



EESTI ADVOKATUUR

ESTONIAN BAR ASSOCIATION

51st European Presidents' Conference Country report – Estonia

General information

As of 31 December 2022, the Estonian Bar Association (EBA) had 1085 members, including:

- 758 attorneys-at-law (in Estonian *vandeadvokaat*);
- 322 assistant attorneys-at-law (in Estonian *vandeadvokaadi abi*) and
- 5 associated members.

236 members had suspended their membership for various reasons (parental leave, working in public service or as in-house counsel, etc.).

EBA members practiced in 222 law firms and statistically there was one attorney for every 1 666 Estonian resident.

The membership fees of 60 euros per month for attorneys-at-law and associated members and 45 euros per month for assistant attorneys-at-law remained unchanged. The fees increased by 10 euros as of 1st of January 2023.

In March 2022, EBA General Assembly elected a new Board and the President with a term of three years.

Disciplinary proceedings

In 2022, Ethics Tribunal received 166 complaints (164 complaints in 2021). Ethics Tribunal initiated 36 (same number as in 2021) disciplinary cases and applied sanctions in 6 disciplinary cases (3 reprimands, 2 fines and 1 disbarment. In 2021 there were 10 applied sanctions).

Commenting on legislation

EBA participated actively in legislative process by reviewing and commenting on draft legislation. EBA has established twelve expert committees (on ethics and methodology, state legal aid, protection of fundamental rights, administrative law, commercial law, competition law, family law, insolvency law, IP/IT law, labour law, tax law and financial law) and a criminal law working group. The committees assisted EBA in responding to requests by the Ministry of Justice or other ministries to review and comment on draft legislation. In 2022, EBA was asked for its opinion on a total of 3 intentions to develop a law, 23 on a draft bill and, in 32 cases, on another legal document (public consultation, action plan, ministerial decree etc.). EBA's opinions were published 18 times through the expert committees or board of EBA.

Also in 2022, EBA was continuously working in order to ensure and regulate the law regarding the search of the law offices in the context of client confidentiality protection. In 2021 EBA compiled a draft bill and presented it to the Ministry of Justice and in 2022 fruitful negotiations took place between the parties involved (representatives of EBA, the ministry, courts and Prosecutor's Office) and co-operation continues for the final completion of the draft bill.

In 2022, the Ministry of Justice revealed a plan to establish a uniform law exam in order to access various legal professions. EBA carefully monitors the situation and is actively involved to the process. EBA stands that this exam would not set any barriers to become an attorney (if the exam is too complicated or vice versa too easy, i.e., EBA could no longer fully define the conditions for entering the Bar). However, at the moment the draft bill is in its very initial stage and no conclusions can be drawn yet.

EBA Quality Management Certificate

The Quality Management Certificate of EBA is a recognition granted by EBA to law firms for the implementation of a higher service standard and important processes in a law firm.

In the course of issuing the certificate, the level of service quality of the law firm is assessed, primarily through the requirements established in the Bar Association Act, Rules of Procedure, Code of Ethics and the guidelines and procedures of EBA. In 2022, EBA issued 1 new certificate and prolonged 2 previously issued Quality Management Certificates.

State legal aid

According to the law, EBA has the duty to arrange state legal aid. In 2022, the funding of state legal aid was 4.22m EUR. 11 780 legal aid applications were submitted (incl. ca 54% defence in criminal proceedings, ca 45% representation in civil proceedings and ca 0.6% representation in administrative procedures) and in average 100 attorneys provided legal aid. Compared to 145 attorneys in 2021, the number fell remarkably.

The legal aid fee rates are set forth by the Minister of Justice and the rates did not increase in 2022 either. EBA has consistently warned, that due to insufficient funding of the system, it is on the verge of collapse, as with valid rates there is not possible for an attorney to run a modern law firm and younger attorneys are not motivated to provide state legal aid. All this can finally lead to a situation, where the protection of fundamental human rights is in danger.

The situation escalated in September when 85 state legal aid attorneys left the system, as the future funding of state legal aid was unclear and there were no answers from the ministry. Finally, an additional funding was promised for 2023, but it is already clear that state legal aid rates will be still well below the market average. EBA will continue discussions with the ministry.

Foreign relations

In addition of being active member to the CCBE, EBA is also a member of IBA (International Bar Association). 2022 was a busy year for EBA.

On the 14th of June, EBA met via video bridge Dr. Valentyn Gvozdiy, the vice chairman of the Ukrainian Bar Association. Ukrainian colleague gave an overview of the Ukrainian Bar and its functioning during the war.

EBA is aware, that unfortunately it is not in its competence to change the politics, but we are doing everything we can in order to help people of Ukraine in these extremely difficult and horrifying times. Estonian attorneys are advising Ukrainian lawyers and attorneys who have arrived in Estonia and are asking about opportunities for professional employment. We forward their contacts to law offices who can decide on their recruitment. The Bar has also signed the Petition of Legal Profession for the Protection of the rule of law and human rights attacked by the War and Aggression against Ukraine.

In December, EBA joined CCBE initiative in order to help Ukrainian Bar to buy necessary electrical equipment for local bars in order to continue their work during winter. EBA also contributed financially and has repeatedly called its members to make donations in support of Ukraine.

On the 4th and 5th of July, two CCBE meetings took place in Tallinn. The Finance Committee of the CCBE held a semi-annual meeting, and members of the CCBE Presidency met with the heads of the bar associations of the Baltic States. Topical issues such as the protection of client confidentiality, the attractiveness of the legal profession and the sustainability of state legal aid were discussed.

It has become a tradition that EBA together with other judicial authorities host every year foreign judges and prosecutors, in order to discuss important and topical issues between the counterparts. On the 6th of September, EBA had an honour to host 6 foreign judges from Germany, Italy, the Netherlands, France, Romania and Croatia as part of the European exchange program for foreign judges (EJTN General Exchange). On the 25th of November, EBA hosted six foreign prosecutors from Sweden, Germany, Italy, France, Romania and Poland as part of the European Judicial Training Network exchange program.

Initiative for amendment of the Estonian Bar Association Act

The Board of EBA has initiated a discussion in order to change Bar Association Act. During the 2022 Strategy Meeting of the Bar and according to the survey among the members, it became clear that the members see the need to modernize certain provisions of the Act. The Board began to work on possible amendments, such as giving voting rights to assistant attorneys-at-law, allowing attorneys to work also on another job than as an attorney, modernizing the patronage institute, abolish attorneys' personal liability etc.