

# FBE - Federation des Barreaux d'Europe



Eastern Europe Bar Committee

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## ACTIVITY REPORT

Warsaw September 22<sup>nd</sup>, 2018

The period elapsed since the last meeting was very short, but equally intense, especially for the Romanian lawyers.

We posted on the platform created by Dolj Bar - [www.easternbars.net](http://www.easternbars.net) - the Committee's activity report and resolutions adopted at previous meetings, on the independence of lawyers, judges and prosecutors in the administration of justice in Eastern Europe - adopted in London - and the intervention of the Romanian Intelligence Service, which affects or may affect the independence of the judiciary - adopted in Bologna. The platform is a means of communication and information of the Eastern European bars, which, as we have already said before, having scarce financial means, find here the possibility of communication.

In order to shed some light on the problems of Eastern Europe's lawyers and the existence of similar problems in Western Europe, we have devised a set of questions that we have submitted to the FBE member bars and summarised the answers:

- 1. Do you face unfair competition to the profession of lawyer? (for example, legal services provided by non-lawyers, diversion of clients, etc.).**

**1.1. Bulgaria** stated that notaries public, through certain consultancy actions, and private bailiffs, and sometimes even accountants, perform actions that represent unfair competition to the profession of lawyer.

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**1.2. Germany** is facing the same problem, unfair competition to the profession of lawyer under the form of tax advisory firms drafting and concluding contracts, certain commercial companies offering such services, often on the internet, and insurance companies, often through their legal advisor hired to provide the company such services, not to third parties.

**1.3. Serbia** faces a serious problem with private bailiffs and notaries public, who, through their actions, violate even the Constitution of Serbia.

1. **Are there alternative dispute resolution procedures and, if so, do these procedures adversely affect the pursuit of the profession of lawyer?**

**2.1. Bulgaria** has the Arbitration courts as a unique way of alternative dispute resolution, which does not adversely affect the exercise of the profession of lawyer.

**2.2.** Exercising the profession of lawyer in **Germany** is affected by mediations performed by insurance companies, which are not independent, cannot guarantee impartiality, assuming rights that they do not have.

**2.3 - Serbia and Poland** have stated they have no problems in this regard.

1. **Do you think the lawyer services taxation is high?**

3. None of the delegations in the above-mentioned countries deems that the taxation of the lawyers' services is high.

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1. **Do you face the interference of the State in exercising the lawyer's profession (for example, ordered inquiries, excessive controls by tax authorities, etc.)?**

4. None of the delegations in the above-mentioned countries did not invoke the interference of the State in exercising the lawyer's profession.

1. **Are there any legal provisions or other obstacles to the freedom and independence of the lawyer service?**

5. All delegates of Poland, Bulgaria, Serbia and Germany believe that only the consistent provisions on the specific information of the National Services to prevent and combat money laundering may affect the freedom and independence of the lawyers' services, but they have legal and social justification.

1. **Please mention if there are other issues that prevent the pursuit of the profession of lawyer.**

6. **Serbia** is faced with a severe problem in terms of regulation and activity of public lawyers. That is why national protests of lawyers and bars that want to keep their independence are taking place.

**In conclusion**, the major problems of Eastern European law are related to the unfair competition of bailiffs, notaries public, consulting companies, correlated with the lack of reaction of countries in protecting lawyers' activity.

The Committee continued to monitor the "Legal Education in Schools and High Schools" project, involving over 60 lawyers from the Cluj Bar, who teach legal education lessons in schools.

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The Committee has supported and will further support the development of young lawyers by involving and sending competitors from member bars to competitions organised under the auspices of the FBE. We even think of proposing to the Cluj Bar to organise such a contest in 2019, when Cluj Bar will celebrate 100 years of existence.

Looking ahead, the Committee will monitor the legislative changes of Eastern European countries that affect or may affect the independence of the judiciary and lawyers.

In Romania, which celebrates this year 100 years of existence as a unitary national State, the problems of justice and abuse of the governors cast a shadow over the joy of the moment.

*(In 2018, we commemorate 100 years since the major political event of the 1918: the completion of the Romanian national State achieved through the union of the Romanian provinces with Romania. At first there was the union of Bessarabia with Romania (March 27<sup>th</sup>, 1918), then the union of Bucovina with Romania (November 28<sup>th</sup>, 1918), and finally the union of Transylvania, Banat, Crişana and Maramureş with the Mother Country, Romania (December 1<sup>st</sup>, 1918). The three unions form together The Great Union of 1918.)*

The Romanian people turned out to be perhaps the naivest people in Europe. We have lived almost 30 years of unfulfilled hopes only to find that we have "an indigenous capitalism and democracy" - the economy is in recession, the investment is dropping, the purchasing power decreases, the human capital leaves the country. The sanitary system, the education, road infrastructure do not exist, being the victims of the national robbery.

We have been stunned by the amendments proposed over the past months by the parties holding the parliamentary majority on the laws of justice (judiciary organisation, magistrate status) and amendments proposed to the Criminal Code and Criminal Procedure Code, largely in the interest of majority politicians, in order to escape punishments or criminal prosecution. And the manner in which the Chief Prosecutor of the National Anti-Corruption Directorate was replaced.



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The topic of these past few days is the attempt to pardon and grant amnesty for a series of crimes, which is obviously also in the interest of majority politicians.

The events from August 10<sup>th</sup>, 2018, when the diaspora meeting in front of the Romanian Government ended with unimaginable aggressions in modern history, was also something that triggered the reaction of people with good faith, both inside the country and abroad.

These events led us to propose 2 resolutions:

- on the violation of the rule of law in Romania
- on the violation of the right to free expression in Romania

Furthermore, with regard to the events in Serbia, we propose another resolution:

- against attacks on the life and integrity of Serbian lawyers and their families.

Drafted by

Registrar

Diana Andrasoni, Attorney-at-Law

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