

Mr. Tigran Sarkisyan
Prime Minister
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By post and by email
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Brussels, 25 October 2013

Dear Prime Minister,

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 32 member countries and 11 further associate and observer countries, and through them more than 1 million European lawyers.

Ever since its establishment in 1960, the CCBE has been in the forefront of advancing the views of European lawyers, protecting the rights of citizens and defending the legal principles upon which democracy and the rule of law are based.

Recent government proposals in Armenia to establish a state registry for advocates at the Ministry of Justice have caused serious concerns at the CCBE and this is why I am writing to you.

The government's proposals

According to the information which is at the CCBE's disposal, the government proposals have the following features:

- They provide for the registration of advocates, advocates' assistants and foreign accredited advocates in a state registry;
- The registry shall be an electronic document which will be maintained by the Ministry of Justice;
- The Chamber of Advocates will have to provide the Ministry of Justice with all the necessary data for maintaining and coordinating the registration of advocates with the state registry; (the Chamber will, however, remain in charge of registration of advocates in the registry, their removal from it and updates of the registry);
- Advocates, assistants' advocates and foreign accredited advocates will have to pay a yearly fee for registration with the state registry (advocates - 60,000 AMD (approx. 110 EUR), advocates' assistants - 20,000 AMD (approx. 36 EUR), and foreign advocates 100,000 AMD (approx. 180 EUR);
- The fees obtained from advocates will flow into the technical maintenance of the state registry and its operating expenses and the maintenance of the Public Defender's Office.

We understand that the proposed amendments are part of the government's policy to increase the quality of services provided to the population and to expedite an exchange of information between state and other bodies and organisations through using high technologies and introduction of electronic registries.

The CCBE concerns

The state registry

The CCBE has great difficulties in understanding the needs for establishing the state registry. The Chamber of Advocates already provides information about its advocates (including licence numbers, contact details, and areas of specialisation) on their public website. Why therefore create an additional registry, and especially a state registry? Furthermore, the CCBE has difficulties in understanding the objectives behind the state registry. How will the state registry improve the quality of services provided to the population or expedite an exchange of information, all the more since a registry – maintained by the Chamber – already exists? The CCBE would be grateful to learn more about the government's intention.

However, independent of these initial remarks and questions, the CCBE believes that the proposed establishment of a state registry is contrary to core principles of the European legal profession, namely independence and self-administration. The mere fact of creating such a state registry and requiring the Chamber of Advocates to provide the Ministry of Justice with information about the advocates registered with the Chamber puts at risk the very essence of the profession, which is to be independent of the government.

The independence of the profession and self-administration have been recognised by both the Council of Europe [Recommendations](#) on the freedom of exercise of the profession of lawyer of 25 October 2000 and the United Nations [Basic Principles](#) on the role of lawyers of 1990. Besides, the CCBE's own [Charter of Core Principles of the European Legal Profession and Code of Conduct for European Lawyers](#) equally list independence and self-administration amongst the core principles.

It is the CCBE's conviction that only a strong element of self-administration can guarantee lawyers' professional independence vis-à-vis the state, and without a guarantee of independence it is impossible for lawyers to fulfill their professional and legal role.

Therefore, the CCBE urges you that no such state registry be put in place and that all matters concerning the registry be kept within the Chamber of Advocates.

Legal aid and its funding

The CCBE would like to welcome the government's plans to extend the scope of legal aid - legal aid is an essential tool ensuring access to justice, and as such a fundamental right which is enshrined in the European Convention on Human Rights (ECHR).

The CCBE, however, strongly objects to the government's plan that the fees to be obtained through the state registry (with which establishment the CCBE disagrees, as set out above) be used for the maintenance of the Public Defender's Office. This runs counter to all European and international legal instruments concerning legal aid.

It is not the duty of advocates but the duty of states and governments to guarantee, organise and finance such legal aid systems. The CCBE would like to refer in this context, for instance, to the Council of Europe [Recommendations](#) on the freedom of exercise of the profession of lawyer of 25 October 2000, Principle IV - Access for all persons to lawyers ("3. Governments of member states should, where appropriate to ensure effective access to justice, ensure that effective legal services are available to persons in an economically weak position, in particular to persons deprived of their liberty."), the United Nations [Basic Principles](#) on the role of lawyers of 1990 ("3. Governments shall ensure the provision of sufficient funding and other resources for legal services to the poor and, as necessary, to

other disadvantaged persons.”), and to the [guide](#) on the implementation of Article 6 of the ECHR which states that: “The State is under a positive obligation to take all the steps necessary to ensure that these rights are guaranteed in practice as well as in theory. This includes putting sufficient financial resources at the disposal of their systems for the administration of justice.”

The proposed taxation - which is in fact unprecedented in Europe - would also lead to a ‘double taxation’ of advocates. Not only would advocates have to pay taxes as any other citizen (taxes which partly flow into states’ legal aid budget) but they would also have to support directly the legal aid scheme through the state registry fee flowing into the maintenance of the Public Defender’s Office. The CCBE cannot see any justification for such discriminatory practices. Such a proposal would have a disastrous effect on the profession – if one were to follow the logic of such a proposal, then doctors would need to be asked to finance health systems which is inconceivable in any European country.

Impact of government proposals on young advocates

Finally, the CCBE would also think that such taxation would mean restricting access to the profession, and thus creating a sort of ‘club of advocates’ gathering all those who are in the fortunate position of being able to afford such an annual fee.

In light of the above comments, the CCBE urges you to withdraw this legislative proposal.

I am happy to discuss these comments further with you, if you wish.

Yours sincerely,



Evangelos Tsouroulis
President

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