

54th EUROPEAN PRESIDENTS' CONFERENCE

“Freedom versus Security: The Rule of Law under the Strain of Modern Crime”

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Palais Ferstel, Festsaal, 1010 Vienna, Strauchgasse 4

Speech – Roman Završek

CCBE President

Dear Colleagues, Dear fellow speakers, Dear President Utudjian, Dear Chair Ultsch,

I am delighted to have the opportunity to address you at this wonderful event to present the “*Perspective from the Council of Bars and Law Societies of Europe*”. As many of you will know, the CCBE represents the bars and law societies of 46 countries, and through them more than 1 million European lawyers.

I would like to begin by saying that, at the heart of the CCBE’s mission is a commitment to champion access to justice, uphold the integrity of the legal profession, protect the rule of law, human rights, and democratic values. We pursue these goals through the tireless work of 25 dedicated Committees and Working Groups. In this regard, we have perspectives on many issues, and this breadth of engagement assists us in reflecting meaningfully on the theme of today’s discussion.

We meet in Vienna under the title “Freedom versus Security” – which might appear as a title that suggests a tension - perhaps even a conflict between the two.

But from the perspective of the legal profession, freedom and security are not opposing forces. They are interdependent. One cannot exist sustainably without the other.

Freedom and security are not natural enemies. They are not opposing values that must constantly be traded against one another.

Why?

- Security without freedom becomes control.
- Freedom without security becomes fragile.
- And both ultimately collapse when the rule of law is weakened.

This is not a philosophical abstraction. It is a lesson drawn from European history - and from contemporary experience.

The panel today addresses “*The Rule of Law under the Strain of Modern Crime*.” That formulation is precise and important. It recognises that modern crime - transnational, organised, technologically sophisticated - places real pressure on our legal systems, our institutions, and our democratic norms.

No one here doubts the seriousness of those threats. European lawyers do not underestimate the damage caused by organised crime, financial crime, corruption, terrorism, or cybercrime.

We see the human cost, the economic harm, and the erosion of trust that criminal networks produce. We understand the expectations placed on investigators, prosecutors, and policymakers to act decisively, efficiently, and visibly.

But the central question is not whether crime is serious. It is how we respond - and what - if anything - we risk losing in the process.

The CCBE's message today is clear and consistent:

- The rule of law must not become the casualty of the fight against crime.

History teaches us that moments of fear and pressure are precisely the moments when legal principles are most vulnerable. When threats evolve rapidly, when technology outpaces regulation, and when public anxiety is high, there is a recurring temptation - across jurisdictions and generations - to relax safeguards "just a little," to treat rights as conditional, and to regard legal protections as inconveniences rather than guarantees.

In such moments, we hear familiar arguments:

- that procedures are too slow,
- that rights are too generous,
- that judicial oversight is too restrictive,
- and even that "lawyers are "getting in the way."

This is precisely the moment when the legal profession has a responsibility - not only to its clients, but to society - to speak clearly, and when necessary, courageously. In difficult times, lawyers remind society not only what the law allows, but what justice requires.

The rule of law is not a fair-weather concept - it is not designed only for stable times. It exists precisely to regulate power when pressure is greatest. Colleagues - a society that forgets its principles in difficult times will not recognise itself in safer ones.

Access to an independent lawyer, professional secrecy, the presumption of innocence, judicial independence, proportionality, and effective remedies are not abstract ideals or professional privileges. They are structural guarantees. They ensure that power is exercised lawfully, rationally, and legitimately.

- They ensure that investigations are lawful.
- That evidence is reliable.
- That prosecutions are fair.
- And that convictions are sustainable.

This is not a theoretical claim. Systems that weaken defence rights do not become more effective - they become more fragile. Cases collapse on appeal. Convictions are overturned. Public confidence erodes. And the legitimacy of institutions suffers lasting damage.

This was a central point made by the CCBE in its contribution to the recently concluded High-Level Forum on the Future of EU Criminal Justice. In that Forum, we welcomed efforts to improve efficiency, coordination, and effectiveness across the Union. But we were equally clear

that criminal justice reform that sidelines fundamental rights ultimately undermines its own objectives.

- Efficiency without fairness is not strength.
- Speed without legality is not justice.

