

Pro Bono Practices and Opportunities in Latvia¹

I. Introduction

In Latvia, the practice of pro bono legal work is permitted, but unregulated. As a result, pro bono legal services have not developed in a systematic or structured manner. At the same time, there are a number of opportunities for pro bono legal assistance in Latvia, involving assisting both individuals and non-governmental organizations (“NGOs”). As such, international and domestic law firms operating in Latvia are encouraged to provide pro bono legal services to those in need.

II. Overview of Pro Bono Practices

(a)	Professional Regulation	
	1. Describe the laws/rules that regulate the provision of legal services?	<p>The Advocacy Law of the Republic of Latvia (<i>Latvijas Republikas Advokatūras likums</i>) sets out the legal framework in relation to the professional and corporate activities of advocates in Latvia.²</p> <p>The Cabinet Regulation No. 227 Procedures for the Examination of a Sworn Advocates (in Latvian: <i>Ministru kabineta noteikumi Nr.227 Zvērināta advokāta eksāmena kārtība</i>) sets out the framework in relation to the national training system for lawyers in Latvia.³</p>
	2. Describe any licensure requirements governing the provision of legal services.	<p>The following persons may work as advocates:⁴</p> <ul style="list-style-type: none"> • sworn advocates; • assistants to sworn advocates; • citizens of European Union (“EU”) Member States who have obtained the qualification of an advocate in one of the EU Member States; and • foreign advocates, except for advocates of EU Member States, may practice in accordance with the international agreements on legal assistance binding to Latvia. <p>Advocates shall be independent and shall be subject only to the Law in their professional activities.⁵</p>
(b)	Pro Bono Practice and Culture	

¹ This chapter was drafted with the support of Andris Taurins of Sorainen.

² Section 1, Part 1 (General Provisions) of the Advocacy Law of the Republic of Latvia, adopted April 27, 1993 (“Advocacy Law”) See <https://likumi.lv/ta/en/en/id/59283-advocacy-law-of-the-republic-of-latvia> (last visited on May 1, 2019).
http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Advocacy_Law_of_the_Republic_of_Latvia.doc (last visited on May 1, 2019).

³ Cabinet Regulation No. 227, Procedures for the Examination of a Sworn Advocate, Adopted March 10, 2009 See <https://likumi.lv/doc.php?id=189074> (last visited on May 1, 2019).

⁴ Section 4, Part 1 of the Advocacy Law; https://e-justice.europa.eu/content_legal_professions-29-lv-en.do?member=1 (last visited on May 1, 2019).

⁵ Section 6, Part 1 of the Advocacy Law

<p>1. Describe the rules that regulate the provision of pro bono legal services e.g. any explicit regulation or limitation on providing free legal services in some or all contexts, details of any mandatory or minimum fees imposed on provision of legal services.</p>	<p>There are no rules directly governing the provision of pro bono legal services in Latvia, however, some general litigation rules such as “Loser Pays” (state duties and sworn attorney fees)⁶ may foster a reluctance to utilize available pro bono legal services.</p> <p>There are also general practice restrictions that affect the availability of pro bono counsel, for example:</p> <ul style="list-style-type: none"> (i) In criminal matters, only (a) a sworn advocate; (b) an assistant of a sworn advocate; (c) a citizen of a EU Member State who has acquired the classification of an advocate in one of the Member States of the EU; or (d) a foreign advocate (except a citizen of a EU Member State) in accordance with the international agreement regarding legal assistance binding on Latvia (“advocates”) are permitted to act as a defense counsel.⁷ (ii) In civil matters, only (a) natural persons and (b) legal persons (through their officials or authorized employees) are permitted to appear in front of the court of first instance and in the appellate court to conduct their case personally or through advocate in matters concerning: <ul style="list-style-type: none"> I. whether recognition of decisions of a shareholder or stockholder meeting of capital companies is valid; II. obligations law, if the claim exceeds EUR 150.000; and III. protection of commercial secrets against unlawful acquisition, use and disclosure.⁸ (iii) Further, civil cases of natural and legal persons shall be conducted in a court of cassation by themselves (for legal persons - through their officials or authorized employees) or through the intermediation of an advocate.⁹
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⁶ Section 41 (*Reimbursement of Court Costs*) and Section 44 (*Expenses Related to Conducting a Case and Reimbursement Thereof*) of Chapter 4 (*Expenses for Trial*) of the Civil Procedure Law.

