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**The 51st European Presidents' Conference 2023 in Vienna
COUNTRY REPORT
on current developments around the legal profession in Ukraine
and UNBA in particular**

Intro

The year 2022 was largely defined by the full-scale Russian aggression against Ukraine. It still threatens the very existence of Ukraine as a state and the Bar as an institution. Regardless, the Ukrainian National Bar Association, with indispensable international support and assistance, managed to preserve the operation of the Ukrainian Bar towards the fulfillment of its Constitutional mission of ensuring representation and provision of legal advice. UNBA also coordinated assistance to the most vulnerable categories of advocates and their families, eased professional regulations to facilitate legal practice in times of war, resolved certain legal issues of our compatriots abroad, protected advocates from arbitrary disciplinary actions, and constantly defended itself against the encroachments against its institutional independence.

Despite the perils of war and its best efforts, Ukrainian Bar once again found itself as a target of State's efforts to subvert its Constitutional status.

Encroachments against institutional independence of the Bar

On July 5, 2022, the UNBA learned from the media that at the Lugano Conference (Switzerland), the National Council for the Restoration of Ukraine (hereinafter – the Council), represented by working groups, presented to European partners a number of developments, including those relating to judicial and similar reforms.

In particular, the presentation on the Bar reform noted the need to bring the principles of the Ukrainian Bar operation in line with the basic principles that EU Bars operate upon by abolishing the advocacy monopoly (exclusive rights of audience and rendering advice); strengthening qualification requirements for persons planning to join the legal profession; bringing the procedure for maintaining Unified Register of Advocates of Ukraine in line with the requirements of the Law of Ukraine "On Public Electronic Registers"; decentralize advocates' self-government; change the status of UNBA and create alternative (!) professional organizations of advocates; bring the conditions of serving in the advocates' self-government bodies in line with the practice of EU countries; increase the statute of limitations for bringing to disciplinary responsibility, determining the form and content of statements (complaints) about improper behavior of an advocate and the content of the decision in disciplinary case, etc.*

According to the information published on the official website of the Cabinet of Ministers of Ukraine devising professional proposals on priority reforms, 23 working groups were formed within the Council.

Unfortunately, UNBA was not invited to join these Working Groups of the Council, which made it impossible to timely inform and provide proposals on reforming the bar by the only professional organization in Ukraine – UNBA.

International standards of legal practice stipulate that the legislation relating thereto cannot be changed without notice and consultation, and even more so, without extensive discussion thereof with the professional organization of the Bar, which acts as the voice of the entire profession and represents the legal community in relations with authorities. At the same time, both the UN Special Rapporteur and the largest organization of lawyers in Europe – the CCBE – have repeatedly pointed out that attempts to deprive the Bar of the right to participate in reforming the legislation contradict the two key values of the legal profession - independence and self-regulation.

Ukrainian National Bar Association believes that the proposal to abolish the advocacy monopoly over rendering professional legal assistance, which appears as the main direction of reform and other proposed changes, cannot be considered without consultation with UNBA; the proposed legal novelties should also be approved by the Venice Commission for the Democracy through Law, as the said proposals directly contradict the international obligations of Ukraine assumed upon accession to the Council of Europe, as well as undermine the rule-of-law as the main requirement for EU Membership candidacy of Ukraine.

Ministry of Justice of Ukraine targeting legal community

After labeling UNBA a threat to justice reform via National Council for the Restoration of Ukraine, the Ministry of Justice did not stop. Another attack surface against the Bar is the Free Legal Aid System, operated by the same Ministry thru FLA Coordinating Center. In December 2022, UNBA Free Legal Aid Committee published a report (in Ukrainian¹ and [English](#)²) outlining the operation of the said system and identifying the key issues hampering the proper administration of the said aid. This report came to light as a result of joint efforts of the Bar and the State to improve the FLA system, aiming at ensuring people's rights to quality free legal aid. Instead, the MoJ took the report's findings rather personal.

It was uncovered that advocates of the FLA system are subjected to systematic illegitimate pressure through a variety of 'procedures', 'recommendations', direct orders, internal system of complaint review, withholding payments, etc., which are aimed at altering advocate's legal position, defense tactics in a case. Besides, advocates are forced to disclose privileged information by including it in mandatory 'reports', while state-appointed officials check those reports and make conclusions about the quality of the legal aid. Also, FLA advocates are forced to explain themselves by submitting clarifications and explanations justifying steps they resorted to in the course of advising a client. Worth mentioning also that UNBA has for years been identifying and opposing such practices, yet MoJ has not done anything to fix the FLA system. MoJ did not bother to undertake anti-corruption due diligence of the FLA system or establish anti-corruption infrastructure therein, despite it being within the office power of the Deputy Minister of Justice for Eurointegration.

