



ANKARA BAR ASSOCIATION

10th INTERNATIONAL LAW CONGRESS

10° Congresso Giuridico Internazionale

dell'Ordine degli Avvocati di ANKARA

A very good morning to everyone! Günaydın !

I will give a brief speech in my mother tongue, Italian, with an English written translation, since I don't speak Turkish with the sole exception of the abovementioned word.

I would like to pay respects of the Bar Association of Lecce, which I have the honor to preside over, to the Authorities, to the organizers of the Convention and to all the colleagues.

I want to express my deep gratitude to the President and friend Hakan Canduran for the invitation to this prestigious event which profoundly honored me. I accepted with joy to participate since between our cities, in April 2016, was subscribed a Cooperation Protocol and a Twinning which linked the Bar Associations of Ankara and Lecce with a strong sense of solidarity and fellowship.

Lecce is a city located in the South of Italy, a very ancient, extremely beautiful city where Art, Culture and Traditions mingle; at the same time it is a vivacious land, open to tourism and hospitality.

It is a so-called "border" Province, where there are often refugees' landings and where come people from all over the world.

It is a land which was subjected to several dominations and where, for centuries, many different cultures coexisted, nonetheless preserving a strong and contradistinctive identity.

Also its Forum has a prestigious history and a strong sense of community, counting of almost 5.000 members enrolled, both men and women.

Nevertheless the mentality of the Lecce's Advocacy (as well as the national one) in the last ten years changed a lot, for several reason mostly linked to the economic crisis and to globalization, which influenced the markets and the legal profession.

This premise is necessary to me in order to explain the sense of my speech, which is not intended to be an ultimate truth, nor even to an academic pretence (for which I wouldn't have an apt expertise), but it attempts to interpret the principles of our Constitution in relation to the multiculturalism phenomenon, under the point of view of a lawyer who, nowadays, is committed to face new issues in which regard sometimes he is not enough well-prepared.

Italy, indeed, differently from other European countries, did not have massive migration flows until recent years; therefore our country had to manage a cultural diversity that, since this moment, was almost unknown.

At the very same time the Advocacy had to face a new system, extremely different from the pluralistic one that our Constitution of the 1948 intended to guarantee. The minorities regarded by the Constitution were the linguistic ones, spoken by the inhabitants of the borders, who historically and culturally identified themselves in the Italian State.

Today our country welcomes broad minorities, from different ethnic groups, which carry strong identities, not always ready to merge in the hosting social context, often maintaining their own legal structure.

The multiculturalism could represent a resource for the country, but at the same time involves a lot of coexistence difficulties, which may result in miscomprehension or worse, in a social conflict, where serious integration policies lack. This does not mean assimilation or absorption, but mutual respect and comprehension.

Many issues arise from the misinterpretation of the law of the host country by the migrants. Often the norms are not always properly understood, generating intolerance phenomena, with alarming drifts.

It is also necessary to prepare a civil legal protection for circumstances that are not provided by our legal system and which appeared, until few years ago, almost

unknown. For instance, let's think of the enormous flow of minors that are not accompanied.

In this very complex path, the role and the social function of the Lawyer is essential: in every nation, who proclaims itself as a civil nation, the lawyer creates an indissoluble bond between the person who asks for its rights and the State, which applies the law through its organs.

The Italian Constitution among its ground principles establishes the right to a defense: therefore the duty upon the State to provide technical legal assistance to everyone who is in need. It is a ground pillar of our entire system, which implemented a series of instruments, finalized to guarantee a fair trial to everyone.

It also need to be said that our constitutional chart (undoubtedly one of the most advanced and forward-looking of those years) was born immediately after the Second World War, when there was a very different reality and a strong identity context. It is a "rigid" Constitution – that means that cannot be subjected to changes by the jurisprudence, which indeed has to interpret it, adapting it to our social changes. Its principles constitute our society's cornerstone and cannot be reduced or compressed.

