

CCBE Statement on the reactivation of justice in Europe

The CCBE sounds an alarm bell for justice in Europe

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The CCBE urges the European institutions and all member states to:

- **Facilitate the complete reactivation of justice systems** in Europe, while promoting health and safety measures
- **Invest in justice and legal aid urgently**
- **Provide support to** promote access to justice and guarantee citizens' rights

The Council of Bars and Law Societies (the "CCBE"), recognised as the voice of European Lawyers, unites the Bars and Law Societies of 45 European Countries, including the 27 EU Member States. Through them, the CCBE represents more than 1 million European Lawyers. The CCBE promotes access to justice, respect for Human Rights and defence of the Rule of Law.

1. It is urgent to reactivate fully-functioning justice systems in Europe

Since the dawn of civilisation, delivering justice is a prerogative of the state. As a public necessity justice is subject to the requirement of continuity. However, during the confinement period, European Judiciaries cancelled and postponed numerous cases and proceedings. Access to justice and human rights have been suspended or stopped. The rights of citizens to due process within a reasonable time, a fundamental right enshrined in several constitutional and international texts (e.g. art 6 ECHR and art 47 EU Charter Fundamental Rights) have been interrupted. This is not only undesirable but intolerable in a European Union based on Rule of Law and respect for Fundamental Rights.

The CCBE demands access to justice be recognised as an immutable duty for member states. The Judiciary must be reactivated immediately in phase I of every deconfinement strategy, to the greatest extent possible, to allow citizens and entities regain full access to justice and to legal certainty. The immediate reactivation of justice will accelerate the return to normality for our society and sustain the recovery of economic activities. An effective Justice system is a cornerstone of human rights and of economic activities, both currently under great threat.

2. Member States should invest in Justice and in legal aid

The CCBE urges the EU and Member States to invest to make justice **accessible for all parties in a safe and healthy manner including access of defence lawyers to prisons.**

It is necessary to establish EU-wide rules on deciding in which cases the physical presence of parties and/or lawyers in the courtroom is not required.

For physical hearings and proceedings, rooms should be adapted to allow for social distancing and personal protective equipment made available for parties. For proceedings and hearings which do not require physical presence, measures must be taken to ensure required publicity, for parties to consult

their lawyer privately, and other fair trial rights. Where technologically supported hearings would otherwise have been in public a permanent record of such proceedings should be made.

Due to the cancellation and postponement of cases, the judiciary will face a **significant (additional) backlog**, which further negatively affects legal certainty and societal peace. Sufficient court staff and personnel must be provided to eliminate this backlog as soon as possible. Investment should be made in IT development in court case management in order to increase transparency and speed, promote accessibility for parties and their lawyers, and streamline case load.

It is to be feared that due to the economic consequences of the coronavirus crisis, more citizens and entities will need **legal aid support** for accessing justice. It is therefore important for the wellbeing of the weakest in our societies to enhance capacity and to increase the budgets for legal aid.

3. The EU and Member States should provide support to lawyers to ensure the defence of fundamental rights and freedoms and to promote access to justice in order to guarantee citizens' rights

Whereas judges, prosecutors and law enforcement are funded by the State and will continue to be paid, this is not the case for lawyers who defend citizens' rights and represent their interests before courts and administrations. In this time of crisis, this affects negatively the "equality of arms".

In particular, sole practitioners and small and medium sized law firms, who often are the first point of contact with justice and rights defence, have suffered dramatically from the confinement and coronavirus crisis, due to the lack of new cases and late or non-payment of invoices by clients, themselves adversely economically impacted. While statistical data is not yet available initial soundings taken suggest that about 25% of European lawyers are significantly adversely affected.

Mostly sole practitioners and small law firms address the justice needs of the weakest in our societies: families, vulnerable adults and minors, asylum seekers, etc. The disappearance of 'their' lawyers will, be to the detriment of the weakest. Citizens will suffer when their lawyer will no longer be there.

Access to justice for everyone, especially the poorest, is a core value of societies based on the Rule of Law. The contribution of lawyers ensuring access to justice is vital for the respect for the Rule of Law.

The CCBE urges the EU institutions and the Member States to provide specific financial support as well as tax relief measures for lawyers and law firms. At this difficult time clients should not be exposed to VAT on legal services which are by any standard more essential than ever.

Financial support for SMEs is not always accessible for lawyers in all Member States but should be.

An increase of legal aid funds and the (temporary) possibility to make advance payments to legal aid lawyers may already help lawyers to overcome liquidity problems and survive the crisis while providing services to legal aid clients.