



## CROATIAN BAR ASSOCIATION REPORT 2019

On December 31, 2019, a total of 4,848 lawyers were admitted to the Register of Lawyers of the Croatian Bar Association, 2,724 of which were women.

The Register of Trainee Lawyers of the Croatian Bar Association included 1,537 trainee lawyers, 528 of which were women.

The Register of Foreign Lawyers of the Croatian Bar Association listed 9 lawyers coming from the Czech Republic, Germany, Austria and Slovenia.

Four foreign lawyers, who had been admitted to the Register of Foreign Lawyers of the Croatian Bar Association, upon having fulfilled the requirements under the Legal Profession Act and Directive 98/5 / EC have been admitted to the Register of Lawyers of the Croatian Bar Association and are allowed to practice under the professional title "odvjetnik".

In the course of 2019 the Croatian Bar Association focused much of its work on legislative activity, introducing electronic communication with the courts, improving programmatic solutions for the performance of the Bar's administration etc.

In order to introduce electronic communication with the courts, the Croatian Bar Association issues electronic identification cards to lawyers.

It should be pointed out that electronic communication with the courts has been rapidly introduced in the judicial system of the Republic of Croatia, and in this sense certain procedural regulations have been amended, such as the Companies Act, the Civil Procedure Code, the Enforcement Act and similar.

In relation to the Civil Procedure Code, it should be noted that, in the opinion of the Croatian Bar Association, certain limitations have been introduced to the Civil Procedure Code concerning the rights of parties in civil proceedings.

This primarily relates to the right to file an appeal against second-instance final judgments, since an institute has been introduced to oblige a party to seek admission to file judicial review before filing it, which the Croatian Bar Association considers to be a violation of the parties' rights.

The Croatian Bar Association also participated in the amendments to the Criminal Procedure Code, the Criminal Code, the adoption of the new Trademark Act and the Competition Act, the draft Anti-Discrimination Plan and the Draft Anti-Trafficking Plan.

The Croatian Bar Association participates in the project of the Faculty of Law of the University of Zagreb to develop, improve and implement professional practice in higher education.

The Croatian Bar Association also supported the initiative of the International Union of Lawyers to adopt the fundamental principles of the legal profession.

The Croatian Bar Association also participated in the UNICEF project to develop guidelines for child-friendly legal assistance.

The Croatian Bar Association has devoted much of its time to responding to the European Commission's notification to the Republic of Croatia. Specifically, the European Commission considers that the Republic of Croatia has failed to fulfill its obligations under the Treaty on the Functioning of the European Union and of Directive 98/5/EC, Directive 77/249/EEC, Directive 2005/36/EC, Directive 2006/123/EC, and Directive 2004/38/EC.

It is a fact that in 2003 the Republic of Croatia made a request for membership in the European Union and that in 2005 accession negotiations were opened. The Accession Treaty was concluded in 2011, in 2012 a comprehensive report on monitoring Croatia's accession to the European Union was adopted, and in June 2013 a report on the recognition of the Republic of Croatia as a member of the European Union was adopted.

All the above documents did not contain any objections to the compliance of the Legal Profession Act with the European acquis, nor reserves about the Legal Profession Act. Therefore, in the opinion of the Croatian Bar Association, the formal notice of the European Commission is a consequence of either a misunderstanding of the Legal Profession Act of the Republic of Croatia or a misinterpretation of certain provisions of such Act. The Croatian Bar Association prepared a statement on the letter of legal notice of the European Commission with legal arguments and submitted such statement to the Ministry of Justice of the Republic of Croatia.

In the opinion of the Croatian Bar Association, the lack of understanding between the European Commission and the Croatian Bar Association concerning the implementation of the Legal Profession Act and the interpretation of legal provisions with regard to the legal profession is a consequence of the fact that the European Commission considers the legal profession to be as a profession equated with economic activities. The European Commission does not at all take into account the particularity of the legal profession, the position of the legal profession in the individual Member States and the fact that the legal profession is part of the judicial system and therefore cannot be equated with economic activities.

In its statement, the Croatian Bar Association emphasized that the legal profession in the Republic of Croatia is a constitutional category because the provision of Article 27 of the Constitution of the Republic of Croatia defines the legal profession as an independent and autonomous service providing legal assistance to everyone in accordance with the law.

The aforementioned constitutional provision is set out in the Chapter of the Constitution relating to the protection of fundamental human rights and freedoms, that is, those rights protected by the European Convention for the Protection of Human Rights and Fundamental Freedoms, which the European Court of Justice considers in the Convention to be part of the legal order of the European Union. Therefore, the legal profession may not be regarded as an economic activity, because a lawyer is obliged to provide legal assistance to everyone and may not remove such obligation, which represents a major difference with respect to economic activities.

This position was also emphasized by the Constitutional Court of the Republic of Croatia in one of its decisions stating that: "The purpose and objective of the legal profession is primarily to provide expert legal assistance to those who need it. Legal assistance, being strictly defined as the profession of lawyers, is an important factor of legal certainty of a



democratic Republic of Croatia governed by rule of law, and represents one of the aspects of performance of the judiciary and of the administration".

Interestingly, this view, namely that the legal profession is a protagonist in the administration of justice, was also expressed by the ECHR in the case of *Morice v. France* (29369/10). The judgment was adopted unanimously by the Grand Chamber, and among other things, the judgment stated that the lawyer acts as a protagonist in the justice system, directly involved in the functioning of that system.

Representatives of the Croatian Bar Association also participated in the work of the Congress of the International Bar Association (UIA) and the International Bar Association (IBA), the work of the CCBE, other international events, and in the presidential meeting of the Bars of Central and Eastern Europe held in Kranjska Gora, Slovenia, in October 2019.

The Croatian Lawyers' Day was held on March 14 and 15, 2019, and was dedicated to the topic "Lawyers and Technology".

This year, the Croatian Lawyers' Day will be held on March 12 and 13, 2020 and will be dedicated to the topic of liberalization of the legal profession in the service of bureaucracy and/or bureaucracy in the service of liberalization.

We take the opportunity to invite our colleagues from Europe, and beyond, to join us at this year's Croatian Lawyers' Day in Zagreb.



Josip Šurjak, President  
Croatian Bar Association