Looking back to the defense right, it is clear that the entry in the State of many foreign people, from different races and ethnic groups cause problems of different entity, which had both a general impact and in the Justice system.

The refugees are great in number and a very big part of the Bar Association's activity is absorbed by the fulfillment of the countless applications of legal aid paid by the State submitted by the migrants.

Indeed there are some aspects more even complex, which deserve at least a brief consideration. One of the biggest issue is the lack of knowledge from the migrants to perform conducts in violation of the Italian law.

It is not an easy path for who comes from abroad to share principles and social rules of foreign people, who adopted norms and customs developed over the years and which became normal.

It is not simple to understand that, even for religious or linguistic difficulties, a law provision might appear in contrast with own traditions and customs. Indeed the aids available are few and it is very easy to commit a mistake.

At the same time it's hard for a Lawyer, a traditional one, used to perform its profession in the same way he did thirty years ago, to interpret the behaviors of a foreign client, who, sometimes, understands just few words and in the best scenario are often poorly translated.

And therefore the defense, a sacred and inviolable right of our Constitutions, is highly affected by it.

The Advocacy suffers for all these troubling, in part connected also to a scarcity of resources intended to the Justice Department, even if a lot of money are spent by the Italian State to accommodate and assist the refugees, mostly coming from the North and the Centre of Africa.

So the question at stake is if the current Constitution is obsolete or if it is the Politics which is inadequate to firmly face all these issues.

The answer is clear: the Italian Constitution guarantees a broad protection of every right and it is the brilliant result of enlightened minds who evaluated every single word, giving an unequivocal and complete meaning.

Therefore the political choices, apart from any respected point of view, often are not capable to solve evident criticisms and do not assure the respect of the rights and its maximum expansion.

The multiculturalism is indeed an incomparable resource, only if it follows the rules which guarantee a civil coexistence. At the very same time welcoming people does not mean just provide a first aid during the cross of the sea or provide food; it means as well to help them to be integrated, investing resources in its civic formation.

The Italian Constitution guarantees the equality between all the citizens and promotes every mean apt to realize those conditions. At the same time everyone must contribute to implement those principles, of which we are very proud but often we fail to realize.

Indeed the Advocacy can certainly do its part, even for its historical and current role. In every legal system the Lawyer is asked to have a very strong ethic which constitutes the social pact with the citizen who entrusts him with the interior knowledge that he will not be betrayed or abandoned. To every lawyer (both if Italian or from another country) is asked to be loyal, correct and competent, professionally trained and constantly updated.

At the very same time the Lawyer has to listen to his Client and to understand his reasons, never renouncing to his freedom and autonomy in procedural choices. A very strong attention to the professional ethics (deontologia) is the best way to live up to the defensive function, even if not always easy to identify with unknown realities.

The Lawyer in the XXI Century, who takes an oath to faithfully comply with its professional duties in respect of the law and for the aims of the Justice, has to open its professional training to new horizons and develop its sensitivity in order to highly perform its profession, even with regard to people with different customs and traditions.

In this view the Advocacy of every single country, which respects the human rights and does not want to enclose itself in its political borders must learn to face the issues arising from the presence of countless refugees (not always for political reasons) who often don't understand the local - both criminal and civil - laws.

The Bar Associations must disclose themselves beyond the national borders, creating cooperation protocols and providing to the others their experience.

The constitution of legal interactive nets, which foster an interchange between the jurists of the various States, must be a common goal in order to reach shared and united choices, through a constant exchange of information to facilitate the knowledge of problems and therefore the protection of the rights.

The training and the update of the Lawyers who might specialize themselves in very new subjects as the ones connected to the multiculturalism, can be reached only by a common Project shared by the Bar Association of the different States, which goes beyond the physical territories and constitute a transnational Advocacy, with extremely high professional and ethic standards.

This is not an utopia but a reality that can be easily implemented through the right determination, in the perspective of a society in which the Lawyers will be free, supportive and guardians of the rights.

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