

The 52nd European Presidents' Conference in Vienna

Annual Country Report of the Croatian Bar Association for 2023

Introductory remarks

The annual country report of the Croatian Bar Association ("CBA") gives an overview of major activities and challenges that impacted the functioning of the legal profession in the Republic of Croatia in 2023. It also provides statistics on the number of lawyers and trainees that were admitted to the CBA.

- 1) Statement of the CBA on the objections of the European Commission on the alleged discrepancy of the normative framework for practicing legal profession in the Republic of Croatia with the EU acquis

Subsequent to last year's CBA report, the pressures of the European Commission ("EC") towards the Republic of Croatia and the CBA continued during 2023 regarding the alleged discrepancy of the normative framework for practicing legal profession in Croatia with the acquis of the European Union.

On February 28, 2023, the CBA expressed its opinion on the formal notice letter of the European Commission No. 2017/4067, which requested the Republic of Croatia to provide an additional statement regarding the possibility of establishing a law firm as a subsidiary by an EU law firm; the requirement that EU lawyers practicing in branch offices of law firms from the EU must have an employment contract with the founder; the possibility of employment of Croatian lawyers in the branch offices of the EU law firm; obligation to submit originals or certified copies, along with translation when establishing branch offices of EU law firms; the valid text of the Rules on Advertising and the Webpage of Lawyers and the admission fee required for the admission to the CBA's Register of Lawyers.

In its statement, the CBA in relation to the possibility of establishing a law firm as a subsidiary by an EU law firm, pointed out that Article 50, Paragraph 1 of the Treaty on the Functioning of the European Union ("UEFU") stipulates that directives prescribe the freedom of establishment regarding every particular activity. At the same time, article 50, paragraph 2 of the UEFU stipulates the gradual abolition of restrictions on the freedom of establishment in the considered activity, both with regard to the conditions for the establishment of representative offices, branches or subsidiaries. Lawyers' Directive - Article 11 of Directive 98/5/EC stipulates that lawyers from EU member states perform activities in the host state through branches or representative offices (subsidiaries are not mentioned). Article 3 of the Services Directive 2006/123/EC stipulates that if the provisions of the Services Directive conflict with a provision of another EU act governing specific aspects of access to or exercise of a service activity in specific sectors or for specific professions, the provision of the other EU act shall prevail. Therefore, it is completely clear that the Croatian Legal Profession Act is entirely in accordance with the Lawyers' Directive-Directive 98/5/EC, which applies in the mentioned case and takes precedence over the provisions of the Services Directive, as evidenced by the specified provision of Art. 3. of the Services Directive. These provisions are legally clear and do not leave the possibility of different legal interpretation by the EC or anyone else, but the EC (DG GROW) is trying to achieve changes regarding Legal Profession Act by placing undue pressure on Croatia despite the clear provisions of the cited Directive. The CBA considers that such comments by the EC would be founded only in the case of changes to the Lawyers' Directive, and these changes did not occur, and therefore the Republic of Croatia regarding Legal Profession Act is completely aligned with European law.

In relation to the requirement that EU lawyers practicing in branches of law firms from the EU must have an employment contract concluded with the founder, it was pointed out that an employment contract is required only if in their home state the existence of an employment contract between lawyer and a law firm is required.

In relation to the possibility of employment of Croatian lawyers in the branch of the EU law firm, it was pointed out that Croatian lawyers must be registered as foreign lawyers in the home state of the founder of the branch and regulate their status in that founding law firm, and after that they can practice in the branch of that law firm in Republic of Croatia. In relation to the obligation to submit originals/certified copies with translation - when establishing branches, it was pointed out that in accordance with Directive 2005/36 EC on the recognition of professional qualifications, the delivery of originals / certified copies with translation is limited to essential documents only.

In relation to the valid text of the Rules on Advertising and the Webpage of Lawyers, the valid text of the Rules on Amending the Rules on Advertising and the Webpage of Lawyers was submitted and the changes were made related to the self-praise of lawyers, related to highlighting previous practice and related to targeted advertising of lawyers.

