



Pro Bono Practices and Opportunities in Latvia¹

INTRODUCTION

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

OVERVIEW OF THE LEGAL SYSTEM

The Justice System

The Constitution and Governing Laws

The Latvian legislature, executive and justice system, including the courts, their competence, activity and administration, are all grounded in the Constitution of Latvia (*Satversme*). The Constitution provides that legislative power is exercised by the Latvian Parliament (*Saeima*)² and also sets out the foundation of the independent Latvian judiciary.³

The Courts

Levels, Relevant Types, and Locations

Latvia employs a three tier judicial structure which comprises district (city) courts, regional courts and the Supreme Court at the apex of the judicial structure.⁴ There are currently 33 district (city) courts, representing courts of first instance for criminal, civil and administrative matters.⁵ Six regional courts hear appeals from district (city) courts.⁶ The Supreme Court serves as the court of cassation for all cases heard in regional courts (or cases heard in the district (city) courts as provided for by law).⁷ Decisions of the Supreme Court are used in developing uniform court practice in the interpretation and application of laws and other legal acts.⁸ A separate and independent Constitutional Court is empowered to review cases concerning the compliance of laws with the Constitution and other related matters.⁹

Appointed vs. Elected Judges

The Act on Judicial Power provides for the process of appointment of judges, there being no provision for the election of judges by popular vote of the people. Judges of a district (city) court are appointed to office by the Parliament on the recommendation of the Minister of Justice for an initial period of three years,

¹ This chapter was drafted with the support of the law firm, SORAINEN.

² Article 5, Chapter II (The Saeima) of the Constitution.

³ Article 5, Chapter VI (Courts) of the Constitution.

⁴ Act on Judicial Power, adopted December 15, 1992 (as amended) (hereinafter “**Act on Judicial Power**”).

⁵ Chapter 4 (District (City) Courts) of the Act on Judicial Power.

⁶ Chapter 5 (Regional Courts) of the Act on Judicial Power.

⁷ Chapter 6 (Regional Courts) of the Act on Judicial Power. See also general discussion on the Supreme Court found at: http://ec.europa.eu/civiljustice/org_justice/org_justice_lat_en.htm (last visited on September 4, 2015).

⁸ Note: Administrative cases are separately dealt with from civil and criminal cases through administrative courts. Administrative courts monitor the activities of the executive branch, which involves review of administrative acts or specific acts of institutions, as well as determination of public law duties and rights of individuals.

⁹ Article 85, Chapter VI (Courts) of the Constitution and Section 1, Chapter I (General Provisions) of the Constitutional Court Law.



with an option for reappointment subject to the satisfaction of certain requirements.¹⁰ At the regional court tier, judges are confirmed by the Parliament, upon a recommendation of the Minister for Justice, for an unlimited term of office.¹¹ Judges of the Supreme Court are recommended by the Chief Justice of the Supreme Court for confirmation and, once confirmed in office by the Parliament, are so confirmed for an unlimited term of office.¹²

The Practice of Law

Education

The Latvian legal profession comprises judges, prosecutors, sworn advocates, assistants to sworn advocates, jurists, sworn notaries and sworn bailiffs. In general, a university degree is a prerequisite to admission to the legal profession. State-funded legal aid may only be provided by persons that possess a professional legal education and comply with certain specific requirements, whereas the provision of pro bono legal assistance is unregulated, and therefore, practitioners in the pro bono space are not required to possess a legal education.

Licensure

The Advocacy Law regulates the professional and corporate activities of advocates.¹³ Advocates are independent and professional lawyers who take the form of sworn advocates, assistants to sworn advocates and other advocates permitted to practice in Latvia.¹⁴ Admission to the position of a sworn advocate or assistant to a sworn advocate includes both professional qualification requirements and requisite work experience. Sworn advocates are entitled to provide legal assistance to any person in civil proceedings, administrative proceedings or in other matters specified by law.¹⁵ In criminal cases, sworn advocates are entitled to defend persons, represent victims and provide legal assistance.¹⁶ Assistants to sworn advocates work under the guidance and supervision of sworn advocates and may only conduct cases in court following the passing of mandated time periods and relevant examinations.¹⁷ While sworn advocates are required to satisfy a specified number of hours of continuing legal education each year, there is no such requirement for pro bono hours.

Demographics: number of lawyers per capita; number of legal aid lawyers per capita

Lawyers, including sworn advocates are not limited by number, however the profession is naturally limited by the requirements of admission as a sworn advocate or assistant to sworn advocate. As of 2015, there are over 1,300 sworn advocates in Latvia, while the number of assistants to sworn advocates is approximately 76.¹⁸ Statistical information regarding lawyers that are not sworn advocates or assistants to sworn advocates is not maintained.

