

**COUNCIL OF BARS AND LAW SOCIETIES OF EUROPE**  
**52nd EUROPEAN CONFERENCE OF PRESIDENTS OF BAR ASSOCIATIONS**  
**REPORT OF THE BAR ASSOCIATION OF SERBIA ON ACTIVITIES AND**  
**THE STATUS OF THE LEGAL PROFESSION IN 2023**

Dear colleagues,

The annual report of the Bar Association of Serbia provides an overview of the main activities and challenges that have affected the functioning of the legal profession in the Republic of Serbia and its development.

The report also presents a statistical overview of the number of attorneys-at law registered in the directories of bar associations within the Bar Association of Serbia during the period from the last report submitted to the European Conference of Presidents of Bar Associations to the date of this report.

In 2023, the attention of Bar Association of Serbia was focused on following topics:

**1. Draft Law on Services**

The process of adopting the Law on Services in Republic of Serbia began in 2015 when the first draft of this law was published. Following the publication of the initial Draft Law on Services, the Bar Association of Serbia participated in public discussion, submitted objections to the draft law, held meetings with representatives of the Ministry of Justice and the Ministry of Trade, Tourism and Telecommunications, and initiated amendments to the published text. The mentioned draft stipulated that the Ministry of Trade, Tourism and Telecommunications was responsible for oversight, including the supervision over the work of the legal profession. The Bar Association of Serbia emphasized the constitutional position of legal profession and presented arguments asserting that, as an independent and autonomous service providing legal assistance, it cannot be considered a service. It was also emphasized that issues related to the regulation of the legal profession, given its significance for human rights, cannot be resolved in the accession negotiations between Republic of

Serbia and the EU under Chapter 3 – Services, but exclusively within Chapter 23, which predominantly addresses human rights and judiciary. In response, the Ministry of Justice informed the Bar Association of Serbia on 12 February 2017, that compliance with provisions of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, would be carried out exclusively within the law regulating the legal profession.

In November 2018, the Ministry of Justice submitted a draft amendment to Article 4 of the Draft Law on Services, prepared by the Ministry of Trade, Tourism and Telecommunications. The proposed draft amendment included the addition of a new Paragraph 2, stating: "The right to establish a business and the freedom of cross-border provision of legal services by attorneys-at-law will be regulated through laws and other regulations on the legal profession."

The Government of the Republic of Serbia through its conclusion of 6 December 2018, withdrew the Law on Services from the procedure.

In April 2023, the Ministry of Domestic and Foreign Trade forwarded a Draft Law on Services to the Bar Association of Serbia for their opinion. In Article 3, Paragraph 2 it was stated: "The provisions of this law do not apply to the legal profession as an independent and autonomous service providing legal assistance, which is fully regulated by the regulations on the legal profession."

The provision in Article 3, Paragraph 2, introduced on the proposal of the Bar Association of Serbia, does not fully guarantee that legal assistance will be provided exclusively by the legal profession (advocacy). It still leaves the possibility for legal assistance to be offered by foreign legal service providers who are not part of the legal profession and have not regulated their work within the territory of the Republic of Serbia in accordance with our regulations.

It is acknowledged that this law, if this draft were to become law, facilitates the provision of legal assistance as a unique parallel legal profession in Serbia. The law allows for settlement, work permits, and even advertising by such foreign providers of legal assistance, legalizing the provision of legal assistance outside the domestic legal profession without any participation of the domestic attorneys-at-law and supervising by the Bar Association of Serbia and its regional bar associations. This could effectively undermine all the guarantees of human rights established by the Constitution and the Law on Legal

Profession, that ensure the exclusive provision of legal assistance in the Republic of Serbia by the legal profession, and other legal assistance services established by separate laws.

## **2. Draft Law on Amendments and Supplements to the Civil Procedure**

In late May 2021, a Draft Law on Amendments and Supplements to the Civil Procedure was published for public discussion, causing strong reactions from the legal profession and the broader professional public. The release of the Draft law sparked multi-day protests by a group of attorneys-at-law who expressed their dissatisfaction through protest gatherings outside the building of the Bar Association of Serbia and protest walks to the Ministry of Justice and Supreme Court.

Immediately upon the publication of the Draft, the Bar Association of Serbia responded by submitting detailed objections to the Ministry of Justice regarding the proposed solutions from the Draft, pointing out:

- Non-transparent work in drafting the text of the Draft

The Bar Association of Serbia had one representative in the Working Group of the Ministry of Justice. In addition to Bar Association's representative, the Working Group included three judges from the Supreme Court, one judge from the appellate court, one judge from the higher court, one judge from the basic court, three representatives from the Ministry of Justice, three representatives from NALED and one attorney-at-law as an independent representative of EU funds. Formally and legally the Bar Association of Serbia was represented in the Working Group only through one representative. Two proposals from the Supreme Court were presented during the meeting by the judge of the Supreme Court and the president of the Working Group, but they were not fully accepted, leading to intense discussion. The first proposal pertained to limiting the procedural right of legal representatives regarding motion for disqualification. There were suggestions to deny the attorney's ability to continue representation in case of repeated motions for disqualification. The second proposal aimed at changing the conditions for filing motion for review. The Ministry of Justice particularly advocated for the introduction of a digital platform.