In relation to the admission fee for the admission to the CBA's Register of Lawyers, it was pointed out that a new Decision on determining the amount of admission fee was adopted, which reduced the amount of the admission fee for the admission to the Register of Lawyers by 40% and now amounts to EUR 3.000,00 and is appropriately applied to lawyers from the EU. Withal, it was pointed out that some other EU member states have stricter requirements for admission to the Register of Lawyers and in some member states, as a condition for admission to the Register of Lawyers, previously completed mandatory education is prescribed, which should be paid in the range of 10.000,00 to 12.000,00 euros, with the cumulative requirement of previous professional experience fulfilled by working with a lawyer. The CBA considers that when evaluating access to the legal profession, it cannot be count the admission fee only, but the total fees that are a condition for admission to the Register of Lawyers in a particular EU member state. The CBA also considers that it is necessary to objectively consider what the admitted lawyers receive for the stated amount of the admission fee and monthly membership fee of 27,00 euros. In the Republic of Croatia the CBA provides various forms of professional training and education completely free of charge through its Lawyer's Academy, provides posthumous benefits in the form of payment of the lawyer's funeral expenses, and grants scholarship to children of deceased lawyers as long as they orderly pursue education, even up to 26 years of age, pays licenses for the use of electronic cards for electronic communication with the courts and numerous other benefits and services.

Regarding the aforementioned statement the CBA presented its position at a meeting with representatives of the European Commission held on April 18, 2023, in Brussels where representatives of the Ministry of Justice and Public Administration of the Republic of Croatia also participated.

2) Bar Leaders meeting of Central and Eastern Europe, held on November 3 and 4, 2023 in Dubrovnik

On November 3 and 4, 2023, the CBA hosted the traditional Bar Leaders meeting of Central and Eastern Europe, and the topic of the meeting was "Impact of Brussels administration on provision of legal services in Central and East European countries". The working part was held on November 4, 2023, with the presence of: Petra Cernochova, Vice President of the Austrian Bar, Martin Maisner, Vice President of the Czech Bar Association, Robert Schneider, President of the Liechtenstein Chamber of Lawyers, Dezső Havasi, President of the Hungarian Bar Association, Andre Haug, Vice President of the German Bar Association (BRAK), Veronika Denninger, Director of the BRAK's International Department, Przemyslaw Rosati, President of the Polish Bar Association, Martin Puchalla, President of the Slovak Bar Association, Ondrej Laciak, Vice President of the Slovak Bar Association, Janez Starman, President of the Slovenian Bar Association and Roman Završek, Council of Bars and Law

Societies of Europe (CCBE) 3rd Vice President. The President of the CBA, in his speech, emphasized that the CBA is not versus the EU and the cross-border practice of legal profession, however considers that regarding the application of EU Directives it is necessary to respect the specificities of the legal order of each member state.

At the aforementioned meeting was discussed about case C-295/23, which is pending before the Court of Justice of the EU ("EU Court") regarding the request for a preliminary ruling lodged by the High Disciplinary Court of Bavaria for lawyers, in the procedure regarding the lawsuit Halmer Rechtsanwaltsgesellschaft UG v. Rechtsanwaltskammer München, cause of the Rechtsanwaltskammer München withdrew the license to practice the profession of lawyer from the law firm Halmer Rechtsanwaltsgesellschaft UG. The Rechtsanwaltskammer München withdrew the license to practice the profession of lawyer from the law firm Halmer Rechtsanwaltsgesellschaft UG due to the fact that D. Halmer, based on the contract concluded March 31, 2021, sold 51 out of 100 business shares to S GmbH, which does not have a license to practice the profession of lawyer in Germany or Austria.

- 3) The request of the Republic of Croatia for a hearing regarding the EU Court case No. C-295/23 was lodged based on the CBA's request for the inclusion of the Republic of Croatia in the relevant procedure

After the meeting in Dubrovnik, the CBA, considering the importance of the aforementioned case for the practicing of legal profession, sent a request to the Ministry of Justice and Public Administration of the Republic of Croatia on December 2, 2023, proposing that the Republic of Croatia participates in the aforementioned procedure by submitting a reasoned request for participation in the oral part of the procedure regarding the EU Court case No. C- 295/23. In the request, the CBA pointed out that the decision in the mentioned case is of exceptional importance for the practicing of legal profession in the Republic of Croatia and in the entire European Union. Therefore, the decision in this procedure has significance for many EU member states, which do not allow the acquisition of business shares in law firms by third parties who do not practice the profession of lawyer. Withal, it was stated in the request that the CBA considers that the requirements from German law stated in the request for a preliminary decision are in accordance with the law of the European Union (Articles 49 and 63 of the TFEU, Directive 2006/123 and Directive 98/5/EC).

