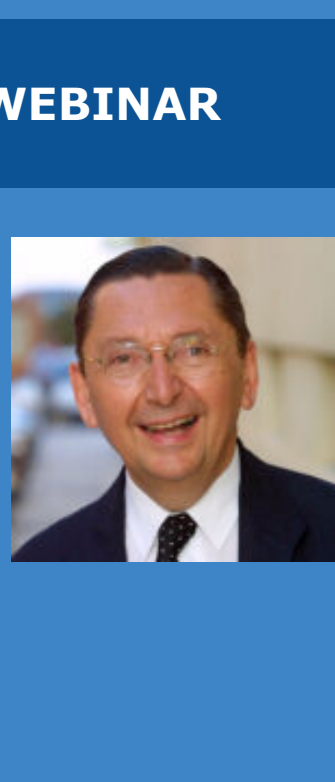
On 23 January 2025 AEA-EAL will organize the opening meeting for the participants of the second edition of the Mentoring Program. This program is a joint undertaking of AEA-EAL and the European Young Bar Association (EYBA).

The meeting will be hosted by AEA-EAL President, David Asatiani, the Immediate Past President, Member - Vladimir Palamarciuc, who is the coordinator of the Mentoring Program. Invited to attend will be the members of the Association as well as the participants of the first edition of the Mentoring Program.



#### Upcoming webinars by AEA-EAL Committees

AEA-EAL Committees: Deontology, Mediation, New Technologies and Sustainable Development Law are planning the organization of their webinars in the first half of 2025. Our members will be invited and informed about the details in due course.



#### International Conference on Artificial Intelligence and Cybersecurity „Business. Algorithm. Law.“

The third edition of the international conference, organized by the Gdańsk Bar Association of Attorneys-at-Law and AEA-EAL will take place in Autumn 2025. This will be the third time for AEA-EAL New Technologies Committee to take part in organizing that event.

This time the conference will focus on artificial intelligence and cybersecurity within targeted sectors: maritime, insurance, life sciences, and alternative dispute resolutions.



### DEONTOLOGY COMMITTEE WEBINAR

#### „Professional secrecy and duty to communicate as the main obligation of lawyers in the prevention of money laundering and terrorist finance“.

Spanish law defines the Lawyer as the Graduate who is professionally dedicated to the defence of the interests of others and to provide legal advice or counselling.

These two functions, defence, on the one hand, and legal advice or counselling, on the other hand, are the ones that frame the duty of professional secrecy that imposes the Lawyer to keep reserve on all the facts or news that come to his knowledge in his practice. This seems to be unequivocally deduced from the coordinated interpretation of the first and third paragraphs of Article 542 of the Organic Law of the Judiciary.

1. The name and function of lawyer corresponds exclusively to the person who in Law will professionally exercises the direction and defence of the parties in all types of proceedings, or legal advice and counselling.

2. ...  
3. Lawyers shall keep secret all the facts or news that they know or by reason of any of the modalities of their professional activity, and they may not be obliged to testify about them.

Apart from those functions, the lawyer can carry out other activities, as many as he wants or can, always within the legality, but in them the obligation of secrecy does not reach him.

Failure to comply with the obligations of keeping professional secret could result in deontological and even criminal sanctions - article 197 of the Criminal Code -, civil liabilities for breach of obligations to the client for whose interests he had to watch over with the utmost diligence, keeping professional secrecy.

The preventive law of money laundering and finance terrorism, Act 10/2010 of 28th of April determines that the lawyer is obliged to collaborate in the prevention of money laundering when he participates in the advice of certain financial, real estate or commercial operations - cfr art.2 letter f) of the law - and, consequently, he or she is obliged to communicate to the financial unit the indications or certainty of money laundering and to collaborate with the Executive Service, SEPBLAC is the anagram in Spain. This without advising the client of this communication: there is no tipping off.

Infringement of his duty to communicate the operation that offered him indications or certainty of money laundering would entail heavy fines.

The Spanish Act use of the term 'advice' asesoramiento - which the Directive did not use - creates concern because the same term is found in the Organic Law 6/1985, of the Judiciary. Thus, at first sight, the lawyer was subject to two kinds of opposite obligations when advising.

On the one hand, to keep confidential all the facts or news that he/she may have known in the exercise of any of the functions that he/she carries out and, on the other hand, to inform the Financial Unit of the indications or certainty of money laundering that he/she may know or conceive in the development of the activities that made him/her an obliged subject, among others, to participate in the advising of real estate, financial or mercantile operations or to act in the name and on behalf of the client in any of them.

