

Ms. Ursula von der Leyen
President of the EU Commission

Brussels, 25 March 2020

Dear President,

I am writing to you in my capacity as the President of the Council of Bars and Law Societies of Europe (CCBE). The CCBE is recognised as the voice of the European legal profession representing through its members more than 1 million European lawyers. CCBE membership includes the Bars and Law Societies of 45 countries from the European Union, European Economic Area and wider Europe. The defence of the rule of law, human rights and democratic values are the most important missions of the CCBE. Areas of special concern to the organisation include the right of access to justice and the securing of the rule of law in the context of migration law and this issue is monitored by the CCBE's Migration Law Committee.

The situation on the Greek/Turkish border and as regards displaced persons in Greece raises very significant challenges and concerns with regard to the defence of the rule of law at present. We therefore welcome the recent engagement between President Michel and High Representative Borrell with the Turkish President in order to ensure the return of stability and proper border control. In this regard it is most disturbing to note the events over the past fortnight at the Greek/Turkish border and on the Aegean Sea following the announcement by the authorities that Turkey would permit displaced persons to leave Turkey in an uncontrolled fashion for the purposes of crossing into Greece and thereafter the wider European Union. This has placed intolerable pressure on the Greek authorities and in particular the Greek asylum authorities and imperils the proper functioning of the common European asylum system.

At the same time the Union and its Member States have failed to introduce the necessary reforms to the Dublin system to ensure a sustainable approach to common external border, migration and asylum policies that are essential to ensuring solidarity between the Member States and the fair and equitable distribution of asylum seekers between the Member States. It appears to be in this context that the Greek authorities have announced what is termed the 'suspension' of the right to apply for international protection in Greece for a period of one month. Whilst this action plainly violates the Geneva Convention on the Status of Refugees, 1951, the EU Charter of Fundamental Rights and the Treaty on the Functioning of the European Union as well as the relevant provisions of the common European Asylum System, it is incumbent on the Council acting in consultation with the Parliament to take concrete and urgent actions under Article 78(3) TFEU to address the enormous numbers of persons now seeking shelter and protection on inter alia the Aegean islands of Lesbos, Chios, Samos, Kos, and Leros. The burden placed locally on the population of these islands and on the public authorities including asylum authorities is entirely unacceptable and has led to a complete inability for persons seeking to exercise the fundamental right to international protection guaranteed by EU law to access any legal advice to permit them to effectively make their case for asylum at first instance and on appeal. It is fundamental to note in this regard that the legal advice actually available to persons who wish to apply for international protection on the Aegean Islands is not provided or funded by the European Union or the public authorities at all at the first instance stage and the public legal assistance available at appeal stage is practically non-existent or effectively inaccessible. The legal assistance that is available at first instance such as the European Lawyers in Lesbos Project (www.ELIL.eu) is instead funded at present by the European legal professions or by other actors and cannot hope to address the needs of all persons requiring assistance at this time.

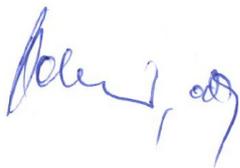
The CCBE also wishes to take this opportunity to raise its serious concerns with regard to the compatibility with EU law of certain of the reforms introduced by Greece under Law 4636/2019 which entered into force on 1st January 2020 including the introduction of closed detention centres, increases in detention periods, new safe country of origin rules, expedited procedures and withdrawal of application rules, restricted time limits for appeals and the removal of the suspensive effect of appeal procedures.

The matters contained in the new Greek law both individually and collectively pose a real threat to the uniform operation and application of the Common European Asylum System. In particular the right to access legal advice which is the cornerstone of the right to an effective remedy and the right to be heard in the asylum process which rights are guaranteed by the EU Charter and EU law in general as well as by the European Convention on Human Rights are both gravely undermined by these new provisions.

Mindful of the significant human suffering involved, in conclusion the CCBE calls upon the Commission to insist that Turkey maintain proper border controls and adapt its laws to permit persons from outside Europe to apply for full refugee status under the Geneva Convention in Turkey thereby preventing the wholly unacceptable pressures being placed on Greece and its asylum authorities. At the same time the CCBE urges the Commission to engage immediately with the Greek authorities with regard to the issues described above and to ensure that even in emergency situations such as at present the rule of law is upheld and respected. Finally, the CCBE wishes to reiterate the fundamental necessity for a properly funded asylum legal service in Greece at both the first instance and appeal levels to ensure the rule of law is given practical effect.

Finally, the CCBE remains available at all times to meet with you to discuss these matters further and in greater detail.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Ranko Pelicarić', with a stylized flourish at the end.

Ranko Pelicarić
President