The CCBE has consistently sought to bring the lived experience of lawyers into European policymaking. A further example of this is our contribution to the European Commission's Rule of Law Report. The CCBE submissions are particularly valuable as, in addition to focussing on EU developments, the CCBE submission is accompanied by input received from national Bars and Law Societies which highlight different rule of law developments at a national level which pose a risk and undermine the independence of lawyers and Bars, and issues which pose a risk to access to justice, quality of justice and fundamental rights and freedoms. This is an important and valuable exercise presented from an important perspective – our perspective. This contribution offers a unique perspective from lawyers working daily at the interface between individuals and the state. Lawyers are often the first to see where judicial independence is under pressure, where access to justice is becoming illusory rather than real, and where legal safeguards are eroding in practice rather than in theory. The CCBE's contribution helps ensure that the Rule of Law Report reflects not only formal structures, but operational realities.

One area where these realities are particularly evident is access to data.

Across Europe, we are witnessing a rapid expansion of surveillance measures, data retention regimes, access to digital evidence, and the use of biometric data - including facial recognition and other identification technologies - in the name of security. Some of these tools may be necessary – however None of them should be unaccountable!

The CCBE has engaged extensively on these issues, consistently emphasising that access to data must be grounded in clear legal bases, strict necessity and proportionality, judicial authorisation, and effective remedies. Without these safeguards, powerful tools risk becoming instruments of overreach rather than protection.

This concern is particularly acute where professional secrecy is at stake. Confidential lawyer - client communications are a cornerstone of a fair trial and an essential condition for trust in the justice system. Undermining confidentiality does not strengthen investigations - it undermines their legitimacy. For this reason, the CCBE has actively participated in the work of the High-Level Group on Access to Data by Law Enforcement, consistently advocating for a rights-based approach. We support effective law enforcement. But effectiveness must be achieved within a framework that respects fundamental rights, judicial oversight, and the independence of the legal profession.

The same principles apply to European institutions themselves. The CCBE understands the role of the European Public Prosecutor's Office in protecting the Union's financial interests. A strong EPPO is essential. But strength must be matched by standards. Currently, procedural safeguards in EPPO cases are derived from EU criminal procedure Directives as implemented at national level. Although these Directives establish minimum standards, their transposition

has led to significant variations between Member States in scope, interpretation, and practical application. As a result, individuals involved in EPPO investigations will experience differing levels of procedural protection depending on the Member State concerned, undermining legal certainty, equality before the law, and effective defence rights within a supranational prosecutorial framework. This is not the fault of the EPPO as this is the existing structure and framework which the EPPO has to operate in. However, we believe that given the EPPO's unique structure and its inherently cross-border activities, reliance solely on national procedural rules is inadequate – and we believe this is a point shared by the EPPO. The CCBE therefore considers that a specific, harmonised set of procedural safeguards applicable to EPPO proceedings is essential to ensure consistent protection of fundamental rights, enhance fairness and transparency, and strengthen the legitimacy of EPPO prosecutions across all participating Member State.

Let me be clear - the CCBE supports strong cross-border cooperation. We support well-resourced institutions. We support modern investigative tools to address modern crime. But security policies that disregard the rule of law may appear efficient in the short term - and prove deeply destabilising in the long term. They normalise exceptional measures. They lower standards. And once safeguards are weakened, they are rarely fully restored. Colleagues - the rule of law is not the price of security - it is its guarantee.

This brings us back to the central theme of this conference.

Freedom and security are not a zero-sum game. The real trade-off is not between rights and safety - it is between lawful power and unchecked power.

Unchecked power may act quickly. It may appear decisive. But it erodes democratic legitimacy. Europe's legal tradition is built on the conviction that law restrains power, rather than serving it. That conviction is our strength - and it is what distinguishes democratic security from authoritarian control.

This is why lawyers matter for the rule of law.

- Lawyers do not defend crime. They defend legality.
- They ensure that when the state exercises its most coercive powers, it does so within legal limits, subject to independent scrutiny, and with respect for human dignity.

- By challenging unlawful actions, lawyers strengthen institutions.
- By insisting on fair procedures, they protect outcomes.
- By upholding rights, they preserve public trust.

We need to recognise that long-term security depends on legitimacy, trust, and accountability.

In closing, let me emphasise that our shared responsibility - as institutions, as professionals, and as guardians of democratic values - is to ensure that in confronting modern crime, we do not become strangers to our own principles. If we lose our principles in the name of security, we will have secured nothing worth protecting.

Thank you