



COUNCIL OF THE BARS AND LAW SOCIETES OF THE EUROPEAN UNION  
European Presidential Conference 2020

COUNTRY REPORT – BOSNIA AND HERCEGOVINA (Republika Srpska)

The Bar Association of the Republika Srpska is one of two Bar Associations in Bosnia and Herzegovina. Bosnia and Herzegovina consists of two Entities and one District, the Entity Republika Srpska, the Entity Federation of Bosnia and Herzegovina and the Brcko District of Bosnia and Herzegovina. Lawyers with the seats of their offices within the territory of the Republika Srpska are members of the Bar Association of the Republika Srpska, and lawyers with the seats of their offices within the territory of the Brcko District of Bosnia and Herzegovina have the right to choose whose Bar Associations they will be members of.

In 2019, the register of lawyers included 552 lawyers of which there were 165 ladies and 387 gentlemen, one law company and three foreign lawyers. The register of law trainees included 214 law trainees and the register of professional associates for legal affairs included 125 professional associates for legal affairs. There are 35 lawyers in the Brcko District of Bosnia and Herzegovina, of which 17 are members of the Bar Association of the Republika Srpska and 18 of them are members of the Bar Association of the Federation of Bosnia and Herzegovina.

From 8th to 10th November 2019, Lawyer's Day of the Republika Srpska were held in Bijeljina, the Bar Association of Republika Srpska celebrated 136 years of legally organized lawyer's profession in Bosnia and Herzegovina and 26 years since the adoption of the first Law on Advocacy in the Republika Srpska. Boris Blažinić, professor of psychology and permanent Court Expert for Psychology, expert in business psychology and human resources development, gave a lecture on "How to gain people's trust and affection.

For the past ten years, lawyers have acted before the courts in the Republika Srpska as defense attorneys for the accused, but the remuneration for their work has not been regularly paid, and the payment has been delayed by up to ten years. There was a multi-million debt, so defense attorneys from Republika Srpska have been on strike when it comes to criminal proceedings since February 01. 2019, after which the Government of the Republika Srpska started making payments and the payment of the entire debt was agreed by the end of the year. Suspension for this reason lasted one day but gave the desired result.

At the end of 2018, Assembly of Brcko District passed a Law on Amendments of the Law on Fiscal Systems and established an obligation for the lawyers in Brčko

District to use fiscal cash registers, and the possibility for tax authorities, among other things, to control the registration of turnover through the fiscal cash registers, to inspect the lawyer's file and the possibility to impose a measure prohibiting the practice of a lawyer for 60 days (Article 94 of the Law on Fiscal Systems) and to seal the law office (Article 104 of the Law on Fiscal Systems).

The Assembly of Brcko District ignored the fact that a lawyer can never be obliged to disclose any information that is within the scope of the obligation of professional secrecy. Professional secrecy is also the content of every piece of information that contains a file created by a lawyer for a particular client's case. In order to achieve full protection of professional secrecy, a search of a law office is not allowed and it can be performed "only based on the order of the competent court and only in relation to the files and cases explicitly stated in the search warrant." (Article 131 of the Statute of the Bar Association of Republika Srpska, ("Official Gazette of the Republika Srpska", No: 34/16).

Both Bar Associations indicated that it was stated contrary to the Laws on the Advocacy in the Republika Srpska and the Federation of Bosnia and Herzegovina, but the authorities of the Brcko District of Bosnia and Herzegovina did not abandon the aforementioned, and both Bar Associations made decisions and suspended their work before the courts and administrative bodies of Brcko District of Bosnia and Herzegovina. The suspension of work began on April 27, 2019. In the meantime, proceedings have been instituted before the Court of Appeal of the Brcko District of Bosnia and Herzegovina, which found that the Law on Amendments of the Law on Fiscal Systems was not enacted in accordance with the Statute of the Brcko District of Bosnia and Herzegovina, and that the provisions cease to be valid. After eight and a half months, on January 15, 2020, the lawyers started working in the Brcko District of Bosnia and Herzegovina.

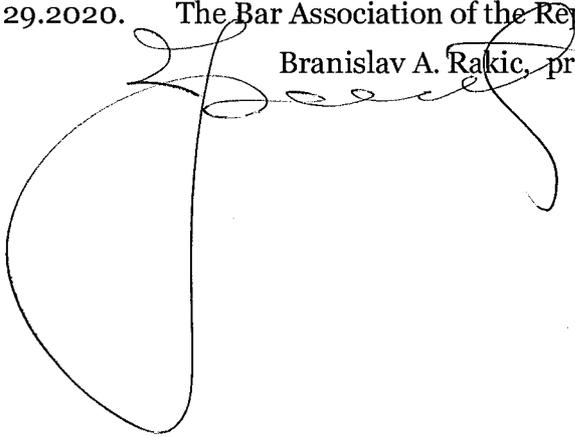
With the aforementioned suspension of work in the Brcko District of Bosnia and Herzegovina, lawyers from both Entities in Bosnia and Herzegovina have shown unity in the protection of the legal profession.

During the last year, the Bar Association of the Republika Srpska took part in working groups set up by the Government of Republika Srpska, with the task to propose the text of laws and amendments to the law, so that a significant contribution was made in drafting the Law on the Attorney General, the Criminal Code, Law on Amendments to the Law on Enforcement Procedure, Civil Procedure and Court Fees. Attempts were made to participate in the work of the working groups for the drafting of the Criminal Procedure Code, the Law on Notaries and the Law on Free Legal Aid, but the Government of Republika Srpska did not allow the Bar Association to participate in the work of the established working groups.

Eleven years ago, Law on Notaries was adopted in the Republika Srpska, which created the monopoly of notaries in relation to attorneys because they were given the exclusive right to make only real estate contracts, contracts in the field of founding companies, contracts in the field of matrimonial, family and inheritance law. The Bar Association of Republika Srpska has submitted to the Constitutional Court of the Republika Srpska an initiative to review the constitutionality of the Law on Notaries in the Republika Srpska, and the decision is expected halfway through this year. The filing of an initiative to review the constitutionality of the Law on Notaries was the reason why the Republika Srpska Government did not allow attorneys to participate in the work of working groups to draft a new Law on Notaries, Free Legal Aid and the Criminal Procedure Code.

Representatives of the bar Association of Republika Srpska attended congresses organized by UIA and IBA and participated in the work of the CCBE PECO Committee.

Banja Luka, January 29.2020. The Bar Association of the Republika Srpska

  
Branislav A. Rakic, president