



## REPORT BY THE CROATIAN BAR ASSOCIATION

*Croatian  
Bar  
Association*

The past year 2013 was of major importance to the Republic of Croatia and to the Croatian advocacy. On 1 July 2013 the Republic of Croatia became a full member of the European Union and the Croatian Bar Association became a full member of the CCBE.

The year 2013 was also marked by the introduction of fiscal cash registers for lawyers when collecting their fees in cash. The Croatian Bar Association opposed energetically the introduction of such fiscal cash registers. The reason for it was that the provisions of the Cash Transaction Fiscal Management Act ("Zakon o fiskalizaciji u prometu gotovinom») and afterwards also of the Cash Transaction Fiscal Management Rulebook, stipulate the elements to be contained in a fiscal invoice including, among other things, personal information of clients and a precise description of the lawyers' service, impairing thereby the grounds of the performance of our profession, i.e. the lawyer-client privilege, or, in other words, the obligation of professional secrecy. Following hard and long-lasting negotiations with the Minister of Finance and other responsible officers from the Croatian Ministry of Finance and with the significant support provided by the CCBE and the UIA, thanks to the letters sent by CCBE President and UIA President, and with the mediation and assistance by the Croatian Justice Minister Orsat Miljenić, agreement was reached that the fiscal invoices of lawyers, which are forthwith sent electronically to the Croatian Tax Administration, do not have to include personal information of clients and a precise description of the type of service, but only the information that a legal service was provided and the amount of the lawyer's fee charged. In that way, the client-lawyer privilege has been preserved, and thereby also the obligation of professional secrecy. Naturally, the invoice issued to the client contains all other prescribed and necessary invoice elements. One year after the implementation of the Cash Transaction Fiscal Management Act we may say that the implementation of that Act has had no impact on the performance of lawyers and that the institutes of confidentiality and professional secrecy have been entirely preserved. In addition, the Croatian Tax Administration has recorded an insignificant increase in the cash payment of legal services, so that all objections claiming that lawyers were among the major tax evaders in the Republic of Croatia - a view expressed by the current political elite in the course of the adoption of that Act - have been brushed aside.

The past year was significant also as regards the continuation of the reform of the judiciary by the adoption of new acts with the aim of harmonisation with the EU *acquis communautaire*. Recently, the court restructuring work plan has been presented, including territorial and staff restructuring as well as the restructuring in terms of the jurisdiction of single courts. Such dynamic changes within a short period of time have naturally had an impact on the performance of lawyers. What is at stake here is primarily the legal certainty of clients, which can sometimes be hard to achieve by fast, and often hastily made amendments to acts, all under the pretext that it has to be done that way in order for the Croatian legal system to be entirely harmonised with the EU *acquis* as soon as possible. Naturally, speed and hastiness are almost never good, and notably not in the legislative activity, where mutual inconsistencies between single acts

and a larger degree of different constructions of acts, and thereby greater legal uncertainty are caused.

In order to meet all its obligations arising from Croatia's EU accession, the Croatian Bar Association strengthened the performance of its International Section. There have been numerous enquiries by foreign lawyers, primarily from Italy, concerning the possibility of setting up law offices in the Republic of Croatia pursuant to Directive 77/249/EEC and Directive 98/5/EC. The inquiries were aimed more at obtaining information, whereas a few applications for admission to the List of Foreign Lawyers of the Croatian Bar Association are being processed at the moment. Some applications have been referred to the CBA Commission on Worthiness, since they concern lawyers who had already offered legal services and advertised their practice in different ways prior to Croatia's EU accession breaching thus the provisions of the Act on the Legal Profession which was in force at that time.

As a consequence of the difficult economic situation and of the recession in the Republic of Croatia, the number of lawyers and trainee lawyers has been increasing. The reason for it lies in the fact that young law graduates find it increasingly difficult to be employed with other bodies like e.g. banks, trading companies or the state administration, and try to realize their employment and achieve financial security in the legal profession. The same applies to the large number of lawyers (jurists) who have been dismissed and are also trying to secure their existence within the legal profession. The Croatian Bar Association is not satisfied with such a status, since for a large number of colleagues the legal profession was not their choice for life and a way of living, but it appeared as an emergency shelter and a potential source of income for securing their existence.

At the moment the Croatian Bar Association has approximately 4500 members (for ca. 4,5 mio. inhabitants in Croatia, but with a very low purchasing power of citizens and a poor economy), and 300-350 new members are admitted to the profession every year.

Considering the fact that the legal profession is subject to market rules and that there is increasingly little work for lawyers, and that the financial possibilities of clients are not such as to cover the real expenses of the legal services provided by lawyers, the Croatian Bar Association has decreased the fees stated in the Lawyer's Fee Schedule in such cases that have a social element, as to ensure access to justice and the exercise of their rights to everybody. In addition, the Croatian Bar Association has been providing pro bono work to financially challenged categories of citizens over more decades, so that an increasing number of citizens has been turning to the Bar seeking such legal services, which are provided on the base of a decision by the Bar and are completely free (neither the state nor anybody else remunerates the lawyer for their performance in such cases), and the lawyer must not reject the provision of such legal assistance since that would amount to a violation of the duty and reputation of the legal profession and the lawyer would be subject to disciplinary liability. In that way Croatian lawyers have shared with Croatian citizens the burden of the economic crisis and contributed to the legal certainty and the exercise of the rights of citizens in this country. The Croatian Bar Association adopted approximately one thousand such decisions on granting legal aid in the course of last year.