⁷ Section 79(2) (*Defence Counsel*) of Chapter 5 (*Persons who Perform Defence*) of the Criminal Procedure Law

⁸ Section 82.¹(1) (*Exceptions to the general rules on the right to representation*) of Chapter 12 (*Representatives*) of the Civil Procedure Law.

⁹ Sections 82.¹(3) and (4) (*Exceptions to the general rules on the right to representation*) of Chapter 12 (*Representatives*) of the Civil Procedure Law

<p>2. Are lawyers required by such rules to work a minimum number of pro bono hours? If so, how many?</p>	<p>Lawyers in Latvia are not required to work a minimum number of pro bono hours.</p>
<p>3. Are aspiring lawyers required to complete a minimum number of hours of pro bono legal services in order to become licensed lawyers?</p>	<p>Aspiring lawyers in Latvia are not required to complete a minimum number of hours of pro bono legal services in order to become licensed lawyers.</p>
<p>4. What are the main areas of law which require or present opportunities for the provision of pro bono legal services? What are the major unmet legal needs?</p>	<p><u>Unmet needs - Access to legal aid</u></p> <ul style="list-style-type: none"> • Currently State-funded legal aid is only available to natural persons and not to NGOs or other persons. • In a criminal case, if a person wants an advocate as defense counsel or it is mandatory to have an advocate under the law, the State provides defense and decides on the salary of the defender from public funds, completely or partially discharging such person from such payment.¹⁰ • The person directing the criminal proceedings must invite an advocate in one of the following roles depending on the circumstances: <ul style="list-style-type: none"> (i) as the defense counsel - if a person who has the right to defense or other person in its interests has not entered into an agreement regarding defense, but the participation of a defense counsel is mandatory for the particular procedural activity under the law (e.g. when announcing the decision on recognition of the person as a suspect, and the first interrogation of the suspect) or if it is the person's wish that a defense counsel participates;¹¹ (ii) as representative of a minor victim - if the rights of a minor and the protection of the interests thereof are encumbered or otherwise not ensured, or the representatives of a minor submit a substantiated request;¹²

¹⁰ Section 20(4) (*Right to Defence*) of Chapter 2 (*Basic Principles of Criminal Proceedings*) of the Criminal Procedure Law

¹¹ Section 80(3) (*Retaining a Defence Counsel*) of Chapter 5 (*Persons who Perform Defence*) of the Criminal Procedure Law

¹² Section 104(5) (*Persons who may be the Representative of a Victim - Natural Person*) of Chapter 6 (*Victims and the Representation thereof*) of the Criminal Procedure Law

		<p>(iii) as the provider of legal assistance to a minor victim - if a minor victim or his or her representative has not entered into an agreement with an advocate regarding provision of legal assistance and such assistance is mandatory under the law (e.g. in cases related to violence by a person on who the minor is dependent on).¹³</p> <p><u>Unmet needs - Eligibility Criteria for natural persons</u></p> <ul style="list-style-type: none"> • In addition, natural persons who cannot afford legal representation also face problems in accessing state-funded legal aid due to the relatively high eligibility criteria. • To illustrate, a natural person is only eligible for state legal aid if he or she: ¹⁴ <ul style="list-style-type: none"> (i) is classified by relevant regulation as having the status of a “low-income or needy person”; or (ii) finds themselves suddenly in a situation which prevents them from ensuring the protection of their rights (due to a natural disaster or <i>force majeure</i> or other circumstances beyond their control), or are on full support of the State or local government. • A family (person) is recognized as “needy” if its average monthly income during the last three months per each member of the family does not exceed €128.06.¹⁵ • A person is recognized as a “low-income person” if a person's income and material conditions do not exceed the level specified by the relevant municipality (e.g., in the municipality of Riga, the “low-income person” threshold is €320 per month).¹⁶ <p><u>Unmet needs - Conclusion</u></p> <ul style="list-style-type: none"> • Accordingly, despite the provision of state-funded legal aid and supporting legislation,
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¹³ Section 108(6) (*Provision of Legal Assistance to a Victim*) of Chapter 6 (*Victims and the Representation thereof*) of the Criminal Procedure Law

¹⁴ Section 3(2) (*Right to Legal Aid*) of Chapter I (*General Provisions*) of the State Ensured Legal Aid Law. This criteria does not apply to asylum seekers or foreign nationals subject to forcible removal, where different eligibility criteria applies.

¹⁵ Paragraph 2 of Regulation 1 (*General Provisions*) of Regulation No. 299 adopted 30 March 2010 (*Regulations regarding the recognition of a family or person living separately as needy*).

¹⁶ Section 14 (*Persons to be Provided with Residential Space First*) of Chapter III (*Renting of Residential space*) of the Law On Assistance In Solving Apartment Matters.

