

UNCA

WHAT IS CARPA.....?

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An Association governed by the law of July 1, 1901

UNCA

A technical organization, the *Union Nationale des Caisses d'Avocats* (National Union of Lawyers' Funds (UNCA)), is perhaps the least known organization within our profession and yet it is made up of the 173 Carpas, i.e. the 180 local bar associations of metropolitan France, France's overseas *départements*, and Nouméa.

In addition to its contacts with the public authorities, in the domain of the handling of funds and legal assistance for the technical aspects, the Unca offers the Carpas the means of meeting their obligations, by establishing standard documents – Articles of Incorporation, By-laws, conventions with banks – and computer tools.

Its means have enabled the Unca, approached on the occasion of the discussions for the reform of legal assistance, to produce statistics utilized by our ordinary authorities, but also by the Bouchet commission and the services of the Ministry of Justice.

Although it is conceivable that the Unca not be known by all, it is unfortunate that the Carpas are often little known, and often totally unknown, by our clients and external contacts.

We regret that sometimes our fellow lawyers themselves do not always grasp the merit, for their clients, of the “passage of client funds through the Carpa”.

The handling of funds by a lawyer must be perceived by all as a “quality label”, identified with expertise, a regulated profession, security, a guarantee of integrity as to the origin of the funds; and any lawyer who acts independently thereof is liable to disciplinary prosecution.

It therefore appeared useful to recall a few obvious facts concerning the merit of going through the Carpa, which meets a legal obligation;

1. The Carpa – General principles:

The Carpa is not a financial establishment. However it is mandatory that lawyers practicing in France deposit with the Carpa the money they receive for their clients' account if these funds are accessory to a professional, judicial or legal act, and this regardless of the payment instrument given to the lawyer.

It is a guarantee for clients, who receive the assurance the funds entrusted to their counsel will be represented.

The Carpa, created as an association, functions under the political and deontological control of the Bar Association(s) which has (have) created it.

Although an individual movement of funds would produce no financial proceeds, the pooling of all funds produces a sum which can be invested on financial markets, with an obligation to guarantee the capital. This balance produces financial proceeds which are utilized in the collective interest of justice and our profession. This constitutes an undeniable advantage.

2. – The advantages of the Carpa:

The advantages of our Carpa system are:

- 1. the total, unconditional guarantee for third parties, lawyers' clients, of the representation of the funds, accessories to a legal or judicial activity, entrusted to them.**
- 2. the traceability of the funds handled in the respect of the professional secrecy which the lawyer shares with the President of his bar association,**
- 3. the security of the financial proceeds, which do not benefit lawyers individually, but the group as a whole, serving justice and our profession;**

These financial proceeds make it possible to finance the necessary incompressible expenditures for:

- the Carpa's general operations (the personnel which handles third party funds and legal assistance, its training and the ongoing information it receives from the Unca in particular – dues -, the hardware and corresponding software).
- Fund handling insurance,

Then:

- contingencies (illness)
- professional training
- the Bar Association's social works and,
- since 1991, access to the law.

We recall that the law of July 10, 1991 entrusted to the Carpas, under the supervision of their Bar Association, the management of public funds in the domain of legal assistance. It was supplemented for financial assistance for the intervention of a lawyer during police custody, mediation and composition in criminal cases, as well as for providing assistance to prisoners during disciplinary procedures.

3. Therefore, we can assert that the Carpa constitute an *avant-garde* tool for dealing with current constraints:

Far and beyond the advantages mentioned, the Carpa is a true instrument for combating and preventing money laundering.

The examples abound in which the Carpa, with the help of the Unca, were able to intercept and turn back funds from what proved to be suspicious origins, and for which the lawyer's ministry appeared to be utilized fraudulently for unlawful operations, sometimes under coercion exercised against our fellow lawyers.

We must see to it that people realize that a movement of funds by an attorney is carried out only in the respect the spirit of a quality charter and a set of ethical rules which protect our clients' interests and those of the public in general.

Reasons for which each time funds are moved, the lawyer must ask the following questions and the Carpa must be able to perform a verification:

- **For whom is the money being transferred?**
- **Why is the transfer taking place?**

- **How has the money been transferred?**

4. – European prospects:

The Carpa system could be adopted by other countries in the European Union which share the same concept of the lawyer's mission, in the respect of sustained, acknowledged deontological supervision; a lawyer is not an opaque agent who can launder dirty money.

A lawyer is not a "professional" through whom funds can transit without total awareness of the origin and destination of the funds, and this under the auspices of a misinterpreted professional secrecy, or carried out with the intention to commit fraud.

The lawyer's role, such as we conceive of it, is to defend the interests of our clients, both in court and in protecting their assets and furthering their economic interests, while respecting lawful professional secrecy (an obligation implicit in the confidence entrusted to us by our clients), which must be neither distorted nor deterred by excessive security constraints.

These are all reasons for which we believe that the Carpa is a satisfactory response to the wishes expressed by European lawmakers in their efforts to extend the European directive for the prevention of money laundering.

I hope I have contributed to furthering knowledge of the Carpa, a technical organization serving lawyers in the interests of those calling upon the law.