These obligations: to maintain confidentiality and to report (also to cooperate) appear to be incompatible and this apparent conflict must be resolved.

In matters of the activity of defence, there should not be a problem as the lawyer is not an obliged entity when he acts in the interest or on behalf of a client in that mission either before the courts or before any administrative body. He only has such a character in the cases foreseen in the aforementioned letter f).

The preventive law itself reaffirms the non-obligation in its article 22, a provision that, in my opinion, is superfluous. It recites, "Without prejudice of its provisions, the lawyer shall keep professional secret according to the law."

The problem is the provision of the law.

The third and fourth successive directives only refer to advice in order to exclude it from the entity's own obligations, partially when it refers to prior, contemporaneous or subsequent to legal procedures. We already know that any situation with legal consequences may be the subject of a legal dispute in the future.

As provided, then pure advice, the determination of the client's legal position, what the French define as 'the personalised intellectual service aimed at providing an answer on the application of a legal rule with the possible aim of taking a decision' is outside the scope of the obligations imposed on the legal profession.

But nowadays, the advice is not exhausted in itself and requires the lawyer, because the client and the market demand it, to carry out complementary actions after, by advising the one who demands his services, he determines that what he proposes is lawful and feasible. And, then, he enters into what we may call the 'legal management' activities, the set of activities that are necessary to successfully complete the pretensions of those who wish to acquire a property, found a company or carry out any other financial operation. And that legal management, born from the advice and that runs parallel to it is not included nowadays within the lawyer's own functions that, according to the aforementioned article 542, are limited to two: defence and advice. Amongst other things, because it can be carried out by a non-lawyer.

There is a formula to determine up to where the advice reaches and where the management begins: the irrevocability. While, in general, the advice can be reproduced and can be requested to a professional and then to another or others - and it can be amended as long as it is not followed, it can be amended, the management produces effects that are difficult to repeat.

There could be a solution based on the time factor in which the advice is given. In terms, it could be said that if it was prior to the operation, the duty to communicate prevailed. If it was subsequent to the transaction, the duty of secrecy would prevail because then, in terms of the Community directives, the 'legal position' would be determined.

Even this interpretation is not beneficial to the profession - we may sustain that there is no incompatibility between the professional rule and the preventive rule. The client who just seeks advice is protected by the lawyer's obligation to keep secret everything he entrusts to him. The client who wants something more: to be accompanied by the lawyer in all his activity, is no longer protected. He must know that through the professional he cannot develop criminal purposes because he exposes himself, with all certainty, to his actions being communicated to the body in charge of the prevention and the Lawyer cannot take refuge in his right to keep confidentially because when managing, he participates in and takes away his condition as a Lawyer, at least in the narrow limits as it is legally conceived.

Lawyers can do many things and, of course, we do: we act as arbitrators, as mediators, as agents, as executors, as managers, as proxies, but in none of these activities is our client protected by professional secrecy, without prejudice to our obligation of fidelity towards them which implies not revealing their confidences or misusing them, unless a law - as is the case of the preventive law - obliges us to carry out certain actions.

Conclusions.  
1. when acting as a defence lawyer, the lawyer is not obliged to comply with the rules on the prevention of money laundering.  
2. when he limits himself to advising, to determine the legal position of the client and to advise him on the path to follow, neither is he obliged to do so.  
3. when he is involved in the matter he is consulted on, when he participates in the operation, even if he is advising on its success, he is not obliged to keep the professional secrecy and subject to the obligation of reporting and collaborating with the Financial Unit.

Nielson Sanchez Stewart  
Advocate  
Vice President of the  
Deontology Committee  
Consejo General de la Abogacía Española



#### Closure of the ODR platform

On 19 November 2024 the Council of the European Union adopted a regulation to shut down the European Online Dispute Resolution Platform (ODR platform) and remove the associated obligations for administrations and online businesses.

The European Online Dispute Resolution (ODR) platform was provided by the European Commission to make online shopping safer and fairer through access to quality dispute resolution tools.

On 25 September 2024, the Council of the European Union adopted its negotiating position on the ADR directive, which proposes, among other things, the replacement of the ODR platform by a new digital tool, that had to be developed three months after the entry into force of the revised ADR directive, at the latest. The negotiating mandate also required the Commission to promote the tool and provide for its technical maintenance.