Together with the Ministry of Finance the CBA has sought to arrange a set off for lawyers' claims in cases of ex officio defence and client representation under the Legal Aid Act financed from the state budget, and due tax obligations of lawyers.

Our colleagues wait for payment of their claims for providing ex officio defence for more than a year.

In the course of 2014 the Ministry of Justice, i.e. the courts, will be able to pay to our colleagues the claims that matured by July 2013 so that the level of delay in payment is quite obvious. A certain level of understanding has been achieved in that sense, so that we hope that such mutual claims shall be set off, although the Croatian Tax Administration has been promising to do so for almost a year, it continuously refrains from putting it into practice, and this regardless of the fact that it was on their request that we gathered and provided all the necessary information concerning the claims of those colleagues.

On several occasions the Croatian Tax Administration sealed off law offices due to major tax debts. We protested against that and managed to convince the Tax Administration in the light of arguments that they were not entitled to do so, since the Bar is the only one that can admit or cancel a lawyer, i.e. prohibit the practice of law to a lawyer in Croatia. Therefore, in cases of a lawyer's major tax debt, the Tax Administration notifies the Croatian Bar thereof, and the Bar suspends that colleague until the debt is settled, but appoints forthwith an office trustee ensuring thereby the protection of clients. It was exactly that argument that the Tax Administration accepted, since what is considered most important of all, are the rights of clients and the protection of those rights. Therefore, by acting that way, the CBA neither protects nor supports failure to pay taxes by lawyers.

The Bar is trying to acquire for lawyers, i.e. for the Bar, the right to open certain escrow accounts for clients' transactions, and this following the model by CARPA in France and some other bars - members of the CCBE. Our Paris colleagues provided us with all the necessary information and assistance and would like to express them our gratitude on this occasion.

With the consent and the support of the Minister of Justice we are trying to introduce the obligation for contracts of sale of real estate to be drafted solely by lawyers and be certified by notaries public, and that only notaries public and lawyers may hand in such contracts at the Land Register (electronically). In that respect, we also have the support of land registers, as this would solve the problem of the legal certainty of clients, the unauthorised practice of law and of various agents dealing with such activities in land registers.

Again with the support of the Minister of Justice and that of the President of the Supreme Court we are trying to include into future amendments to the Civil Procedure Code the provision that solely lawyers may represent clients before courts from the beginning of such proceedings where judicial review by the Supreme Court of the Republic of Croatia is allowed as extraordinary legal remedy.

Continuing legal education was the topic of the traditional Croatian Lawyers' Day held on 14 and 15 March 2013, and the President of the Republic of Croatia, Professor Ivo Josipović, was the last of our guest speakers to deliver a speech on that topic. Other participants were Professor Emeritus Jakša Barbić, L.D, full member of the Croatian Academy of Sciences and Arts, Mr. Aldo Bulgarelli (then) first Vice-President of the CCBE, Ms. Anna Prag, head deputy of the Law Society of England and Wales International Division, Ms. Veronika Horrer from the German Federal Bar, Mr. Jozef Weixelbaum, L.D, Vice-President of the Austrian Bar, and Mr Mladen Sučević, President of the Lawyers' Academy of the Croatian Bar Association.

Legal aid was also discussed and presented by Mr Mladen Klasić, Vice-President of the CBA, Ms. Tanja Marušič, Vice-president of the Slovenian Bar, Ms. Dervla Browne, Vice-President of the Bar Council of Ireland and Mr. Jozef Weixelbaum, L.D, Vice-President of the Austrian Bar.

In May 2013 the Conference of Lawyers and Trainee Lawyers of the CBA was held with the main topic being the protection of the legal profession as an independent and autonomous office. On the same occasion the new Bylaws of the CBA were discussed as adopted on the General Meeting of the CBA held in June 2013.

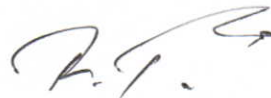
In September 2013 the CBA was host to the meeting of the CCBE Standing Committee, and that honour was conferred to us because the Croatian Bar Association became a full member of the CCBE.

Numerous lectures, seminars, round tables, workshops etc. were held as a consequence of CBA ongoing efforts to constantly promote continuing legal education of lawyers. In respect of EU accession, lectures were held on the topic «European legal culture and practice» concerning the institutions and the legal system of the EU, free movement, the European enforcement order, the European arrest warrant etc.

The Bar also participated through its representatives in the work of the UIA and the IBA at congresses held at the end of 2013.

Finally, we may conclude that the position of the legal profession within the legal system of the Republic of Croatia is similar to that of the legal profession in the other EU member states. Like in other EU member states, i.e. members of the CCBE, it is necessary to continuously work on, and safeguard the independence and self-regulation of the legal profession reacting united to every single attempt that jeopardizes the status of the legal profession as such.

Done at Zagreb on 31 January 2014

A handwritten signature in black ink, appearing to read 'R. Travaš'.

Robert Travaš, President  
Croatian Bar Association