The opinion of legal profession and professional public was that the timeframe for drafting the Draft Law on Amendments and Supplements to the Civil Procedure Law was exceptionally short, as well as the period for public discussion. The first session of the Working Group of Ministry of Justice for preparing the text of the Law on Amendments and

Supplements to the Civil Procedure was held on 16 March 2021, and the last session took place on 12 May 2021. The public discussion lasted for 15 days. The Draft Law on Amendments and Supplements to the Civil Procedure Law sparked significant disagreements among the legal profession and professional public. The most pronounced disagreements in the Working Group sessions, also reflected in objections during the public discussion, revolved around:

- proposed provisions on court fees and the suggested introduction of mandatory payment of court fees under the threat of dismissal,

- retroactive application of the Law on Amendments and Supplements to the Law on Civil Procedure,

- changing the conditions for filing an extraordinary legal remedy – motion for review, practically abolishing this legal remedy,

- limiting the right to seek the disqualification of judges,

- tightening the conditions for imposing fines in civil proceedings on attorneys of the parties, and replacing a monetary fine imposed on a attorney-at-law for violating procedural discipline with a prison sentence if the monetary fine is not paid within the prescribed period,

- the mandatory introduction of e-Court.

The Bar Association of Serbia has submitted reasoned objections to the Draft Law on Amendments and Supplements to the Law on Civil Procedure, totaling 79 pages, to the Ministry of Justice.

In direct communication with the Ministry of Justice, an agreement was reached, and on 3 June 2021, an agreement was concluded specifying that the provisions stipulating that a submission for which the court fee has not been paid within the due date will be considered withdrawn, as well as the provisions on the retroactive effect of the Law on Amendments and Supplements to the Law on Civil Procedure, will be deleted. It was also agreed that the e-Court for the legal profession will exist as an option but not as an obligation. In addition an agreement was reached to continue working on the Draft of this law, and the Working Group of the Ministry of Justice will be expanded with representatives proposed by the Bar Association of Serbia, with representatives of legal profession constituting 50% of the members of the Working Group. The expanded Working Group will continue the public

discussion, considering all objections and suggestions presented by the Bar Association of Serbia, as well as objections and proposals put forward by other participants in the public discussion. By this agreement, it was also agreed that representatives of the Bar Association of Serbia and the Ministry of Justice will regularly review the implementation of this agreement until consensus is reached on all key issues.

Work on the Draft Law on Amendments and Supplements to the Law on Civil Procedure was suspended in December 2021, and the Ministry of Justice announced a resumption of work after the election of the new Government of the Republic of Serbia, expected in the year 2024.

### **3. Problem of Increased Number of Members**

Over the past decade, the number of attorneys-at-law registered in the directories of bar associations within the Bar Association of Serbia has significantly increased. In the period from 31 December 2013, to 31 December 2023, the number of attorneys-at-law in Serbia has increased by 52%.

The sudden rise in the number of attorneys-at-law in Serbia has resulted in:

Worsening financial position for lawyers,

Increase in the number of cases of breaching the Code of Professional Ethics by attorneys-at-law gaining clients through disloyal competition, through intermediaries, through illegal forms of advertising (e.g., posting ads on street banners), initiating representation without prior acquaintance and direct contact with the client, initiating so-called mass disputes,

Untimely fulfillment of financial obligations towards the bar association, tax obligations, social security contributions, etc.

The Managing Board of the Bar Association of Serbia has formed a working group to analyze the possibilities of amending regulations on the legal profession regarding criteria for registration in the directory of attorneys-at-law, registration procedures, and the possible implementation of *numerus clausus* for registration in the directory of attorneys-at-law.

#### **4. Improvement of International Cooperation**

The Bar Association of Serbia is a full member of the International Association of Lawyers (UIA), actively participating in the work of the Governing and Executive Boards, as well as annual congresses through its national representative. In 2023, the national representative of the Bar Association of Serbia was elected as the Deputy Director of the UIA for collective members. Following this appointment, a new national representative of the Bar Association of Serbia was elected in this international organization of lawyers. A member of the Managing Board of the Bar Association of Serbia was appointed by the decision of the president of the UIA as an advisor to the president for a one-year term. The Bar Association of Serbia has also made decisions regarding its representatives in the Human Rights Commission and the Committee on Women's Rights within the UIA.

Furthermore, the Bar Association of Serbia is a full member of the International Bar Association (IBA), and active participation in the work of this organization is anticipated in the upcoming period following the appointment of a new representative.

The Bar Association of Serbia actively participated in the work of the CCBE and the CCBE's PECO Committee, holding the status of an associate member. In December 2023, the Managing Board of the Bar Association of Serbia appointed a new representative to the PECO Committee of the CCBE.

It is noteworthy that all three international organizations of lawyers have provided active support to the legal profession in Serbia during various crises and other occasions pertinent to our profession.

#### **5. Legislative Activity and Collaboration in the Development of the Judicial System**

The provision of Article 66 of the Law on Legal Profession regulates the activities of the Bar Association of Serbia, which among other things, include providing opinions on drafts of regulations and/or initiating proposals for amendments to regulations.

Representatives of the Bar Association of Serbia have been actively involved in the work of specific working groups established by the Ministry of Justice to prepare proposals for the amendment and supplementation to existing regulations or to draft entirely new regulations.



In the past five years, there has been a notable trend of extremely brief public discussions involving both the professional and general public (average period for public discussion is around 15 calendar days), regardless of the significance of the regulations for the protection of human rights or the protection of the rights of parties in proceedings before competent state authorities (courts, administrative bodies).

This report also indicates that amendments to the Criminal Procedure Code and the Criminal Code have been announced. However, work on amending these regulations will continue after the election of the new Government of the Republic of Serbia in 2024.

The Bar Association of Serbia has appointed its representatives to the working groups responsible for preparing the text of the Draft Law on Amendments and Supplements to the Criminal Procedure Code and for preparing the text of the Draft Law on Amendments to the Criminal Code.

Done in Belgrade, 26 January 2024

PRESIDENT OF THE BAR ASSOCIATION  
OF SERBIA



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