
Le Président
The President

For the attention of:

Government of the Republic of Moldova
Mr Pavel Filip, Prime-Minister

Brussels, 9 January 2017

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 45 countries, and through them more than 1 million European lawyers. We are pleased to have, since 2008, the Moldovan Bar Association amongst our observer members and as a member in our PECO Committee.

The CCBE is committed to promoting the Rule of Law and supporting law reform processes in Central and Eastern Europe. The CCBE has set up a PECO Committee which assists Bars and Law Societies in these countries with their legal reforms, and examines cases where lawyers are victims of human rights breaches or where lawyers' rights are put at risk. Such cases of violations of lawyers' rights in Moldova have recently been brought to our attention.

The Moldovan Bar Association has informed us about new instances in which criminal investigations are underway into two lawyers, Veaceslav Țurcan and Maxim Belinschi. It is our understanding that these cases are only two amongst others in which lawyers' rights are infringed, namely their right to independence and freedom of exercise. The CCBE would like to remind you that any attempt at intimidating lawyers in the exercise of their duties is in direct contradiction of basic principles recognised in international and European law.

In this context, we wish to remind you of article 16 of The Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990:

"16. Governments shall ensure that lawyers

(a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference;

(b) are able to travel and to consult with their clients freely both within their own country and abroad; and

(c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics."

Let us also mention that the Recommendation No. R (2000) 21 of the "Committee of Ministers to Member States on the freedom of exercise of the profession of lawyer" is also applicable to the legal order of the Republic of Moldova. The Principle I – General principles on the freedom of exercise of the profession of lawyer, p. 1 and p. 4, reads:

- 1. All necessary measures should be taken to respect, protect and promote the freedom of exercise of the profession of lawyer without discrimination and without improper interference from the authorities or the public, in particular in the light of the relevant provisions of the European Convention on Human Rights.*
- 4. Lawyers should not suffer or be threatened with any sanctions or pressure when acting in accordance with their professional standards.*

Moreover, we wish to point out that in the Constitution of the Republic of Moldova¹ and in the national Law on the Legal Profession² there are provisions that enshrine the same rights and liberties of lawyers.

We understand that the criminal investigations against the two lawyers are on the basis of giving false statements - Art. 352¹, para 1 of the Moldovan Criminal Code³. However, we find it necessary to note that the given article is a norm in the Chapter XVII- Crimes against Public Authorities and State Security, it should not be applicable to a lawyer giving statements in court. In this context, it is important to indicate that lawyers registered with the Moldovan Bar guide themselves according to their bar's statutes and to the CCBE's Code of Conduct for European Lawyers, in which under Chapter 4, p. 4.4 it reads: "*A lawyer shall never knowingly give false or misleading information to the court*".

Given the political situation in Moldova and the notifications we received from the Moldovan Bar, we find that recent cases of lawyers' rights violations, initiated by state authorities, could be politically charged and could indicate a breach of another UN Basic Principle on the Role of Lawyers, namely identification of a lawyer with his or her client. Thus, both the Moldovan Bar Association and the CCBE feel that the proceedings started against the mentioned lawyers are disproportionate and unfounded. The CCBE condemns any such undertaking by a state authority, as it affects fair legal representation and damages the rule of law in general.

Finally, the CCBE follows with interest legal developments in Eastern Europe, including in the Republic of Moldova. We aim to help support the legal reforms and the strengthening of the rule of law in the region. With these considerations in mind, please receive our letter as a sign of trust and good will. As an international professional association, we are always available for consultation and assistance in providing expertise.

Yours sincerely,



Ruthven Gemmell WS
CCBE President

¹ Art. 26 para 4, [Constitution of the Republic of Moldova](#):

4. Any interference with the activity of the persons carrying out the defence within legally established limits shall be punishable by law.

² Art 51, 52, para 1, Law No. 1260 from 19.07.2002 on the Legal Profession (Legea 1260 cu privire la avocatura)

51. Independence lawyer

The practicing lawyer is independent and subject only to the law, the profession of lawyer and the lawyer's Code of Conduct. Lawyer is free to choose its position and is not obliged to coordinate the position with anyone except the client.

52. Guarantee independence

(1) prohibits interference in the Legal Profession. State shall ensure the freedom and protection in practice law without discrimination and without undue interference from its authorities or the public.

³ Article Art. 352¹, para 1 of the [Moldovan Criminal Code](#), Chapter XVII

CRIMES AGAINST PUBLIC AUTHORITIES AND STATE SECURITY:

"Article 352 1. False Declarations

False declarations made by a person to a competent body aimed at generating certain legal consequences for himself/herself or a third party when according to law or circumstances the declaration causes the generating of these consequences shall be punished by a fine in the amount of 600 conventional units or by imprisonment for up to 1 year.

[Art.352 1 introduced by Law No. 277-XVI dated 18.12.2008, in force as of 24.05.2009]"