The Ministry failed to react to this report in any meaningful way. Instead, Deputy Minister of Justice for Eurointegration Valeriya Kolomiyets denied in writing that MoJ has anything to do with the developments of the National Council for the Restoration of Ukraine, while on her Facebook page, stated that she is indeed a member of the Council's working group responsible for the justice reform. Also, she publicly stated on Facebook that reforming the Bar without consulting the Bar itself is 'an attempt against Ukraine's membership in EU and national security.'

UNBA leadership received threats

Following the UNBA's protest against the suggestions of the Working Group "Justice" of the National Council for Restoration of Ukraine from the Consequences of War, which called UNBA 'a threat' to unjustified reform of the Bar, and after the presentation of the Report prepared by UNBA Free Legal Aid Committee, Deputy Minister of Justice for Eurointegration Ms. Valeriya Kolomiyets, who is

¹ UNBA FLA Committee Report in Ukrainian - https://unba.org.ua/assets/uploads/publications/%D0%97%D0%B2%D1%96%D1%82%20%D0%91%D0%9F%D0%94_2022.pdf

² UNBA FLA Committee Report in English -

responsible for both of the said components in MoJ's work, went so far as to personally threaten UNBA Vice-President Valentyn Gvozdiy, Bar Council of Ukraine member and Chair of UNBA Free Legal Aid Committee Oksana Kadenko with criminal prosecution, given 'friendly relations' with the current Prosecutor General, and promising to file a notice to the Secret Service of Ukraine against both of them.

The said threats were disclosed by Mr. Gvozdiy and Ms. Kadenko at the 16 December 2022 seating of the Bar Council of Ukraine. Ms. Kolomiyets was not very picky in her words, and her concluding remark was, "War means war". Such actions of an advocate and public official, Valeriya Kolomiyets, are not acceptable, incompatible with the high status and constitutional role of an advocate, and may be subject to consideration of a Qualification and Disciplinary Commission of the Bar and/or law enforcement. The Bar Council of Ukraine notified the Cabinet of Ministers of Ukraine and the Minister of Justice personally about this and requested the resignation of the Deputy Minister of Justice. No reactions from the government followed

Security Service of Ukraine requested UNBA to clarify certain actions of advocates

We perceived it to be pressure on the Bar on the part of the Security Service of Ukraine, which sends letters with a request to clarify the Rules of Professional Conduct and the Law "On the Bar and Practice of Law" regarding the assessment of advocates' Facebook posts during the war, the actions of advocates that ended up in the occupied territory, etc.

UNBA President assembled the working group to address the said request and provide a comprehensive answer, which will be subsequently published on the official website of the organization. The sheer wording of the request is surprising at the very least, as it demonstrates that the officers do not distinguish between crimes and legal practice, do not realize that disciplinary liability is exhaustively limited to cases enumerated in the Rules of Professional Conduct, and cannot be used as an out-of-court sanction against advocates, whom law enforcement cannot properly charge and prove the charges before the court of law.

Overcoming the consequences of a Blackout

Recently, the European Bars handed over to us, their Ukrainian colleagues, generators and portable Eco Flow charging stations to equip the Support Centers for the advocates in the regions.

The need to make a decision on the establishment of Support Centers for advocates in the regions arose due to the blackout, interruptions in the electricity supply associated with the military aggression of the Russian Federation against Ukraine, and martial law in Ukraine in order to provide advocates with the opportunity to access the Unified Register of Advocates of Ukraine, electronic court, personal electronic cabinet, etc.

We are pleased to announce that this power equipment has already been delivered to different regions of Ukraine. At UNBA's Support Centers, advocates can warm up, drink hot coffee and tea, charge mobile devices, get online, work, and use a first-aid kit with all the most necessary medications. For this, we are very grateful to all our European colleagues and express profound gratitude.

The Bars of European countries came together for the purchase of energy equipment for Ukrainian advocates under the coordination of the Council of Bars and Law Societies of Europe (CCBE). We are grateful to CCBE for its active role as a professional organization that has repeatedly attracted the international attention of legal communities to the situation in Ukraine.

Solidarity with the colleagues of the Union of Turkish Bar Association

Trouble can come not only with war. We stand in solidarity with the colleagues of the Union of Turkish Bar Association and all the people of Turkey, given the terrible catastrophe that occurred on February 6, 2023.

We know that almost all Turkish lawyers get onto clearing rubble and looking for people. The reports confirmed 40 lawyers were killed in the earthquake. Thousands of victims were left homeless, in need of warm clothes, food, and essentials.

Despite the extremely difficult circumstances in Ukraine caused by the hostilities, the Bar Council of Ukraine (UNBA) decided to assemble charitable assistance for Turkish lawyers. In support of Turkey's lawyers, the Ukrainian National Bar Association announced a fundraiser and called on Ukrainian colleagues who are abroad now to make donations.

Remembering the emergency assistance that has been provided to us, Ukrainian advocates, we understand how important it is to get it to everyone who is in need.

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