

# Antonín Mokrý

**Digitalization and globalization, they both fall under one phenomenon**



*JUDr Antonín Mokrý (born 1957) is a lawyer in Prague. He is the Vice President of the Czech Bar Association and since 2015 a Member of Presidency of the Council of Bars and Law Societies of Europe (CCBE), becoming its First Vice President as of 2017.*

**Last December you became the 1st Vice President of the Council of Bars and Law Societies of Europe (CCBE) which means you are expected to become its president in 2018. What are your priorities for your presidency?**

There is a lot of motion in the field of legal services and politicians seem to start considering – as many times in the past – if it was a time to intervene to existing traditional and vetting principles of lawyers profession. My priorities will therefore be very likely determined by these attempts, although I would rather concentrate my efforts on tasks which we lawyers would prefer to solve and offer in these turbulent times. We are working on real problems of everyday life for people who have real cases, politicians sometimes deal with virtual problems which they only believe will bring them affection of a voter who is, by the way, often unsteady and unpredictable and thus the priorities may be changed from one day to another.

**In CCBE, you work with colleagues from other Member States on common positions. How does the cooperation of attorneys work in practice?**

CCBE now represents through the national Bars and Law societies more than 1 million lawyers throughout Europe from 32 countries of the EU, EEA, Switzerland and the member countries of the Council of Europe. Each national bar and law society sends to CCBE its representatives

forming national delegations, but also legal experts from different areas of law who took part in a work of specialized committees, e.g. Deontology Committee, EU Lawyers Committee, Access to Justice Committee, Criminal Law Committee, IT Law Committee and many others. We work not only on common positions to different political and professional initiatives, but we also undertake work on different practical matters for lawyers and their professional bodies, and we protect and assist those defenders of human rights and freedoms who are harassed, insulted, intimidated, abused, imprisoned and sometimes even murdered. We also wish to assist lawyers from countries that still face problems with independent legal or judiciary profession, or who need support in running self-regulatory organization with whatever problems they may suffer.

**You are also the Chair of CCBE Brexit Task Force. What will be the impact of Brexit on legal professions?**

It goes without saying that CCBE as the “Voice of European Lawyers” cannot remain silent on this important event, meaning that at the right time we should express our professional view on different consequences that might arise during negotiations once these occur to the detriment of acquired rights of the current EU citizens. But in addition, we should also be watchful of potential loss of different rights based in conventions and procedural rights that create the “area of justice, freedom and security” in which, until now, the UK played one of the leading roles in Europe. I hope the UK will take a balanced way of negotiations after the Article 50 is triggered and I would expect from EU negotiators the same. In any case, we must not forget that the EU and the UK should remain allies, we are one civilization and we share the same values.

**The EU has adopted general regulation and directive on data protection. What will be the role of attorneys in its implementation?**

New GDPR was published in 2016 with an implementation deadline of 6th May 2018. Even though it is a regulation, there could arise national differences affecting how lawyers should work. CCBE had elaborated Guidance note with the intention of assisting Bars and Law Societies to prepare to mitigate negative results of these differences. Bars and Law Societies are advised to take steps during the implementation in their member states in order to ensure compliance with the principles of professional secrecy and legal professional privilege. It is widely recognized that activities undertaken by lawyers, especially those regarding contentious legal work, serve the interest of administration of justice. Therefore, processing of the personal data which is necessary for the performance of a task carried out in a public interest shall be lawful. As regards activities of lawyers involving non-contentious legal work, the Bars are advised to inform their members to seek consent from their clients when processing personal data. CCBE also invites national Bars to urge their governments to ensure that the powers of the supervisory authority over data protection, it means their access to the data held by lawyers (including their premises) are not exercised without the consent of the relevant bar.

**Panama papers scandal is not over yet. What is CCBE position on that?**

CCBE participated on 24th January 2017 in a hearing organized by the European Parliament Committee of Inquiry into Money Laundering, Tax Avoidance and Tax Evasion (PANA). It was already its sixth hearing. This time we were represented by the Chair of our AML Committee, Rupert Manhart and Trusts expert, Richard Frimston. We aimed at explanations as to the purpose and limits of professional secrecy, which will never apply if a lawyer is facilitating an offence. We tried to explain to the parliamentarians, as well as participating

stakeholders, the important role of Bars and members in detecting and preventing money laundering, having quoted there an extensive number of measures in place to address money laundering risks and to raise awareness amongst the lawyers about money laundering. We also confirmed that the members of the legal profession are under strict sanctions for any failure to adhere to the AML obligations. In my view, it is very difficult to explain and convince the EU officials about different things, such as the role of professional secrecy, distinction between tax evasion and tax avoidance, or that the intermediaries engaged in illegal activity are not necessarily lawyers. We have to go ahead with this persuasion, which must not prevent us to collaborate with OECD and FATF to define “beneficial ownership” and to jointly elaborate a Common Reporting Standards in this field, as in Europe there are different legal traditions and it is expected that the overseas countries should join it as well.

**Many areas could not avoid the influence of digital development. How do you perceive the impact of digitalization on attorneys?**

Digitalization and globalization, they both fall under one phenomenon. Contemporary lawyer relies more and more on technological developments, digitalization makes distances shorter. When you asked me at the beginning of our interview what will be my priority when in lead of the CCBE – digitalization can be the major one. E-justice and electronic access to the court files make life of lawyers and their clients easier, however not everywhere in the EU it is fully implemented. E-learning, e-training for lawyers and European Training Platform on which CCBE works together with the European Commission is another beneficial tool. At the same time, digitalization brings also some dangers that might challenge various core values of our profession and we must be aware of this. We must work even harder on the safety of our communications and transfer of sensitive data.

**I cannot resist to ask you about your view on the Czech discussion on a possible amendment to its Constitution. Is this really necessary?**

If you mention an initiative to amend the Czech Constitution by implementing the fundamental freedom of possession of weapons, then my opinion is in concert with number of high-profile experts in constitutional law who criticised or denied this proposal. If my information is correct, formerly this proposal even included that such “right should contribute to securing public order and security and protection of the territorial integrity, sovereignty and the democratic foundations of the State” that I considered to be rather risky declaration, as it may lead to a conclusion that not only the State but also individuals holding the license are called to ensure public security. On the other hand, I am not entirely sure whether the limitations to the legal possession of weapons as now being revised by EU rearms directive, are aimed at the right direction to achieve the desired goal – to foster public security in Europe – as the main danger lies somewhere else.

**What is the future of legal profession?**

When I’m talking to young lawyers in my country, I keep saying, “By now your competitors have been our human colleagues, but you should no longer rely on this and you should start getting used to the fact that your competitors will be of non-humankind. Therefore, you have to be very innovative.” Artificial Intelligence starts playing an important role in various areas of legal work that have been formerly considered exclusively human. But do not worry about robots, we still control them.

Thank you for the interview!

**By Alena Mastantuono,**

**Director, CEBRE**