¹⁰ Section 60 (Procedures for the Appointment and Confirmation of Judges of a District (City) Court), Chapter 9 (Procedures for the Appointment and Confirmation of Judges and their Term of Office) of the Act on Judicial Power.

¹¹ Section 61 (Procedures for the Confirmation of a Judge of a Regional Court), Chapter 9 (Procedures for the Appointment and Confirmation of Judges and their Term of Office) of the Act on Judicial Power.

¹² Section 62 (Procedures for the Confirmation of a Judge of the Supreme Court), Chapter 9 (Procedures for the Appointment and Confirmation of Judges and their Term of Office) of the Act on Judicial Power.

¹³ Section 1, Part 1 (General Provisions) of the Advocacy Law of the Republic of Latvia, adopted April 27, 1993 (hereinafter "**Advocacy Law**").

¹⁴ Section 4, Part 1 (General Provisions) of the Advocacy Law.

¹⁵ Section 48, Part 4 (Duties, Rights and Liabilities of Sworn Advocates) of the Advocacy Law.

¹⁶ Section 49, Part 4 (Duties, Rights and Liabilities of Sworn Advocates) of the Advocacy Law.

¹⁷ Sections 92-96, Part 5 (Assistants to Sworn Advocates) of the Advocacy Law.

¹⁸ List of sworn advocates and assistants to sworn advocates, available at <http://www.advokatura.lv/?open=advokati> (last visited on September 4, 2015).



LEGAL RESOURCES FOR INDIGENT PERSONS AND ENTITIES

The Right to Legal Assistance

The State Ensured Legal Aid Law seeks to institutionalize State funded legal aid and has the stated purpose of promoting the right of natural persons to fair court protection by ensuring State guaranteed financial support in the form of legal aid.¹⁹ A person eligible for legal aid may request legal aid in certain civil and criminal matters and administrative proceedings. Administration of the State Ensured Legal Aid Law is performed by the Legal Aid Administration (the “**LAA**”), which is a state institution subordinate to the Ministry of Justice.

State-Subsidized Legal Aid

Eligibility Criteria

Eligibility for State legal aid is prescribed by the State Ensured Legal Aid Law according to the personal circumstances of the individual and a means test. State legal aid is available only to natural persons, including citizens and non-citizens of Latvia, refugees and stateless persons.²⁰

Those persons who are eligible for State legal aid have the right to request legal aid provided that such person: (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 *force majeure* or other circumstances beyond their control), or are on full support of the State or local government (“**special situation**”).²¹

Legal aid is approved or refused by the LAA in civil and administrative cases²² and following an application made to the relevant authority conducting the proceedings in criminal cases.²³ In civil and administrative cases, the State provides for and pays expenses for legal aid on a case-by-case basis to cover: (i) up to three hours of consultation, (ii) preparation of up to three procedural documents, and (iii) representation in court not exceeding 40 hours.²⁴ In criminal cases, the State provides an advocate to defend a defendant.²⁵ The State provides legal aid for pre-trial proceedings and in court where requested by the authority conducting the criminal case.²⁶ A person who is refused legal aid may lodge an appeal within certain specified timeframes.

¹⁹ Section 1 (Purpose of this Law), Chapter 1 (General Provisions) of the State Ensured Legal Aid Law.

²⁰ Section 3(2) and (3) (Right to Legal Aid), Chapter I (General Provisions) of the State Ensured Legal Aid Law. (Note: “natural persons” is a reference to people, ie, not “legal persons” in the legal sense, and does not include corporations or NGOs).

²¹ Section 3(2) (Right to Legal Aid), 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.

²² Section 5 (General Provisions for Legal Aid), Chapter I (General Provisions) of the State Ensured Legal Aid Law.

²³ See discussion in Part 3 (Can legal aid be obtained for all disputes), found at: http://ec.europa.eu/civiljustice/legal_aid/legal_aid_lat_en.htm (last visited on September 4, 2015).

²⁴ See discussion in Part 11 (If I qualify for legal aid, will this cover all the costs of my trial), found at: http://ec.europa.eu/civiljustice/legal_aid/legal_aid_lat_en.htm (last visited on September 4, 2015).

²⁵ Sections 17 (Provision of Legal Aid in Criminal Matters) and 18 (Types of Legal Aid in Criminal Matters), Chapter V (Legal Aid in Criminal Matters) of the State Ensured Legal Aid Law.

²⁶ Section 18 (Types of Legal Aid in Criminal Matters), Chapter V (Legal Aid in Criminal Matters) of the State Ensured Legal Aid Law.

