
Le Président
The President

Dr. Hans-Holger Herrnfeld
President of the European Committee
on Crime Problems
of the Council of Europe

Brussels, 1st March 2018

Dear President,

I am writing to you on behalf of the Council of Bars and Law Societies of Europe (CCBE), which represents the bars and law societies of 45 countries, and through them more than 1 million European lawyers.

The CCBE works in close cooperation with the Council of Europe in a number of areas, notably through its membership of the Conference of International Non-Governmental Organisations, its observer status at the European Commission for the Efficiency of Justice (CEPEJ) and the Consultative Council of European Judges (CCJE), as well as at a number of committees and drafting groups related to the future of the Convention, migration, and freedom of expression.

In your capacity as President of the European Committee on Crime Problems (CDPC), I am contacting you following the Parliamentary Assembly of the Council of Europe (PACE) [recommendation](#) adopted on 24 January 2018, calling the Committee of Ministers **to draft and adopt a European Convention on the Profession of Lawyer**, including an effective control mechanism. The PACE also proposes the establishment of an early-warning mechanism to respond to immediate threats to lawyers' safety and independence and to their ability to perform their professional duties effectively, modelled on the Council of Europe Platform to promote the protection of journalism and safety of journalists.

This proposal has the strong support of European Bars and Law Societies whom consider that there are three central reasons why a European Convention on the Profession of Lawyer is needed:

First, lawyers play an essential role amongst professions as actors in the system of justice and so by their contribution to protecting the Rule of Law, ensuring access to justice for fellow citizens, and protecting fundamental rights and freedoms. For the same reason, the legal profession can come under considerable pressure from the executive and legislative powers, as well as sometimes the judiciary, and non-State actors.

Secondly, although there are various instruments exhorting the protection of the role of lawyers, notably including the Recommendation No. R(2000)21 of the Committee of Ministers to Member States on the freedom of exercise of the profession of lawyer (the Recommendation), the continuing attacks on the role of lawyers in the seventeen years since the Recommendation was adopted, which have accelerated recently show that the Recommendation has not been fully effective. Thus, only in the last 3 years, the CCBE itself has drawn attention to cases concerning attacks on lawyers or violations of lawyers' rights, for example see the main letters sent by the CCBE regarding the situation in Bosnia Herzegovina^[1],

^[1] Bosnia Herzegovina – violence against lawyers see [CCBE letter of March 2015](#), [CCBE Letter of February 2017](#), and [protection of the legal profession see CCBE letter of March 2017](#).

Georgia^[2] Moldova^[3], Ukraine^[4], Turkey^[5] and Poland^[6]. Binding obligations, rather than exhortations to best practice, are required to secure the protection of the independence of the legal profession and, through it, the Rule of Law.

Thirdly, although the European Convention on Human Rights (ECHR) protects various critical rights associated with the lawyers' role in maintaining the Rule of Law, and should continue to do so unamended, other rights, identified in the Recommendation, are outside the scope of the ECHR. They need a protection mechanism at European level too, albeit in a simpler, faster and more immediate form than the ECHR, which should not, of course be undermined.

The [report](#) unanimously adopted by the Committee on Legal Affairs and Human Rights of the PACE on 12 December 2017, stressed the crucial role played by lawyers to ensuring respect for human rights and the rule of law, and expressed utmost concerns that harassment, threats and attacks against lawyers continue to occur in many Council of Europe member States and are even increasing in some. The rapporteur Ms. Sabien Lahaye-Battheu therefore underlined the need for a binding instrument in this field, in the form of a convention which should be based on the existing Committee of Ministers Recommendation No. R (2000) 21 and take account of subsequent standards and developments in the surrounding legal context.

The CCBE respectfully asks you to treat this issue as a priority and to support this ambitious initiative which would be a major step forward in the protection of Human Rights and the Rule of Law.

We remain at your disposal should you have any questions. The contact person within the CCBE secretariat is Karine Métayer, senior legal adviser (metayer@ccbe.eu).

We look forward to hearing from you.

Yours faithfully,



Antonín Mokry
President

Annexes:

- Recommendation adopted by the Parliamentary Assembly of the Council of Europe (24/1/2018)
- CCBE contribution on the proposed European Convention on the Profession of Lawyer
- Statistical data from Human Rights House Foundation on attacks on lawyers in Azerbaijan, Georgia, Belarus, Moldova and Ukraine

^[2] Georgia - violence against lawyers/violations of rights of lawyers see [CCBE letter of May 2015](#); [CCBE letter of April 2017](#), right to a fair trial (see [CCBE letter of February 2017](#)).

^[3] Moldova - see [CCBE letter of April 2015 \(representation in court proceedings\)](#), [CCBE letter of January 2017 \(violation of lawyers' rights\)](#).

^[4] Ukraine - see [CCBE letter of March 2016 \(rights of audience\)](#), [April 2016 \(murder of lawyers\)](#), [CCBE letter of April 2016 \(violation of lawyers' rights\)](#), [CCBE letter of February 2017 \(administrative detention of lawyer\)](#), [CCBE letter of March 2017 \(murder of lawyers\)](#).

^[5] [Joint statement by lawyers, judges and journalists on the ongoing crackdown on the rule of law in Turkey](#), 5 April 2017; [press release on the ongoing crackdown on the rule of law in Turkey](#), 12 December 2016; as well as several letters in support of arrested lawyers see CCBE website: <http://www.ccbe.eu/documents/defence-of-the-defenders/>

^[6] Poland - [CCBE letter of July 2017 on adopted amendments to the Polish Act on the National Council of the Judiciary and the Act – Law on Common Courts Organisation](#)