

# Eastern Bar Committee Report

During the last year the Committee has worked a lot.

There were a lot of activities.

The President of the EBC took a lot of business trips to visit and meet colleagues as well as to organize meetings on specific topics from Eastern Europe.

We have been in touch with bar representatives from Bosnia, Croatia, Montenegro, Northern Macedonia, Republic of Srpska, Slovenia, Bulgaria, Turkey, Romania, Azerbaijan, Hungary, BA Vojvodina (Serbia) etc.

During this period we were informed about happenings in Bar Associations, as well as about some news, about the usual way how Bar Associations work in some specific areas, about general problems which lawyers and Bar Association face.

From all those countries, Bars, news and activities, I would like to abstract, by opinion of the committee, the most important occasion from Romania. „ with a series of attempts against the independence of the Romanian lawyer profession regarding the digitalization of the lawyer profession and the monthly "subscription" legal consulting services" as they said.

We received a request from a lawyer from Romania which I am sending to you as an attachment, together with a translation in English. Here you will find a proposal for a resolution FBE prepared by our member from Romania Mr Iuga Calin.

Best Regards,

Rajko Maric  
President of the EBC- FBE

## I. THE STRATEGY OF NATIONAL ASSOCIATION OF THE ROMANIAN BARS (N.A.R.B.) REGARDING THE DIGITALIZATION OF THE LAWYER PROFESSION

This strategy has as objectives the following:

1. creating a single point of online interaction through the N.A.R.B. platform between lawyers and clients.
2. storage of electronic legal assistance contracts and electronic power of attorneys compulsorily by N.A.R.B.
3. intermediating access to electronic state services through the N.A.R.B. platform secured by the Romanian Special Telecommunications Service (S.T.S.).

The strategy violates the fundamental principles of the lawyer profession: independence, freedom of the lawyer profession and attorney-client privilege.

1. The intermediation of legal services by creating a single point of online interaction through the N.A.R.B. platform between lawyers and clients will create the standardization of the legal offers through the platform which violates the principle of economic freedom of the lawyer, removing the competition and the diversity of legal services.
2. The mandatory storage of electronic legal assistance contracts and electronic power of attorneys by a third party even is N.A.R.B. (the lawyer is the only one responsible for maintaining professional secrecy to which N.A.R.B. is a third party) violates attorney-client privilege.

3. Intermediary access to the electronic state services is unnecessary, the lawyer having direct access like any citizen (the interconnection with the state platforms must be done individually, not collectively).

Obliging the lawyer to access the electronic services of the state institutions through a secure platform managed by the secret services violates attorney-client privilege. The cyber security of state institutions, including in the field of justice, is ensured by Romanian Special Telecommunications Service (S.T.S.). The N.A.R.B. platform will not be able to be interconnected to state-managed platforms without the cyber control of the Romanian Special Telecommunications Service (S.T.S.).

It is a false premise that participating in video conferences and exchanging information and data will be secured only through this N.A.R.B. platform. Just as the participation of any citizen is possible in electronic state services without access to an intermediate platform, it is also possible for lawyers.

Even if enrollment in the platform will not be declared mandatory, by offering free services by N.A.R.B. lawyers will be indirectly attracted. In order to respect the fundamental principles of the lawyer profession, the idea of controlling the lawyer's electronic activity and the involvement of the state and the secret services in his activity, both directly and indirectly, must be rejected from the start.

The danger of this strategy is if it will succeed in one EU country, will be a bad example for another one.

## 2. THE INTERFERENCE OF THE PROSECUTORS IN THE ATTORNEY-CLIENT PRIVILEGE

In Romania, the judicial bodies interpret the monthly "subscription" legal consulting services as non-existent and accuse the lawyers of fraudulent agreements with their clients in order to damage the state. On the basis of these accusations, the legal reports of the lawyers are raised by serious violation of the attorney-client privilege and of case law of the Court of Justice of the European Union (CJEU Decision C-463/14) which does not condition the performance of an activity within the legal services of the "subscription" type. Within this type of service, there is no obligation to prove the actual provision of services, the provision of services being performed by the very fact of being available to the beneficiary, independent of the volume and nature of the services actually provided. This practice violate as well the case law of the independence of lawyers in Romania

The most famous Romanian case was that of the former prime minister of Romania, Victor Ponta, a lawyer by profession, who was finally acquitted and the most recent case is that of lawyer Ioan Băraș from the Cluj Bar, who is currently being investigated by prosecutors.

For these reasons I request F.B.E. to adopt a resolution regarding the condemnation of the NATIONAL ASSOCIATION OF THE ROMANIAN BARS (N.A.R.B.) digitization strategy of the Romanian lawyer profession and the interference of judicial bodies in the "subscription" services of lawyers.

### **Resolution on violation of the independence of lawyers in Romania - Amsterdam, June 17th, 2023**

**On June 17th, 2023, the FBE's General Assembly, representing 250 member bars together with its 1 million member lawyers, expressed its deep concern about the independence of lawyers in Romania regarding the digitization strategy of the NATIONAL ASSOCIATION OF THE ROMANIAN BARS (N.A.R.B.) and the violation of the fundamental principles of the lawyer profession by it, as well as the breach of attorney-client privilege by the Romanian judicial bodies in the the monthly "subscription" legal consulting services.**

**We call upon the NATIONAL ASSOCIATION OF THE ROMANIAN BARS (N.A.R.B.) to revise the digitization strategy in compliance with the fundamental principles of the lawyer profession and the judicial bodies of the Romanian State to respect the case law of the Court of Justice of the European Union in the matter of legal services of the "subscription" type and the attorney-client privilege stopping to rise any documents and information from lawyers regarding this kind of activity.**