Subject to certain other criteria and dispensation, a person is recognised as “needy” if their average monthly income during the last three months does not exceed € 128.06 per month.²⁷ A person is recognised 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).²⁸

In Latvia there are a substantial number of people who are in need of legal aid, but do not qualify for State-funded legal aid because of the relatively high eligibility criteria. According to the LAA, of the 2,318 State legal aid applications in 2014, 227 were refused and of the 2,443 State legal aid applications in 2013, 262 were refused.²⁹ Such statistics do not include those persons who do not apply for State-funded legal aid. For many people receiving the minimum wage (currently € 360 per month),³⁰ payment of legal fees is simply not an option, yet such people would also not qualify for State-funded legal aid. Moreover, even if a person does qualify for State-funded legal aid under the income test, additional eligibility criteria may apply to exclude their legal aid claim.

Mandatory assignments to Legal Aid Matters

In civil cases, legal aid providers are contracted to the LAA for the provision of legal aid.³¹ Following the grant of legal aid by the LAA, the LAA may select a legal aid provider to take on the relevant matter, subject to certain selection criteria.³² The legal aid provider is responsible for the quality of the legal aid provided and may be liable for losses incurred as a result of his or her professional activity.³³ Once the LAA assigns the relevant matter to the legal aid provider, the legal aid provider may not, subject to certain exceptions, refuse to provide legal aid.³⁴

In criminal cases, defence counsel is nominated by the Latvian Council of Sworn Advocates at the request of the person directing the criminal proceedings (for example, the prosecutor or the investigator).³⁵ The sworn advocates are obliged to accept the criminal matters assigned to them and are compensated according to the criteria set out in subordinate legislation.³⁶ Anecdotal studies have

²⁷ Rules of Cabinet of Ministers of March 30, 2015 No 299 “Regulations Regarding the Recognition of a Family or Person Living Separately as Needy.”

²⁸ Section 14 (Persons to be Provided with Residential Space First), Chapter III (Renting of Residential space) of the Law On Assistance In Solving Apartment Matters.

²⁹ LAA Publications and Statistics, available at <http://jpa.gov.lv/publikacijas-un-statistika-eng> (last visited on September 4, 2015).

³⁰ Section 2 of the Rules of Cabinet of Ministers of August 27, 2013 No 665 “Regulations on the minimum monthly wage and the minimum hourly wage rate.”

³¹ Section 30 (Legal Aid Providers), Chapter VIII (Legal Aid Providers) of the State Ensured Legal Aid Law.

³² Section 33 (Assignment of Legal Aid Provider), Chapter VIII (Legal Aid Providers) of the State Ensured Legal Aid Law.

³³ Section 32(1) and (2) (Duties and Liability of a Legal Aid Provider), Chapter VIII (Legal Aid Providers) of the State Ensured Legal Aid Law.

³⁴ Section 32(5) (Duties and Liability of a Legal Aid Provider), Chapter VIII (Legal Aid Providers) of the State Ensured Legal Aid Law.

³⁵ Section 52, Part 4 (Duties, Rights and Liabilities of Sworn Advocates) of the Advocacy Law of the Republic of Latvia; Section 80 (Retaining a Defence Counsel), Section 81 (Invitation of a Defence Counsel in a Separate Procedural Action), Chapter 5 (Persons who Perform Defence) of the Criminal Procedure Law.

³⁶ Section 52, Part 4 (Duties, Rights and Liabilities of Sworn Advocates) of the Advocacy Law of the Republic of Latvia; Rules of Cabinet of Ministers of January 1, 2010 No 1493 “Regulations Regarding the Amount of State-ensured Legal Aid, the Amount of Payment, Reimbursable Expenses and the Procedures for Payment.”



suggested that remuneration for taking on State funded legal aid matters in criminal cases is substantially lower than in the case of private practice briefs.

Unmet Needs and Access Analysis

Currently State-funded legal aid is available only to natural persons and not to NGOs or other persons. In addition, as explained previously, natural persons who cannot afford legal representation themselves still face problems in accessing State-funded legal aid due to the relatively high eligibility criteria. Accordingly, despite the provision of State-funded legal aid and supporting legislation, there still appears to be a gap between those people who require legal assistance and those who fail to meet the eligibility criteria for State-funded legal assistance. Pro bono legal assistance is especially important for such people as well as NGOs and similar organisations.

Alternative Dispute Resolution

Mediation, Arbitration, Etc.

Legal aid is not available where alternative dispute resolution mechanisms such as arbitration are employed.

