

**Poland**  
**National Report 2012**  
**of the National Council of Legal Advisers**

Below main issues regarding the profession of legal advisers are described. An update on regulation on entry to the profession is included as well as information on a draft law on deregulation. Other developments concern changes in the code of penal procedure which lead to equalization of powers of legal professions. There are still problems with taxation of pro bono work as well as with creation of a public legal aid system.

**Draft law on legal state examinations – update.**

As to remind – in 2010 a group of Members of Parliament from the ruling party introduced a draft law on legal state examinations. The draft assumed a creation of a new legal profession - legal consultants with the right to represent clients before certain courts, but without the professional ethics and disciplinary jurisdiction. The draft also provided for new possibilities of access to legal professions, including those omitting the obligatory education before obtaining a professional license. In response our Bar organized an unprecedented campaign to support the guarantee of high quality of legal services and client protection. Those efforts led to the suspension of work on the draft law until the Parliamentary elections in October 2011. No similar draft law has been presented last year.

**Deregulation**

At the beginning of 2012 the Minister of Justice introduced a draft law on deregulation of nearly 60 regulated professions including lawyers. Regarding legal advisers, the draft provides for people, who has been working directly on drafting legal documents in courts, public prosecutors' offices, public institutions and law firms for at least for 3 years, a possibility to take a Bar exam without a mandatory training. Such possibility is foreseen as well for bailiffs who has been practiced at least for 3 years. Our Bar stressed several times that the mandatory training period should be the main way of becoming lawyer and shall not be weakened by creating new possibilities of access to the profession.

**Equalization of powers of legal professions in Poland**

In October 2012 a draft law on changes in the code of penal procedure was submitted by the Government to the Polish Parliament (Sejm). One of the main point of the draft is granting the legal advisers the right to act as defendants in criminal cases. This change is fully supported by our Bar as a result of a long lasting process of the equalization of powers of Polish legal professions as well as of a widening access to justice for citizens.

**Problems with taxation of pro bono work**

The Minister of Finance sustains his opinion that there is no need to amend the existing law on taxation free legal advice and pro bono work. To remind the situation – all free legal advices are subject to VAT. Moreover, the person to whom the free legal advice has been given should pay income tax on the value of that advice. However the Minister gave an opinion a free legal advice may be exempted from VAT as a part of a marketing policy of a law firm. Our Bar underlines that pro bono work is a moral imperative of a lawyer and not his or her PR activities. The lawyer should not prove before the tax authority each pro bono activity is a part of his or her marketing strategy!

The Minister of Justice introduced a proposal that pro bono work initiated by law firms is a part of their activity and, as a result, is not the subject of the taxation. Our Bar supports this initiative as a first step to solve the problem.

### **Legal aid financed from public funds**

There are no changes regarding creation of the legal aid system in Poland. Due to the budget cut and slowdown of an economic development works on building such system were suspended. It must be underlined that our Bar called the politicians to introduce the system of legal aid both as a result of citizens' needs and Polish international obligations. Since many years The National Council of Legal Advisers has been providing a large number of several activities to facilitate access to justice for poor people, however we realize it shall be a supplement only to the state policy in this area, not its replacement.