

The 51st European Presidents' Conference in Vienna

Annual Country Report of the Croatian Bar Association for 2022

Introductory remarks

The annual country report of the Croatian Bar Association (“CBA”) gives an overview of major activities, developments and challenges that impacted the functioning of the legal profession in the Republic of Croatia in 2022. It also provides statistics on the number of lawyers and trainees that were admitted to the CBA.

1. Demands impairing the autonomy and independence of the CBA and of the legal profession

a) Demands for the reduction of the admission fee and membership fee

The CBA continues to face pressures from the European Commission and the Ministry of Economy and Sustainable Development regarding the reduction of the admission and the membership fee that serve as primary sources of income used by the CBA in financing its powers and duties prescribed by law towards its members on the one hand and towards all Croatian citizens benefiting from the CBA’s services on the other.

Each and every CBA’s activity is financed exclusively by the funds stemming from the membership fee and the admission fee. The CBA is not funded by the State budget nor by any national body or non-governmental national or international organization or any other person or entity. The CBA is therefore best placed to evaluate its financial needs necessary for carrying out its numerous duties entrusted to the CBA by the Lawyers’ Act. The amount of the admission and membership fee is set by taking into account many duties and obligations of the CBA while ensuring that lawyers and trainees no longer bear the costs of expert trainings, workshops, the issuance of certificates and other CBA’s services. In addition, in the cases of departed lawyers the CBA provides financial support to their family members and grants scholarships to their children for the needs of their regular education until the age of 26.

The CBA’s stance is in line with the opinion of the Constitutional Court of the Republic of Croatia expressed in its following decisions: U-II-271/1992 of 9 June 1993, U-II-266/1997 of 31 March 1998, U-II-1081/2002 of 12 March 2008, as well as with the stance of the Council of Bars and Law Societies of Europe (“CCBE”) expressed in its formal letter of 14 November 2014 addressed to the Spanish Ministry of Economy and Competition. The letter states that the CCBE believes that fees to be paid to Bars by its members must remain under their own

authority. Bars, when determining fees to be paid, take into account the legal, social and economic considerations of a given country, in addition to the needs of the profession and the services offered to their members and their members' clients. As a result, differences in national fees charged to lawyers necessarily vary from country to country making it impossible to arbitrarily set an amount of the annual fee that would be applicable in all EU member States.

b) Demands for the reduction of certain points of the Lawyers' Tariff

During 2022 the institutional pressures continued towards the CBA warranting the reduction of certain points of the Lawyers' Tariff. They resulted in incorporating the recommendations for the reduction in the draft text of the Third Action Plan for the Liberalization of Market Services.

The CBA is of the opinion that the exerted pressures are unfounded since the Tariff is flexible enough and offers lawyers and their clients a wide range of possibilities for setting the price of legal assistance regardless of the type of the case. For example, the lawyer and the client may stipulate the lawyers fee proportionate to the success achieved in the proceedings, they may envisage a lump sum fee, an hourly rate or in some cases they can curtail the fee up to 50%. The price of the legal assistance in Croatia is not nor will it ever be an obstacle that impedes clients to obtain judicial or non-judicial protection of their rights through legal representation by lawyers.

So, CBA does not agree with the suggestion to incorporate the measures targeting the reduction of the Lawyers' Tariff into the Third Action Plan for the Liberalization of Market Services and finds it unfounded in its entirety. However, due to the introduction of the EUR as the new official currency in Croatia as well as the harmonization of the Tariff with the relevant legislative framework, the CBA is currently in the process of amending the Tariff. In doing so, the CBA will as it has until know, take into account the protection of the economic and social interests of lawyers and their clients.

2. Introduction of the collective insurance for lawyers

Over the course of the past years the CBA invested efforts to take over the professional indemnity insurance on the behalf of all lawyers pursuant to Article 44 Paragraph 5 of the Lawyers Act. As a result, in accordance with the decision of the CBA's Governing Board of 15 October 2022 the CBA concluded the collective insurance policy in respect of all lawyers in the Republic of Croatia covering the damages that they might cause to others during the exercise of their professional duty.

The collective insurance policy acts as a safeguard for clients enabling them to obtain compensation from the insurance company if the damages occur, bearing in mind that all the lawyers are insured on the basis of the collective insurance policy and any possibility of lawyers not having a professional indemnity insurance is thereby excluded.

3. Enhanced efforts aimed at ensuring the continuous education of lawyers

In 2022 the CBA introduced the new Rules on Continuous Training of Lawyers. As of 1 January 2023, lawyers are under an obligation to have a minimum of 12 hours of participation

on a yearly basis in educational activities that are provided free of charge by the CBA through a specialized e-learning platform. The aim is to strengthen the level of expert knowledge of lawyers on the national legislative framework and case-law while taking on board the proposals in the 2021-2024 European Judicial Training Strategy for strengthening their knowledge on EU law as well.