		<p>there still appears to be a gap between people who need legal assistance and those who fail to meet the eligibility criteria for State-funded legal assistance.</p> <ul style="list-style-type: none"> • Pro bono legal services are especially important for such people as well as NGOs and similar organizations.
<p>5. Who are the main providers of pro bono legal services? e.g., NGOs, governmental or other public services, schools and universities, private law firms (local or international) or corporate organizations?</p>		<p>The main providers of pro bono legal services in Latvia can be categorized as follows:</p> <p><u>Private lawyers</u></p> <ul style="list-style-type: none"> • Legal professionals and law students in Latvia can provide pro bono legal services through the Christian Lawyers Association to Christian organizations and Christians in the defense of religious discrimination.¹⁷ <p><u>Private law firms</u></p> <ul style="list-style-type: none"> • A number of law firms in Latvia provide pro bono legal services.^{18;19;20;21} • Law firms develop and maintain pro bono programs either independently or in partnership with local charities²² and the Latvian Council of Sworn Advocates (“Council”).²³ <p><u>NGOs</u></p> <ul style="list-style-type: none"> • Delna (The Society for Transparency), a branch of the international anti-corruption organization Transparency International in Latvia created a network of pro bono lawyers as part of the European Commission’s Speak Up project to strengthen public confidence in democracy and the rule of law by increasing the capacity of the Delna Legal Support and Advocacy Center to investigate and secure anonymity and protection of whistleblowers.²⁴

¹⁷ See <http://www.kja.lv/merki.html> (last visited on May 1, 2019).

¹⁸ See <https://www.sorainen.com/lv/advokaturas-dienas-2019/> (last visited on May 1, 2019).

¹⁹ See <https://www.sorainen.com/deals/lizda-demands-stop-to-further-liquidation-of-rpiva/> (last visited on May 1, 2019).

²⁰ See <https://www.sorainen.com/deals/european-court-of-human-rights-initiates-case-bauskas-dzive-vs-latvia/> (last visited on May 1, 2019).

²¹ See <https://www.sorainen.com/deals/latvian-start-up-organisations-unite-in-association/> (last visited on May 1, 2019).

²² See <http://www.petrovs.lv/index.php?page=99> and <https://www.bnt.eu/en/social-responsibility/1880-latvia-social-responsibility> (last visited on May 1, 2019).

²³ See <https://www.tm.gov.lv/en/news/the-ministry-of-justice-in-cooperation-with-the-latvian-council-of-sworn-advocates-and-sworn-advocat> (last visited on May 1, 2019).

²⁴ See <http://delna.lv/lv/2014/11/06/ti-latvia-pro-bono-juristu-tikla-izveide/> (last visited on May 1, 2019).

		<ul style="list-style-type: none"> Latvian Centre for Human Rights provides pro bono legal services to individuals on a wide range of human rights cases.²⁵
(b)	Obstacles to Provision of Pro Bono Legal Services	
	<p>1. Do lawyers require a license to provide pro bono legal services?</p>	<p>Lawyers in Latvia do not require a license to provide pro bono legal services.</p> <p>Any lawyer can provide pro bono legal services. Except in criminal cases only attorney can provide pro bono legal services.</p> <p>To provide legal services in criminal matters, advocates need to have an order (proxy).</p> <p>To provide legal services in civil matters, authorization of an advocate for the provision of legal aid needs to be confirmed by an order.</p> <p>If an advocate acts as an authorized representative of a party, his or her authorization need to be confirmed by a written authorization.²⁶</p> <p>The authorization of the State ensured legal aid provider for the provision of legal aid shall be certified by an order for the provision of legal aid issued by the responsible State authority.²⁷</p>
	<p>2. Do foreign lawyers require any additional license(s) to provide pro bono legal services?</p>	<p>Advocates of EU Member States do not need any additional licenses to provide pro bono legal services in civil matters.</p> <p>Other foreign advocates may practice in Latvia only in accordance with the international agreements on legal assistance binding to Latvia.</p> <p>If foreign advocates want to represent clients in criminal cases, in addition to the above they need to register at the Council and the Council will provide them with a statement, that will allow them to represent the client in their capacity as an “advocate” in criminal cases.</p>
	<p>3. Do lawyers require professional indemnity legal insurance cover for any pro bono legal services that they provide? If so, are they prohibited from working under the cover of another pro bono provider, such as a private law firm or organization working on the same pro bono project?</p>	<p>Lawyers in Latvia do not require professional indemnity legal insurance cover for any pro bono legal services that they provide.</p> <p>The possible risk of losses resulting from the professional activities of sworn advocates and assistants to sworn advocates may be insured. However, a sworn advocate shall inform his or her client if he or she has not been insured.²⁸</p>

²⁵ See <http://cilvektiesibas.org.lv/en/legal-assistance/> (last visited on May 1, 2019).

