

CCBE Statement on the rule of law

16/11/2021

The Council of Bars and Law Societies of Europe (CCBE) represents the bars and law societies of 45 countries and, through them, more than 1 million European lawyers. The CCBE also acts as a consultative and intermediary body between its members and between the members and the institutions of the European Union on cross-border matters of mutual interest.

The regulation of the profession, the defence of the rule of law, human rights and democratic values are the most important missions of the CCBE. Several areas of special concern to the CCBE include access to justice, the development of the rule of law, and the protection of clients through the promotion and defence of the core values of the profession.

The CCBE always places a great emphasis on the respect for the rule of law, democratic principles and fundamental rights. Therefore, the CCBE welcomes the commitment and the efforts to strengthen the rule of law.

The [Contribution of the CCBE for the Rule of Law Report 2021](#) was adopted and submitted to the European Commission in March 2021. The contribution consisted of a general part with conclusions and an Annex covering all 27 EU Member States and was compiled using relevant qualitative data sourced from member Bar delegations' contributions to the 2021 EU Justice Scoreboard Questionnaire chapter on the independence of Bars and Lawyers as well as submissions received from member Bars on the relevant rule of law developments in EU Member States, with particular focus on developments that undermine the independence of lawyers and Bars, access to justice, quality of justice, fundamental freedoms, democracy, and the rule of law. In this report, the CCBE highlighted the most important rule of law developments and concerns involving the legal profession which were identified by its members and called for the recognition of the independence of lawyers and Bars as an indispensable component of the independence of justice systems and of the rule of law.

The CCBE is pleased to note that in comparison to the first Rule of Law (RoL) Report issued in 2020, the independence of lawyers and important role of the Bars to guarantee lawyers' independence and professional integrity is explicitly mentioned in the chapter on justice systems in the 2021 RoL Report. In the chapter on justice systems within the 2021 RoL Report, the following is mentioned, recognising the important role of lawyers and bars: "Legal professions play a fundamental role in ensuring the protection of fundamental rights and the strengthening of the rule of law. An effective justice system requires that lawyers be free to pursue their activities of advising and representing their clients, and bar associations play an important role in helping to guarantee lawyers' independence and professional integrity." Likewise, the independence of Bars and lawyers in the EU is also referred to in the EU Justice Scoreboard¹.

¹ Figure 58 of the [EU Justice Scoreboard](#): "Lawyers and their professional associations play a fundamental role in ensuring the protection of fundamental rights and the strengthening of the rule of law. A fair system of administration of justice requires that lawyers be free to pursue their activities of advising and representing their clients. Lawyers' membership of a liberal profession and the authority deriving from that membership helps to maintain independence, and bar associations play an important role in helping to guarantee lawyers' independence. European standards require, among others, the freedom of exercise of the profession of lawyer, the independence of the bar associations, and lay down the basic principles of disciplinary proceedings against lawyers."

The CCBE considers this to be a very positive step forward in recognising the role of lawyers and Bars within the justice system and in relation to strengthen the rule of law.

On the other hand, the RoL report does not provide a deep analysis of independence of lawyers and Bars in the way it is done for the judiciary and prosecutors in the same report. **The CCBE therefore calls for an equal approach in the next RoL report with a more developed analysis of the independence of lawyers and Bars as indispensable component of the independence of the justice system and of the rule of law.** The independence of lawyers and Bars should always be explicitly included by all European institutions when referring to the justice actors and the rule of law.

According to the 2021 RoL Report, “judicial independence remains an area of concern in some Member States. Concerns about judicial independence vary in their intensity and scope. Serious structural concerns exist in a few Member States and have deepened, while challenges of a lesser nature in other Member States require attention. In a few Member States, the direction of reform has been towards lowering safeguards for judicial independence.” **In this regard, the CCBE expresses its concerns and calls for a need to ensure judicial independence and independence all justice actors in all countries.**

The CCBE appreciates the involvement of national Bars in discussions with the Commission during the relevant country visits. While several national Bars were very satisfied with the analysis provided in their country chapters, some of CCBE members have also pointed out that not all of their remarks and submissions provided during these discussions were sufficiently reflected and mentioned in the relevant country chapters.

The CCBE welcomes the intention of the Commission to include country specific recommendations in the next Rule of Law Report. The CCBE suggests that these recommendations should refer, where appropriate, to the need to ensure the independence and safety of all justice actors, including the lawyers and the Bars, as well as the obligation of the Member States to ensure the access to justice, legal aid and relevant funding to safeguard this access.

The CCBE acknowledges the importance of strengthening the rule of law for the future of democracy in Europe and therefore affirms its readiness to cooperate with the EU institutions and to provide its support in this regard by highlighting the important role of lawyers and Bars in ensuring access to justice and respect for the rule of law. Particularly, the CCBE confirms its readiness to support the European Commission and to contribute to the next 2022 Rule of Law Report and the EU Justice Scoreboard.