



European Presidents' Conference 2024
Country Report of the Bar Association of the Federation of Bosnia and Herzegovina for 2023

Change of CCBE membership status from observer member to associate member

In December 2022, the European Council according to Point 30 of its conclusions agreed to grant the status of candidate country to Bosnia and Herzegovina.

The requests for a change of membership were submitted by the Bar Association of the Federation of Bosnia and Herzegovina and the Bar Association of the Republic of Srpska and in May 2023.

According to Article IV. b) 1. of the CCBE Statutes, the change of membership status is decided by the Plenary Session following the procedure Article VII of the Statutes.

During the PECO meeting on 28 September and 15 November 2023, the presentation of joint country report from both Bars on the current situation regarding lawyers and specific aspects within the justice area in Bosnia and Herzegovina were provided to the members of the committee.

After relevant exchanges, the PECO members suggested to the Plenary Session to change the membership status from observer member to associate member for the Bar Association of the Federation of Bosnia and Herzegovina and the Bar Association of the Republic of Srpska.

The decision to grant the change of membership status of Bosnia and Herzegovina from observer member to associate member was adopted at the plenary session of CCBE on 24 November 2023.

Committee of Experts on the Protection of Lawyers (CJ-AV)

The Bar Association of the Federation of Bosnia and Herzegovina (hereinafter: the Bar) intensively continued its activities to have its representative involved in the work of the Committee of Experts on the Protection of Lawyers (CJ-AV). As the CCBE was previously informed, due to the lack of activities by the competent services of the Ministry of Justice of BiH and the Ministry of Foreign Affairs of BiH, the Bar was prevented from participating in the first three meetings.

The Bar has always emphasised and directed the competent services of the ministries to the priorities of the foreign policy of Bosnia and Herzegovina, i.e. the importance of the participation of lawyers in multilateral activities within the United Nations system, the Council of Europe, the Organisation for Security and Cooperation in Europe, etc. More precisely, it did everything to prevent the same and similar negative actions of individual services of the ministries, and to do everything necessary to ensure that the above-mentioned situations are not repeated continuously and that the ministries finally start treating the Bar Associations of their country in the right way, as an equal partner and with due care, on their common path towards the accession of Bosnia and Herzegovina to the European Union.

Eventually, the Bar managed to obtain the necessary approvals for the Bar representative who attended the fourth, fifth and sixth meeting of the Committee of Experts on the Protection of Lawyers in Strasbourg in March, July and October 2023, and who will also attend all future meetings planned in 2024.

Better cooperation with the executive authorities

The Bar continued to work on establishing and improving cooperation with the Ministry of Justice of Bosnia and Herzegovina and the Federation Ministry of Justice, pointing out, as before, that the legal profession must be an equal partner in judicial reform.

During the year 2023, the new ministers of justice of BiH and FBiH were appointed, with whom several meetings were held to consider the current situation in the BiH judiciary and the problems thereof both from the aspect of the legal profession and in a broader sense, wherein certain activities were agreed upon to improve the judiciary.

The lawyers shared with the ministers their experiences from practice, as well as the problems and shortcomings they encounter every day in their work. They presented a series of practical proposals



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and ideas, the application of which would ensure fair treatment for the parties in court proceedings. The importance of harmonising laws with the *acquis* of the European Union, positive and good legal solutions of neighbouring countries, and more active involvement of lawyers and the Bar in the processes of adopting all procedural legal solutions was emphasised.

Good will and intention to establish new lines of cooperation between the Ministries of Justice and the Bar with the common goal of further development of the rule of law and the legal system in Bosnia and Herzegovina have been shown.

Also, gradual progress in cooperation with competent institutions is noticeable, wherein representatives of the Bar are included in working groups for drafting applicable legal regulations, which the Bar has been insisting on for many years.

In the coming period, the Bar will work intensively on the procedure for the adoption of the new FBiH Law on Advocacy and the execution of the judgments of the FBiH Constitutional Court related to the Law on Notaries, as well as other related laws.

Prevention of money laundering

During 2023, the Bar continued to actively participate in the preparations for holding the 5th round of Moneyval (permanent body of the Council of Europe - Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism) evaluation of Bosnia and Herzegovina, which monitors the level of harmonisation of measures to prevent money laundering and financing of terrorism with basic international standards for combating money laundering and financing of terrorism (FATF standards), and the effectiveness of their implementation.

