

Atifete Jahjaga
President of the Republic of Kosovo

Zyra e Presidentit të Kosovës
Ndërtesa e Kuvendit
Sheshi " Nëna Terezë " p.n
10 000 Prishtinë, Kosovë

Brussels, 31 March 2014

Your Excellency,

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 12 further associate and observer countries, and through them more than 1 million European lawyers. One of the CCBE objectives is to actively monitor the defence of the rule of law, the protection of the fundamental and human rights and freedoms, including the right of access to justice and protection of the client, and the protection of the democratic values inextricably associated with such rights.

The Kosova Chamber of Advocates has drawn our attention to the Law of the Republic of Kosovo No. 03/L-006 on Contested Procedure (further – the Law). According to Article 85 Part 1, parties in court proceedings may conduct actions of the procedure either in person or through an authorized representative. According to Article 86, Part 1, currently any person that has full capability to act may be an authorized representative. The CCBE was informed that the Kosova Chamber of Advocates has initiated the amendment of Article 86, Part 1 of the Law. Namely, the Bar proposed that an authorized representative of the party may be a Bar-registered lawyer, free legal aid officials, next-of-kin blood relatives if they have capacity to act; legal entities may also be represented by non-Bar registered lawyers with whom they are in regular working relationship.

Through this amendment, the Kosova Chamber of Advocates is aiming to achieve safety and quality of legal representation of the parties in the relevant procedures.

We understand that the Assembly Committee on Legislation of the Republic of Kosovo has not reached a consensus regarding the further processing of the Bar's proposal to amend Article 86 of the Law. In this respect, I would like to express the CCBE's support to the Kosova Chamber of Advocates' initiative.

At the outset, I would like to underline that the crucial role played by the legal profession in a democratic society is to guarantee respect for fundamental rights, the rule of law and security in the application of the law, both when lawyers represent and defend clients in court and when they are giving their clients legal advice. This has been recognised at European level, such as in the European Parliament [resolution](#) of March 2006. The aims of the rules governing legal services are the

protection of the general public, the guaranteeing of the right of defence and access to justice, and security in the application of the law.

At the same time, I would like to inform you that the CCBE has considered the issue of lawyers' representation before courts in the past years. The CCBE believes that lawyers who are qualified to appear in court serve the interest of the administration of justice best. Lawyers have the necessary competences, skills and knowledge to deal efficiently with the rules of procedure and representation, which are designed to ensure a smooth functioning of the legal system. This will be of benefit to clients, who are ensured of qualified advice, and to society as a whole.

Representation by non-lawyers could mean more errors (unsatisfactory legal representation) and more work for the courts. This could even lead to 'wrong judgments'. Bad legal precedents affect not only the parties involved in the specific matter, but also have an influence on matters of principle dealt with by the courts (see CCBE [position](#) of March 2006, page 6; the CCBE position is drawn from various sources, but in particular from a [report](#) prepared by Copenhagen Economics on the legal services market in Denmark).

A recent survey of the CCBE has also shown that representation before High and Supreme Courts is mandatory in a number of countries in Europe. In other European countries, where representation in court by an advocate is not required by law, clients nevertheless prefer to be represented by advocates, instead of being represented by a person with a lower professional qualification or with no legal knowledge at all, thereby receiving the best legal assistance possible. In Finland, where until recently there was no requirement for a client to be represented by a lawyer in any court, experience of the inefficiency that this caused has prompted the government to pass a law, implemented this year, to require representatives now to have legal qualifications and be supervised by the Bar.

For the reasons set out above, the CCBE would like to express its support to the Kosova Chamber of Advocates in their request for the proper representation in the courts.

The CCBE is happy to provide you with further information and input if that is helpful.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Aldo Bulgarelli', with a long vertical line extending downwards from the end of the signature.

Aldo Bulgarelli
CCBE President