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The 47th European Presidents' Conference 2019 in Vienna

Country Report

on current developments around the legal profession in Ukraine and UNBA in particular

Throughout the year 2018, the Ukrainian National Bar Association and the legal community of Ukraine as a whole endured increasing institutional pressure of the State, hence mobilised all their resources towards countering encroachments against advocates' rights.

Draft Law on the Bar – face-to-face with the opponents

In 2017, the chain of events around the newly proposed text of the draft Law of Ukraine 'On the Bar and Practice of Law' sparked a controversy, that UNBA could not help addressing, as the vital constitutional interests of Ukrainian citizens and advocates were to be seriously undermined.

UNBA drew international attention and exposed highly questionable provisions of the proposed draft law, as well as non-transparent practices in connection with its drafting. In turn, UNBA's international partners expressed strong support to its cause and called on to the parties of the process to comply with the principles of transparency and the rule-of-law.

The text of the draft law was developed with significant violations of procedure, containing provisions aimed at severe undermining of the constitutional status of the Bar, based upon seriously doubtful findings of the two reports, prepared by the CoE experts, nevertheless expressing their own highly prejudiced views.

Nevertheless, this draft law was presented by the President of Ukraine to Verkhovna Rada Ukraine as 'urgent' (to be reviewed and voted within one month), marked #9055. Parliamentary Committees were highly critical of the Draft Law #9055, while Parliaments' Main Scientific and Expert Department called it 'corruptiogenic' in its conclusions upon its mandatory review. No wonder that Draft Law #9055 establishing suitable conditions for corruption has not garnered support from the MPs.

Despite strong opposition against it, the authors of Draft Law #9055 attempted 'to pull' it through the Parliament's vote, to no avail. Also, previous assurances that the notorious draft law was on its way for scrutiny at the Venice Commission turned out to be untrue.

The situation even attracted attention of the UN Special Rapporteur on the Independence of Judges and Lawyers Diego García-Sayán. He stated, among other things, that the draft contained many provisions that may undermine the free and independent exercise of the legal profession, hinder the ability of national Bar association to protect its members, as well as independence of the profession as a whole.

Despite intervention on the part of the UN, CCBE, draft's apparent corruption risks, there remains a considerable threat of its adoption.

Professional court representation for all

From January 1, 2019 onwards, only licensed advocates are allowed to represent clients in court. That marks the entry into force of the last provisions of recent constitutional reform, that significantly boosted the status of an advocate in Ukraine and meant to ensure that only

professional, licensed advocates provide legal aid and thus protect human rights and strengthen the rule-of-law in Ukraine. The only unresolved point remains whether public officers will represent the State in court, or there will be some other arrangement in place.

Number of assaults against advocates steadily rises

Over the course of the last two years, the number of attacks significantly rose, as stated by the UNBA Committee for the Protection of Advocates Rights and Guarantees during press-conference held on 22 January 2019. The primary reason for such growth is the complete lack of effective investigation of such violations by the law enforcement authorities. Also, the perpetrators quite often happen to be the law enforcement authorities themselves, as well as 'activists' with or without particular organisational allegiance. UNBA closely cooperates with the UN in this matter.

Assault on UNBA premises

On August 2, 2018, at 11:45 a group of protesters, headed by an advocate, accompanied by some MPs, unlawfully entered the UNBA premises. The reason for this was a hearing at QDCB of the City of Kyiv (located in the same building) of a disciplinary complaint against the said advocate. At 10:00 a.m., UNBA offices were blocked by representatives of volunteer army battalions and radical organisations, clerics, and MPs.

Besides, the police present there actually allowed the seizure of the UNBA offices by a group of unidentified persons. As a result, a crowd of roughly 100 people entered the premises hosting QDCB hearing and did not let the QDCB members conduct the hearing properly. After screaming assaults and other disorderly behaviours, the crowd left the UNBA premises, after QDCB members recused themselves under pressure.

It was the first-ever violent attack against UNBA, perpetrated under complete connivance of the police. UNBA uses every possible legal instrument in its arsenal to protect itself and its members. It is our firm belief that there is an immediate need to protect the rights of advocates by a binding international instrument.

Revamped Register's interface

Unified Register of Advocates of Ukraine (URAU) received a significant infrastructure upgrade. The advocates' profile became more informative. It now features sections about additional workplaces of an advocate, complete contact information, list of assistants affiliated with an advocate, office(s) held by an advocate within the bodies of the advocate self-government. Every advocate can now provide a short statement on his/her core practice, professional experience, scholarly achievements, public activities, professional awards and ratings.

Also, there is now a standalone section where advocate may indicate whether he/she takes cases pro bono.

Moreover, the updated advocate's profile may also contain a photo, a corporate banner (logo), as well as links to his/her social network accounts.

Information about serial numbers of data storage devices, computer equipment, vehicle(s) of an advocate can be also entered into the profile. It is meant to be an additional safeguard securing advocates' professional rights and guarantees.