On December 6, 2023, the CBA was notified that the Republic of Croatia recognized the importance of the case and that the Republic of Croatia lodged a reasoned request for hearing before the EU Court, regarding case C-295/23. The CBA about undertaken actions, informed all Bar Associations whose representatives were at the meeting in Dubrovnik.

- 4) The impact of the strike of judges and judicial officers and employees on the practice of the profession of lawyer in the Republic of Croatia

One of the events that had a negative impact on the practice of the profession of lawyer and the functioning of the justice system in the Republic of Croatia during 2023 was the strike of judges and then of judicial officers and employees, in order to improve their material status. From May 8, to May 19, 2023, lasted the white strike, i.e. warning measures of judges in the Republic of Croatia, while from June 5, 2023 to July 31, 2023, lasted the strike of officers and employees employed in the justice system.

Due to the aforementioned circumstances, in the period from May to August 2023, the justice system in Croatia was paralyzed because court hearings were held only exceptionally, court decisions were not dispatched and the courts also did not act on the submissions received by participants in court proceedings. The major victims of such a situation were the parties and lawyers.

In public appearances the CBA, expressing its understanding of the reasons that led to the extraordinary circumstances, appealed to the participants of the strike and the Ministry of Justice and the Public Administration of Croatia to quickly reach an agreement, in order to normalize the work of the justice system and prevent further damage to parties and lawyers. CBA also intensively communicated with the President of the Supreme Court of Croatia, as the highest body of the judicial administration, but also with the presidents of other courts and relevant institutions, warning of the negative effects that the aforementioned circumstances have on the rights of the parties and to the position of lawyer, proposing solutions to normalize the functioning of the justice system. Among other things, the CBA proposed to the Ministry of Finance of Croatia to exempt all lawyers and law firms from the obligation to pay contributions on wages and contributions from wages for all lawyers, trainees and employees of law offices during the period of extraordinary circumstances. Unfortunately, after several reminders, CBA was informed about the non-acceptance of such a proposal.

The CBA expressed solidarity with its members and rendered a decision to release all lawyers from the obligation to pay membership fees for the months of August and September 2023.

5) Adoption of a new Lawyers' Fee Schedule and Cost Compensation

The Management Board of the CBA adopted in October 2023 the Lawyers' Fee Schedule and Cost Compensation ("Tariff"). Pursuant to the Legal Profession Act, the Minister of Justice and Public Administration of Croatia gave his consent to the adopted Tariff, which entered into force on November 25, 2023. In addition to aligning with the euro as the official currency of the Republic of Croatia, rounding the value of a point to 2.00 euros, the new Tariff also prescribes awards for those actions that lawyers undertake in representing parties in proceedings, which were not covered by the earlier Tariff.

6) Increase in the number of hacker attacks targeting lawyers in the Republic of Croatia

In 2023 the CBA was informed about a series of hacker attacks to which lawyers were exposed. It shows that the increase in cybercrime has affected the legal profession, which is dangerous considering the possibility of unauthorized access to confidential data representing the lawyer-client privilege.


7) Information about creating a periodic newsletter about important activities of the CBA

The CBA in order to provide the best possible information to its members about its activities in 2023, has started sending monthly newsletters, i.e. news. In such a way, the CBA members will be familiar with the CBA's activities, problems and issues that CBA deals with.

8) Statistical data on the number of lawyers and trainees in the Republic of Croatia

On 31 December 2023, there were a total of 5302 lawyers admitted to the CBA's Register of Lawyers and 1456 trainees admitted to the CBA's Register of Trainees. It indicates that there is still an increase in the number of lawyers in Croatia and a slight decrease in the number of trainees. On 31 December 2023, 15 lawyers from EU member states were admitted to the CBA's Register of Foreign Lawyers who may practice the profession of lawyer in Croatia under the home country professional title.

Zagreb, January 2024.



Robert Travaš, president
of the CBA