
CCBE President's speech for
Serbian Lawyers day:
161 years of legal profession in Serbia

25 February 2023 – Belgrade



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25/02/2023

Dear Colleagues,

On behalf of the CCBE, I wish to extend our warmest congratulations on the occasion of the 161st anniversary of the legal profession in Serbia and the Legal Profession Day.

I also want to thank you, and personally your President, Yasmína Milutinovic, for the invitation and for the fantastic hospitality.

This is my first time in Belgrade and in Serbia in general, and I can say that now I can better understand the unique spirit and the pride of your nation.

However, I am here today to speak of another nation, our common nation, the lawyers' nation, as Jaqueline Scott, the President elect of the International Association of Lawyers (UIA), said last night in a discussion we had during the dinner.

Yes, we are one nation, because we have the same values and because our existence is an irreplaceable component of the rule of law. As lawyers, we are the guardians of the rule of law and the defenders of the fundamental rights of the citizens in our countries.

As you all probably know, the CCBE, the Council of Bars and Law Societies of Europe, which represents the national Bars and Law Societies of 46 countries, and through them more than 1 million European lawyers, is considered as the official representative of the legal profession in Europe and as the European voice of the profession. This is why we have permanent relations with all the European Institutions, as well as with the United Nations and other important international organisations.

We contribute every year on a regular basis to the EU Justice Scoreboard, as well as to the European Commission Rule of Law Report. In particular, it was after our own recommendations that the independence of lawyers and of the Bar Associations were included as indicators of the justice system in the EU Justice Scoreboard, as well as an indicator of the level of the rule of law in each country in the annual Rule of Law Report.

What we are doing in the CCBE, where the Bar Association of Serbia participates as a member for the last 17 years is, on the one hand, a continuous production of positions, justifications and arguments regarding the profession and its core values and, on the other hand, a continuous fight to persuade, to promote and to defend.

What our priorities are:

Nowadays, when our profession faces unprecedented challenges, **independence is still our first priority**. Independence is of the utmost importance not only for us lawyers, but also for the citizens, for the functioning of the whole judiciary in a democratic society and for the rule of law in general. Independence of lawyers and of the Bar Associations.

Other priorities are:

The protection of lawyer–client confidentiality and the legal professional privilege. Contrary to a common misconception, the existence of professional confidentiality is intended not to protect lawyers, but to protect their clients. So essential is this relationship of confidentiality to the rule of law, that there cannot be a fair trial without it. It is also attached to the protection of general interest, as it contributes to the proper administration of justice.

It is, therefore, clear that legal professional privilege is part of fundamental principles that compose the rule of law. Defending the interests of clients is always a priority for all of us.

The defence of the principle of non–identification of lawyers with their clients. Recent events at a European and international level have given rise to situations whereby lawyers have been presented as enablers of illegal or unethical practices. It is important to be clear that the CCBE and its member Bars and Law Societies do not, and never will, condone the actions of any lawyer who knowingly participates in any criminal activity of a client, whether relating to money laundering, tax evasion or any other criminal activity. Everyone deserves access to justice, which means access to a lawyer, to an independent lawyer, who should not be identified with their client. Lawyers are not their clients.

Another important priority, a top priority, is of course **the establishment of a new legal instrument on the protection of the profession of lawyer** (“the Convention”). Since its very initiation in 2017, we constantly support the work carried out by the Council of Europe on this topic. The CCBE strongly believes that a binding legal instrument is needed to respond to the growing attacks and challenges faced by the legal profession, which directly hinder the respect for the rule of law and access to justice for the lawyers’ clients. We are optimistic that at the end of this year, the Convention may be adopted. As an observer member in the respective Committee of experts, the CCBE will continue to contribute to the drafting process and make sure that the voice and practical experience of European lawyers are reflected in this new instrument.

All the above, along with the continuous monitoring, very actively when needed, of the issues related to **the impact of digital technologies on our work and the justice system**, in particular of artificial intelligence (AI) and the need to control it, putting the necessary limits to keep justice human, are our priorities for this year.

More specifically, regarding digital technology, the use of AI raises many questions, especially with regard to fundamental rights and the rule of law. In several aspects, AI may improve the quality of

our justice system and ease access to justice. However, as a general rule, the CCBE considers that the respect for fundamental rights and adherence to high ethical standards that underpin institutions based on the rule of law, cannot be subordinated to mere efficiency gains or cost-saving benefits, whether for court users or judicial authorities. AI systems should be introduced in the justice system only when there are sufficient safeguards against any form of bias or discrimination. The CCBE considers that a set of rules and principles governing the use of AI must be defined and adopted. The use of AI tools must be reconciled with the fundamental principles that govern the judicial process and guarantee a fair trial, including the use of adversarial procedures, the equality of arms, and the impartiality of the court. Even if there might be a temptation to sacrifice all for efficiency, these fundamental rights must remain guaranteed to all parties seeking justice. The CCBE stresses that the AI Act should be strengthened with the prohibition of automated decision-making by AI systems in the field of justice or even systems which promote the temptation to only rubber-stamp prepared decisions of AI systems. Our position is that the judge should not be allowed to delegate all or part of their decision-making power to an AI tool. In any case, a right to a human judge should be guaranteed at all stages of the proceedings.

I could say much more regarding what we are doing, but I have to stop here. I want just to ensure that the CCBE's activities will continue to grow, with particular regard to the challenges young lawyers face. To this end, a new Young Lawyers Committee has already been established, to address matters of interest to those colleagues at the start of their professional career. They are the future of our profession, and we will give them all the attention they deserve.

Dear colleagues, I do not know how many changes the legal profession faced in your country during those 161 years. Probably the most important is the election of a woman as President, which Yasmina, with her work and her vision, absolutely deserves.

But I know well that the next 16 years, or even less, will bring more changes than all the previous 161 years. Changes more decisive for our profession, in Serbia and everywhere in the world.

That is why we must work together, united, to make our voice louder, to be heard everywhere and to be respected, especially where the decisions are made.

Thank you for your time!

Panagiotis Perakis