The Ombudsman

The Ombudsman is an official elected by Parliament for a term of five years tasked with encouraging the protection of human rights and the promotion of a legal and expedient State authority, which observes the principle of good administration. Private individuals may apply to the Ombudsman with a complaint or request in regards to a violation of human rights (defined broadly in legislation), discrimination or breach of the principle of equal treatment by State authorities, private individuals or legal entities, or good governance.³⁷ If a breach is detected, and if it is necessary for the benefit of society,³⁸ the Ombudsman may represent the rights and interests of a private individual in an administrative court.

PRO BONO ASSISTANCE

Pro bono Opportunities

Private Attorneys

Private attorneys are not mandated to undertake or report pro bono matters but are encouraged to do so by the Latvian Council of Sworn Advocates. The Latvian Lawyers Association also provides an online forum³⁹ where members can discuss various legal issues free of charge and the Christian Lawyers Association⁴⁰ brings together various legal professionals and law students to provide legal assistance to Christian organisations and Christians in the defense of religious discrimination.

Law Firm Pro bono Programs

A number of law firms in Latvia are committed to pro bono work⁴¹ and developing and maintaining pro bono programs either independently or in partnership with local charities⁴² and the Latvian Council of Sworn Advocates.

³⁷ See Ombudsman of the Republic of Latvia, available at <http://www.tiesibsargs.lv/eng/ombudsman/> (last visited on September 4, 2015).

³⁸ Ibid.

³⁹ See <http://www.ljb.lv/?c=diskusijas> (last visited on September 4, 2015).

⁴⁰ See <http://www.kja.lv/merki.html> (last visited on September 4, 2015).

⁴¹ See <http://www.sorainen.com/en/News/3941/attorney-at-law-pro-bono-consultation-days-during-march-in-latvia-again-this-year> (last visited on September 4, 2015) and http://www.eversheds.com/global/en/what/publications/shownews.page?News=en/latvia/en/pro_bono_legal_consultations_eversheds_2014-02-14 (last visited on September 4, 2015).



Non-Governmental Organizations

Delna, the Latvian branch of Transparency International, has established the 'TI Latvia Pro Bono Lawyers Network' with the goal of strengthening public confidence in democracy and the rule of law through increasing legal support and advocacy in "whistle-blower" cases.⁴³

The Latvian Centre for Human Rights provides free legal advice and representation on a wide range of human rights matters.⁴⁴

The Latvian Pro Bono Legal Centre, which is currently managed by the Riga Graduate School of Law,⁴⁵ allows NGOs to receive free legal advice from participating Latvian attorneys.

Bar Association Pro bono Programs

The Latvian Council of Sworn Advocates has an annual day on which a number of law firms and sworn advocates host (at their offices) free legal consultations on a wide range of legal matters such as civil, commercial, competition, construction, employment, financial, intellectual property, real estate and tax law.⁴⁶

University Legal Clinics

The Faculty of Law at the University of Latvia runs a legal clinic⁴⁷ where senior law students under the supervision of sworn advocates provide free legal advice to the public on a case-by-case basis on a wide range of matters including employment, property, patients, consumers, NGOs and freedom of information.⁴⁸ The Faculty of Business Administration at the University of Turība also runs a legal clinic where students provide free legal advice under the supervision of faculty staff.⁴⁹

Historic Development and Current State of Pro bono

Historic Development and Current State of Pro bono

Pro bono practice in Latvia has developed slowly. Due to a lack of resources there is a tendency for some well-planned pro bono programs or support centres to be established but not developed further. However, increasingly, the Latvian Council of Sworn Advocates is encouraging more sworn advocates and law firms to provide pro bono services.

Laws and Regulations Impacting Pro bono

There are no rules directly governing pro bono practice, however, some general litigation rules such as "Loser Pays" (state duties and sworn attorney fees)⁵⁰ may foster a reluctance to utilize available pro bono services.

⁴² See <http://www.petrovs.lv/index.php?page=99> (last visited on September 4, 2015) and <https://www.bnt.eu/en/social-responsibility/1880-latvia-social-responsibility> (last visited on September 4, 2015).

⁴³ See <http://delna.lv/2014/11/06/ti-latvia-pro-bono-juristu-tikla-izveide/> (last visited on September 4, 2015).

⁴⁴ See <http://cilvektiesibas.org.lv/en/legal-assistance/> (last visited on September 4, 2015).

⁴⁵ See <https://www.facebook.com/pages/Pro-bono-Juridisk%C4%81-atbalsta-centrs/1536166106615696> (last visited on September 4, 2015).

⁴⁶ Supra n. 73.

⁴⁷ See <http://www.lu.lv/eng/faculties/fl/structural-units/the-legal-clinic-of-the-faculty/> (last visited on September 4, 2015).

