



04071, Київ, вул. Ярославська, буд. 6, 5-й поверх  
тел: +38 (044) 392-73-71, факс: +38 (044) 392-73-70  
email: [info@unba.org.ua](mailto:info@unba.org.ua), веб-сайт: [www.unba.org.ua](http://www.unba.org.ua)

5th floor, 6 Yaroslavska Street, Kyiv, 04071 Ukraine  
phone: +38 (044) 392-73-71, fax: +38 (044) 392-73-70  
email: [info@unba.org.ua](mailto:info@unba.org.ua), web-site: [www.unba.org.ua](http://www.unba.org.ua)

## **46<sup>th</sup> European Presidents' Conference 2018 in Vienna**

### **Country Report on current developments around legal profession in Ukraine and UNBA in particular**

#### **Five years of UNBA**

In November 2017 the Ukrainian National Bar Association celebrated its first 5-year anniversary. It is an important date for every member of our Association – a community of more than 38 thousand of Ukrainian advocates.

The true independence of the Bar was obtained as a result of the adoption on 24 July 2012 of the Law of Ukraine 'On the Bar and Practice of Law', that signified fulfillment of the conditions for signing the EU-Ukraine Association Agreement, compliance with Joint Opinion of the Venice Commission and the Directorate for Justice and Human Dignity of the Directorate General of Human Rights and Rule of Law of the Council of Europe and fulfillment of international obligations assumed upon joining the CoE. By this law, the Bar of Ukraine is a public, self-governing institution ensuring the provision of defense in court, representation and other types of legal services on the professional basis and independently resolving issues of the organization and its operation.

UNBA's international presence expanded even further after joining IBA, CCBE and UIA (Union International des Avocats), the establishment of representative offices in Spain, Greece, Portugal, Israel to name a few, as well as joint events with Law Society of England and Wales and CCBE.

#### **Boosting prestige of the legal profession**

Following the long-anticipated constitutional amendments, it was finally recognized that only advocates – members of the Bar enjoy the exclusive right of representing clients in courts and provide professional legal services, except for 'insignificant' cases. Exclusive representation in courts introduced in stages to the instance of the court and will be finished in 2019.

#### **New draft law – a threat to independent Bar?**

As part of justice reform, Council for Judicial Reform (CJR), created by Order of the President of Ukraine #812/2014 dated 16 October 2014, focused its efforts on reforming the Ukrainian Bar.

The Council serves as an advisory body to the President of Ukraine, coordinating proposals for the development and implementation of reform strategies for Ukraine's judicial system and judiciary, other ancillary legal institutions.

Personal composition of the Council is approved by the President of Ukraine upon the proposal by the Council's coordinator, - Deputy Chief of Staff of the President of Ukraine.

Within the CJR there is a Workgroup on Amending Legislation on the Bar and Legal Aid, tasked to develop draft Law 'On amendments to the Law of Ukraine 'On the Bar and Practice of Law' (**'draft law'**).

Quite a few of the provisions of this draft law are unjustified. The current legislation, hailed by domestic and international experts ensured the independence of the Bar from the State and changed it into a completely self-sufficient institution, as opposed to being a department within Ministry of Justice in previous years.

Another point of concern is a non-transparent process of preparation and discussion of the said draft law, where no representatives of the legal profession regulators were initially allowed to provide any input for the draft, but then invited and subsequently yet again squeezed out from the Workgroup responsible for the development of the notorious draft law. As if it was not enough, the Workgroup even came up with a different text of the draft law, secretly developed and approved without experts representing the Bar, despite claims of 'extensive discussions' and 'support of the legal community.'

The story is not over, as one of the iterations of the draft law found its way to assessment by the experts of the Council of Europe, who devised quite a peculiar Report, that cast shadow onto opinions, recommendations of CoE and related bodies, not to mention international obligations of Ukraine, assumed upon joining the CoE.

The draft law provides that instead of a single national-level organization there shall be established 27(!) separate Bar associations, one for each region of Ukraine. While the proposed model closely resembles the model of German Bar self-government, this system suits federal states best (e.i. Germany), while it is not meant for unitary states, like Ukraine.

Bar Council of Ukraine publicly denounced such inappropriate drafting techniques by making Open Statements, petitioning the President of Ukraine. CCBE also intervened and on multiple occasions (!) stressed to the President of Ukraine that the introduction of changes to the law without consultations with the advocates' community hurts democracy.

We believe that the draft law will effectively result in silencing the voice of the united legal profession in Ukraine.

Summing up, the State claims that by changes to the core legal act regulating the legal profession in Ukraine, that it will extend professional rights and guarantees of Ukrainian advocates. However, without further implementation into codes of procedure, these ephemeral advantages will remain largely irrelevant, and therefore we can only guess why does the State need to reform the Bar.