

Mr Matteo Renzi
President of the Council of Ministers
of the Italian Republic
Presidenza del Consiglio dei ministri
Palazzo Chigi
Piazza Colonna 370
00187 Roma - Italia

Brussels, 12 March 2015

Re: Concerns regarding threats against Mr Nicola Canestrini, a lawyer

Dear President,

I am writing to you on behalf of the Council of Bars and Law Societies of Europe (CCBE), which, through the national Bars and Law Societies of the Member States of the European Union and the European Economic Area, represents more than 1 million European lawyers. In addition to membership from EU bars, it also has observer and associate representatives from a further thirteen European countries' bars.

The CCBE places great emphasis on respect for human rights and the rule of law. The CCBE Human Rights committee is particularly concerned by the situation of human rights defenders in the world.

The CCBE writes to express its concern over the situation of Mr Nicola Canestrini, who has received severe criticism from an Italian political figure in connection with his work as a defence lawyer. Mr Canestrini recently appealed to the Regional Administrative Court (TAR) of Lazio regarding the expulsion of a 23-year-old Pakistani citizen from Italy, Mr Muhammad Usman Khan, who had lived in Italy since the age of 8. The expulsion was ordered by the Italian national authorities in January after "likes" and "shares" on Facebook by Mr Khan indicated his support of the Islamic State (IS) terror group, jihadist ideology and the participation of European citizens in the conflict in Syria.

The CCBE has been recently informed that Mr Matteo Salvini, a member of the European Parliament and leader of the Italian *Lega Nord* political party, publicly expressed criticism on his Facebook page, on 20 February, noting that it was an Italian lawyer who had appealed Mr Kahn's expulsion at the administrative court. Mr. Salvini's post on Facebook quickly gained a significant number of "likes" and comments, many of which included open insults and threats, such as death threats, against Mr Canestrini and members of his family.

In this context, the CCBE wishes to draw to your attention the following Principles of the United Nations Basic Principles on the Role of Lawyers (1990):

Principle 14 says that:

Lawyers, in protecting the rights of their clients and in promoting the cause of justice, shall seek to uphold human rights and fundamental freedoms recognized by national and international law and shall at all times act freely and diligently in accordance with the law and recognized standards and ethics of the legal profession.

Also, Principle 16 states that:

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, economics or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Moreover, Principle 17 states that:

Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

Furthermore, Principle 18 says that:

Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.

In addition, Principle 20 states that:

Lawyers shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional appearances before a court, tribunal or other legal or administrative authority.

The state's obligations to guarantee the rights of lawyers are also repeated in Recommendation N° R(2000)21 of the Committee of Ministers to members States on the freedom of exercise of the profession of lawyer (adopted on 25 October 2000).

Particularly, we draw your attention to the following:

Principle I - General principles on the freedom of exercise of the profession of lawyer

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.

(...)

3. Lawyers should enjoy freedom of belief, expression, movement, association and assembly, and, in particular, should have the right to take part in public discussions on matters concerning the law and the administration of justice and to suggest legislative reforms.

4. Lawyers should not suffer or be threatened with any sanctions or pressure when acting in accordance with their professional standards.

(...)

Furthermore, CCBE would like to draw your attention to the right of everyone charged with a criminal offence to a fair trial and, in particular, the right to defend oneself in person or through legal assistance of one's own choosing, as enshrined in Article 6 of the European Convention on Human Rights and as interpreted by the case-law of the European Court of Human Rights:

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. (...)

2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

3. Everyone charged with a criminal offence has the following minimum rights:

(...)

(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

(...)

In view of the above, the CCBE respectfully urges you to immediately investigate the threats made against Mr Nicola Canestrini and to take all the necessary steps to guarantee his physical and psychological integrity. In addition, the CCBE asks you to take all necessary measures to guarantee that lawyers in Italy are able to perform their professional duties without fear of reprisal, hindrance, intimidation or harassment, in order to preserve the independence and integrity of the administration of justice.

I look forward to hearing from you urgently.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Maria ŚLAZAK', written in a cursive style.

Maria ŚLAZAK
President