²⁶ Sections 85(3) (*Formalising Representation*) of Chapter 12 (*Representatives*) of the Civil Procedure Law

²⁷ Section 85(3.1) (*Formalising Representation*) of Chapter 12 (*Representatives*) of the Civil Procedure Law

²⁸ Section 114, Part 6 of the Advocacy Law

	4. Are there any rules that prohibit advertising of pro bono successes or soliciting new pro bono clients?	There are no rules in Latvia that prohibit advertising of pro bono successes or soliciting new pro bono clients. ²⁹
	5. Do lawyers receive any “Continuing Legal Education” or equivalent credit for pro bono hours worked?	Lawyers in Latvia do not receive any “Continuing Legal Education” or equivalent credit for pro bono hours worked.
(c) Sources of Pro Bono Opportunities and Key Contacts		
	1. Describe any governmental sources of pro bono and/or other legal services in Latvia.	<p><u>Legal aid</u></p> <ul style="list-style-type: none"> • The State Ensured Legal Aid Law seeks to institutionalize State funded legal aid and has the stated purpose of promoting the rights of natural persons to fair court protection by ensuring State guaranteed financial support in the form of legal aid.³⁰ • A person eligible for legal aid may request legal aid in certain civil and criminal matters and administrative proceedings.³¹ The State shall ensure legal consultations, the drawing up of procedural documents and representation in court during legal proceedings in civil and administrative matters.³² • The State shall ensure the drawing up of procedural documents and defense or representation in a criminal proceeding.³³
	2. Describe the main non-governmental sources of pro bono and/or other pro bono resources in Latvia.	<ul style="list-style-type: none"> • There is no single main non-governmental source of pro bono resources in Latvia. • Very little information is available about pro bono in Latvia, but these organizations provide some information: <ul style="list-style-type: none"> (i) Delna, a Latvian operated non-governmental organization working as an anti-corruption watchdog and supporting whistle blowers;³⁴ (ii) Latvian Centre for Human Rights, an independent non-governmental

²⁹ Section 5 (Personal Advertising) See http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/Latvia_ENpdf1_1251981360.pdf (last visited on May 1, 2019).

³⁰ Section 1 (*Purpose of this Law*) of Chapter 1 (*General Provisions*) of the State Ensured Legal Aid Law.

³¹ See <https://www.jpa.gov.lv/valsts-nodrosinata-juridiska-palidziba-eng59> (last visited on May 1, 2019).

³² Section 11 (*Types of Legal Aid in Civil Matters*) of Chapter 4 (*Legal Aid in Civil Matters*) and Section 16 (*Types of Legal Aid in Administrative Matters*) of Chapter 5 (*Legal Aid in Administrative Matters*) of the State Ensured Legal Aid Law.

³³ Section 18 (*Types of Legal Aid in Criminal Matters*) of Chapter 6 (*Legal Aid in Criminal Matters*) of the State Ensured Legal Aid Law.

³⁴ See <https://delna.lv/en/> (last visited on May 1, 2019).

		<p>organization, which works with integration issues, elimination of discrimination and hate crimes/speech, asylum, migration and fundamental rights issues;³⁵</p> <p>(iii) Center MARTA, a non-governmental organization that aims to provide support to women in Latvia, although the center provides state legal aid service in collaboration with Legal assistance administration;³⁶ and</p> <p>(iv) ProBono Publico Latvia, society that promotes and provides pro bono legal assistance, encourages legislative change and promotes anti-corruption ideas.³⁷</p>
	<p>3. Is there any public or private organization with which a local or foreign attorney can register in order to be made aware of pro bono opportunities?</p>	<p>Foreign lawyers need to register at the Council to represent client in criminal cases.</p> <p>The Council will provide foreign lawyer with a statement, that will allow them to represent client in court.</p> <p>If foreign lawyer wants to represent client in non-criminal case, than he does not need to register at the Council.</p>

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³⁵ See <http://cilvektiesibas.org.lv/en/> (last visited on May 1, 2019).

³⁶ See <http://www.marta.lv/index.php?langs=1801> (last visited on May 1, 2019).

³⁷ See <http://probonopublicolatvia.wixsite.com/probono> (last visited on May 1, 2019).