Please note that for many years, due to the non-implementation of the Action Plan for the implementation of the recommendations based on the MONEYVAL evaluation from 2009, Bosnia and Herzegovina was marked by the FATF and the European Union as a country with a "high degree of risk in terms of AML/CFT". Being on the List had political, economic and financial consequences for the state of Bosnia and Herzegovina.

However, in 2020, the MONEYVAL Committee removed Bosnia and Herzegovina from the list of risky countries in terms of money laundering and terrorist financing, after it gained the Committee's trust, and it released Bosnia and Herzegovina from the obligation to report on compliance with standards in this area until 2023 and the new round of mutual evaluation.

During year 2023 the Bar has taken active role in various round table discussion and working groups dedicated to prevention of money laundering, and has intensified activities regarding supervision of lawyers in the light of upcoming Moneyval evaluation of Bosnia and Herzegovina coming in February 2024.

Representatives of the Bar participated in the seminar organised by the PECO Committee on prevention of money laundering, as well as working groups for amendments of the Law on Prevention of Money Laundering and Financing Terrorist Activities.

The Bar will continue to actively provide full support within their capabilities and capacities in the preparation of the evaluation of BiH and its advances towards the admission to the European Union.

Implementation of decisions of the Constitutional Court of FBiH

The Bar previously reported to the CCBE about the non-implementation of the decisions of the Constitutional Court of FBiH Nos. U 15/10 of 02/12/2015 and U 22/16 of 06/03/2019, which determined that certain provisions of the Law on Notaries of the FBiH are unconstitutional, including Article 73 of the Law on Notaries, which prescribes for which legal transactions the notarisation of documents is mandatory.

The Bar continued to implement the activities of the previously determined strategy with the aim of implementing the decisions of the Constitutional Court, which ultimately led to the adoption of the legal understanding of the Supreme Court of FBiH (session on 8 December 2022) that the signatures of the parties to contracts on the transfer of rights to real estate must be certified either by a notary or



by a court, as a condition of validity for entry in the land register, which is of extreme importance in terms of implementing the decisions of the Constitutional Court.

After this decision, in the course of 2023, the largest court in Bosnia and Herzegovina in terms of case load, the Municipal Court in Sarajevo, began to certify the signatures of the parties to contracts on the transfer of rights to real estate. The practice of this court is gradually being implemented by other municipal courts in FBiH.

However, we believe that this is only a small step forward, for the reason that it is evident that other participants in the real estate transaction procedure continue to insist on notarised documents. More precisely, court decisions are interpreted arbitrarily. Therefore, the Bar will continue to undertake activities aimed at solving this problem and address the competent authorities thereof.

Release of data on members of the Bar and protection of lawyer confidentiality

The problem that the Bar faces and is intensively working on, which refers to the established practices of the courts in FBiH, that during the control of lawyers as tax payers, at the request of officers of the BiH Indirect Taxation Authority, lists of all cases from the CMS system in which the lawyers acted are submitted to them. It was particularly emphasised that the Municipal Court in Sarajevo and the Court of Bosnia and Herzegovina acted in compliance with the request of the Indirect Taxation Authority of Bosnia and Herzegovina, and submitted lists of cases from the Automatic Case Management System (CMS).

The Bar and its members continue to undertake all activities aimed at protecting the rights and interests of both members and citizens, primarily in order to prevent both the release of data on Bar members to any FBiH and BiH authority without their consent or a court order for access to the requested data, and processing documentation with the client's personal data from the lawyer's files, in order to protect the lawyer confidentiality guaranteed by the Law on Advocacy.

Implementation of ECtHR judgments

The Bar is actively involved in taking measures to implement the judgment of the European Court of Human Rights in the case *Šćepanović v. Bosnia and Herzegovina* in cooperation with the Council of Europe and the Office of the Representative of the Council of Ministers of Bosnia and Herzegovina before the European Court of Human Rights. In this regard, the Bar actively participated in the realisation of a round table for lawyers with the aim of presenting the procedure for obtaining a security permit for access to confidential data, as well as for dealing with confidential data in judicial and administrative proceedings.

Also, in 2023, the Bar delegated a representative to participate in the work of a working group that will undertake activities on drafting instructions for handling confidential data in judicial institutions.

Statistical data

As of December 31, 2023, there were a total of 1393 lawyers (921 male lawyers and 472 female lawyers) registered in the Lawyers' Directory. It indicates that there is still an increase in the number of lawyers in Federation of Bosnia and Herzegovina. As of December 31, 2023, 53 law firms were actively operating in the Federation of Bosnia and Herzegovina.

Bekir Gavrankapetanović
President

