



THE BAR ASSOCIATION OF LATVIA
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Report on Conference theme *"Self- regulation or heteronomy – lawyer' independence in danger?"*

Actualities in Latvia related to the Conference theme *"Self- regulation or heteronomy – lawyer' independence in danger?"*

The Bar Association of Latvia is an independent professional corporation uniting all attorneys-at-law who practice in Latvia.

An Attorney-at-Law is an independent, professional lawyer who provides legal aid through defending and representing individuals' lawful interests before court and during pre-trial investigation; providing legal advice; drafting legal documents; and taking other legal actions. Attorney-at-Law is a party to judicial system, independent in his or her professional activities and only subordinated to the law.

Independence of attorneys as well as the right of individuals to fair court and defense by counsel are the principles enshrined in the Satversme (Constitution), Advocacy Law, Criminal Procedure Law and other regulatory acts of the Republic of Latvia.

According to the Advocacy Law, governmental and municipal authorities as well as courts, prosecutors and pre-trial investigation authorities have to guarantee the independence of attorneys. Council of the Bar Association of Latvia ensures that public authorities provide the attorneys' independence enshrined in the law.

The advocacy of Latvia has currently two actualities to address in relation to the Conference theme *"Self- regulation or heteronomy – lawyer' independence in danger?"*:

- 1. Attempts to influence the independence of attorneys by governmental authorities by applying the status of public officials to a part of the practicing attorneys.**
- 2. Impermissibility of attorneys' interest conflict upon the performance of their professional duties, in the context of attorney's independence with the legal**



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norms that regulate confidentiality and the special legal norms governing the prevention of money laundering and terrorism financing.

1. Attempts to influence the independence of attorneys.

Certain public authorities of Latvia in continued attempts to influence the independence of attorneys have announced that the attorneys-at-law performing the duties of elected advocacy bodies (*Council of the Bar Association of Latvia and Advocacy Examination Committee*) along with their professional practice should be equated to public officials, because the decisions adopted by such attorneys-at-law as members of the elected bodies are subject to contestation at court in accordance with the administrative procedure.

In fact, similar actions on the part of public authorities constitute attempts to subordinate to their supervision and influence the independence of attorneys guaranteed in the priority legal acts (*the Satversme (Constitution), Advocacy Law and other regulatory acts of the Republic of Latvia*) as well as the right of individuals to fair court and defense by counsel.

Similar activities on the part of governmental institutions should be treated as infringement of human rights because, if part of the practicing attorneys is initially made dependent on and directly subordinated to the supervision and control by public officials, it would constitute a precedent to general restriction of the independence of attorneys and the human rights that arise from such principle.

Council of the Bar Association of Latvia strictly objects to similar attempts of limiting the independence of attorneys-at-law and infringement of constitutional human rights.

2. Impermissibility of attorneys' interest conflict

Council of the Bar Association of Latvia is supervising and addressing problematic issues to prevent attorneys from involvement in a conflict of interests upon the performance of their professional duties, in the context of attorney's independence with the legal norms that regulate confidentiality and the special legal norms governing the prevention of money laundering and terrorism financing.

Pursuant to the international regulatory acts, the issues related to the prevention of money laundering and terrorism financing are regulated in Latvia by special law "*On the prevention of money laundering and terrorism financing*" (hereinafter – the PMLTF Law).

Subjects of the PMLTF Law include attorneys-at-law, and Council of the Bar Association of Latvia is their supervision and control body.

Attorneys-at-law counseling, representing or defending clients in legal proceedings or related proceedings are not subjects of the PMLTF Law.

The issue of eventual conflict of interests is highly sensitive in case of attorneys because it is directly related to the competition of legal norms between the professional independence of attorneys and confidentiality, on the one hand, and the attorneys' reporting obligation on the occasions prescribed by the PMLTF Law.