

History

ECLA celebrated its 30 years existence in 2013. However, the beginning was even earlier. Mr. Francesco Benigni, Italy, former General Manager of ECLA, wrote a history of ECLA for us to remember. Han Kooy, The Netherlands, former ECLA President, interviewed Bengt Gustafson, Sweden, another former ECLA President, and Francesco Benigni on the topic of ECLA history on ECLA Forum in Brussels.

H.K. We celebrate today in this beautiful Palace d'Egmont ECLA's 30th anniversary. But of course we have a history of our own. I am making now an interview with two important men out of ECLA's history. Francesco Benigni you were and are involved in ECLA for a very long period of time. Later you were even the first professional General Manager of ECLA from April 2007 to June 2009. Francesco wrote an extensive history of ECLA, which you can find on our website. And Bengt Gustafson, you were president during an important period of ECLA and you are still active also after your resignation as president in 2007.

Dear Francesco, what was preceding the official start of ECLA in 1983? I understand there were some preceding informal contacts between some national associations? Which countries were involved?

F.B. There were indeed some informal meetings since 1980, between a limited number of countries (as written in the History). The actual establishment of ECLA in 1983 was shortly after the AM&S case. I would like to stress that one of the principal goals of ECLA, as expressed by president Walter Kolvenbach, was the recognition and acceptance of the company lawyers profession in Europe: at that time, in many countries in Europe, if one excludes the UK and the Netherlands, it was not at all obvious that there was such a profession.

H.K. Dear Bengt, we know that in the history of ECLA two court decisions of the European Court of Justice were of paramount importance for ECLA, i.e. the A.M.& S case in 1982 (in fact acted as the source of inspiration for the formation of ECLA) and the AKZO Nobel case in 2010, both on professional legal privilege for company lawyers. Can you tell us something about the background and common aspects of these two cases, which we unfortunately both lost? And this despite the enormous efforts of our pro bono outside counsels: Maurits Domans, John Temple Lang (who even was involved in the 1982 (AM & S) case and of course Kristina Nordlander. Fortunately, they are all present today in this room.

B.G. I will cover the legal issues shortly and the reasons used by the ECJ for denying LP to company lawyers. The attitude of the European Commission versus legal privilege for company lawyers was generally speaking not very positive, in our point of view. However, the European Parliament had a different view. The EP even adopted in 1999 a motion in favour of LP for certain company lawyers. We all know that there were conflicting opinions in the EU – where the Parliament actually adopted a motion giving company lawyers LP protection - as suggested by ECLA. However this initiative by the Parliament did not lead to any actual LP accepted by the Commission. I nevertheless say this as it shows that ECLA is not completely alone in its wish to get LLP for company lawyers.

H.K. Bengt, you started a program aimed at providing 'visible and real benefits' for individual company lawyers. In your term also new members from Eastern Europe joined ECLA. How did you stimulate that?

B.G. We were using the "chain effect" – if one East European association was happy it would tell other East European associations of the benefits of joining ECLA. So we made sure that we had people from the east-west-south and north in the Executive Board, some were even heading task groups And we did visit them – Poland, Croatia, Bulgaria, Czech Rep. It made them feel involved, engaged and important.

H.K. Francesco, you co-organised some conferences together with ERA. Can you say something about that? How did it go?

F.B. Yes ECLA co-organised three conferences during my term (2007-2009) on EU law themes in Brussels. And the participants were from many European countries. Maybe it is time, after this Forum, to organise something again next year.

H.K. And finally a question to myself. What happened during the period of the last three presidents and the present president Philippe Coen (elected in 2012)?

H.K. In 2010 we had the AKZO Nobel case, which we lost but there were also some positive aspects in the Court order. So, there are now rules how to deal in case there is a dispute about yes or no of LP. This may be submitted (in a closed envelop) to the Court which will then decide upon that. With our new energetic President, Philippe Coen ECLA became more open and modern and tries to have a more accessible profile in the legal world. New logo, new website and more visits to conferences of national associations and other legal organisations. We still have some miles to go, but we will certainly manage. It is as with the 'real, big' Europe. We continue to move in the right direction!!



ECLA Presidents. From front left: Paul de Jonge (2007 - 2008), Dr. Peter Kriependorf (2010 - 2012), Georges Carle (1990 - 1992), Philippe Coen (2012 - 2014), upper row: Han Kooy (2008 - 2010), Colm Manin (1998 - 2001), Bengt Gustafson (2004 - 2007)



ECLA General Managers. From left: Francesco Benigni (2007 - 2009), Paul de Jonge (2009 - 2010), Petr Šmelhaus (2010 - 2014)