4. Free legal services to citizens

In 2022 the CBA continued to provide free legal aid pursuant to Article 21 of the Lawyers Act by appointing lawyers who are on the basis of the CBA's decision under an obligation to provide legal services free of charge to the victims of the Homeland War, to socially disadvantaged persons in legal matters related to their status. The lawyers moreover provide free legal aid in children's alimony or custody proceedings. In doing so, the legal profession safeguards the protection of the most socially disadvantaged citizens and ensures the protection of their rights and legal interests.

With a view to providing support to the citizens of Ukraine, the CBA broadened the scope of free legal aid to displaced Ukrainian citizens that fled Ukraine due to the war and brutal aggression by the Russian Federation on that country and are currently residing on the territory of the Republic of Croatia. In order to guarantee a prompt access to legal aid the CBA introduced a simplified procedure that ensures appointment of a lawyer regardless of conditions laid down in the Lawyers Act for obtaining the free legal aid.

5. Digitalization of the CBA's work processes and the provision of services

During 2022 the majority of the CBA's work processes were digitalized through a tailor-made program designed to speed up the admission process and to keep track of any change related to the status of CBA's members. It has already showed important advancements in the provision of services to members since all the information necessary for the regulation of the status of a lawyer or a trainee is now readily available in a centralized program.

The CBA is participating in the project carried out by the Ministry of Justice and Administration in cooperation with the Council of Europe. It is aimed at ensuring the availability of the national case-law to lawyers.

In January 2022 the CBA moreover launched its new official website. The layout of the website was completely refurbished with a view to providing a more user-friendly platform on relevant and up-to-date information for lawyers. It introduced a more functional Directory of lawyers by adding various search criteria and by incorporating the Directory of foreign lawyers. In addition, the website ensured a more swift and effective electronic communication and exchange of information between the CBA and its members by designing a dedicated portal called "My CBA". The CBA's members can now easily obtain the necessary documents issued by the CBA and are kept abreast on all topics relevant for the lawyer's service.

6. Contributions to legislative reforms

The CBA attaches a great importance to the participation in the legislative reforms since it acts as an expert watchdog that ensures the enforcement of the rule of law and contributes to an

adequate application of human rights. Through its representatives who participate on a voluntary and free of charge basis the CBA takes part in the activities of working groups set up within the Ministry of Justice and Administration vested with powers to prepare drafts of legislative acts. Along these lines in 2022 the said Ministry accepted several CBA's proposals regarding the draft changes to the Criminal Proceedings Act and turned down proposed changes to draft amendments to the Civil Proceedings Act that would contribute to a more expedient conclusion of the proceedings. The CBA therefore considers that although the Ministry recognizes the importance of the CBA in the law-making process there is always possibility for improvement that could upscale the dialogue and contribute to an even more effective exchange of views so that they take on board the viewpoints of the CBA whose members have a direct insight in the problems of the judiciary through their everyday practice.

7. Membership increase

During the past years the number of lawyers continues to rise in the Republic of Croatia. In this respect it is highlighted that during the last three years the number of yearly admitted lawyers has almost doubled ranging from 155 in 2020 to 296 in 2022. Along these lines it is indicated that on 18 January 2023 there were a total of 5083 lawyers admitted to the CBA's Directory and 1508 trainees as well as 16 lawyers licensed to practice law under the professional title of their domicile country other than Croatia.

8. International cooperation

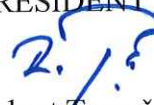
The CBA would primarily like to thank the French delegation for their initiative regarding the Declaration of European Lawyers in Support of the Rule of Law that was opened for signature during the 50th European Presidents' Conference that took place last year. The CBA gladly signed the Declaration in hope that it will contribute to a more effective protection of the legal profession and access to lawyers.

The CBA moreover continues to support the work of the CCBE, IBA and UIA. The CBA also participates in their activities that focus on preserving the independence of both bars and the legal profession. On this note, through its delegation before the CCBE, the CBA submitted observations on the new legal instrument of the protection of the lawyer that is currently drafted by the Council of Europe. The CBA highlighted the importance of the protection of the professional secrecy and the exclusion of any interference by the executive branch in the functioning of Bars.

9. Presidential elections

In November 2022, the Assembly of the CBA elected for the third time Mr Robert Travaš as the president of the CBA who already held two terms of office (2012 – 2018).

Zagreb, January 2023

PRESIDENT

Robert Travaš