⁴⁸ See <http://www.lm.gov.lv/text/1259> (last visited on September 4, 2015).

⁴⁹ See <http://www.lm.gov.lv/text/1259> (last visited on September 4, 2015).

⁵⁰ Section 41 (Reimbursement of Court Costs), Section 44 (Costs Related to Conducting a Matter and Reimbursement Thereof), Chapter 4 (Costs of Adjudication) of the Civil Procedure Law.



There are also general practice restrictions that affect the availability of pro bono counsel. For example, only sworn advocates (in certain cases also foreign sworn advocates) or assistants to sworn advocates (defence counsel) are permitted to defend persons in criminal matters, only sworn advocates are permitted to represent persons before the Supreme Court,⁵¹ and only certain persons are considered sworn advocates under Latvian law (i.e., sworn advocates and assistants to sworn advocates who have obtained such status under the law, and citizens of European Union Member States who have obtained the qualification of a sworn advocate in one of the European Union Member States, in certain cases foreign advocates).⁵²

Socio-Cultural Barriers to Pro bono or Participation in the Formal Legal System

According to Delna, the Latvian branch of Transparency International, there are several barriers to providing pro bono legal assistance in Latvia.⁵³

- a lack of deep-rooted pro bono traditions;
- a lack of information about the legal needs of individuals and a lack of information about pro bono providers;
- accessibility to legal services, including pro bono aid, is limited in areas with low economic activity, since lawyers are mostly concentrated in large cities;
- smaller law firms and individually practicing lawyers can devote less financial resources to pro bono work as compared to large law firms. As such, smaller law firms and individually practicing lawyers mostly engage in pro bono work if they are personally interested in a specific case rather than as routine work;
- sometimes NGOs view law firms as competitors and are not keen to involve outside counsel in problem solving;
- due to the small size of Latvia and its legal market, large law firms are exposed to the potential risk of a conflict of interest; and
- since pro bono work is often regarded as a means for publicity, law firms may not be interested in carrying out pro bono work which does not show potential to attract public attention.

Finally, the restoration of public confidence in the judicial system in general remains a continuing issue affecting the public's use of pro bono resources. Thankfully, this issue is one that is currently being addressed in Latvia.⁵⁴

Pro bono Resources

- SORAINEN: www.sorainen.com (last visited on September 4, 2015); Linda Reneslāce linda.reneslace@sorainen.com Andris Tauriņš andris.taurins@sorainen.com Agris Repšs agris.repss@sorainen.com +371.67.365.000
- Latvian Council of Sworn Advocates: www.advokatura.lv (last visited on September 4, 2015); Jānis Grīnbergs padome@advokatura.lv +371.67.358.487
- Latvian Lawyers Association: www.ljb.lv (last visited on September 4, 2015); Aivars Borovkovs +371.67.315.564
- Christian Lawyers Association: www.kja.lv (last visited on September 4, 2015); Christian Lawyers Association kristigiejuristi@gmail.com +371.26.540.628

⁵¹ Section 79(2) (Defence Counsel), Chapter 5 (Persons who Perform Defence) of the Criminal Procedure Law; Section 82(6),(7) (Right to Representation in the Civil Procedure), Chapter 12 (Representatives) of the Civil Procedure Law.

⁵² Section 4, Part I (General Provisions) of the Advocacy Law of the Republic of Latvia.

⁵³ Telephone interview with Delna (Jun. 30, 2015).

⁵⁴ See <http://delna.lv/2014/12/02/tieslietu-ministrijas-prioritate-ir-sabiedribas-uzticibas-atjaunosana-tiesu-varai/> (last visited on September 4, 2015).



- Delna: <http://delna.lv> (last visited on September 4, 2015); Gundars Jankovs ti@delna.lv +371.67.285.585
- Latvian Centre for Human Rights: <http://cilvektiesibas.org.lv> (last visited on September 4, 2015); Anhelita Kamenska angel@humanrights.org.lv office@humanrights.org.lv +371.67.039.290
- Latvian Pro bono Legal Centre: <https://www.facebook.com/pages/Pro-bono-Juridisk%C4%81-atbalsta-centrs/1536166106615696> (last visited on September 4, 2015); info@probono.lv +371.26.040.721
- Faculty of Law at the University of Latvia: <http://www.lu.lv/eng/faculties/fl/structural-units/the-legal-clinic-of-the-faculty/> (last visited on September 4, 2015); Sandra Zīle Gereiša zile@lu.lv +371.67.034.591
- Faculty of Business Administration at the University of Turība: <http://www.turiba.lv/en/studijas/faculty-of-business-administration/about-faculty/34/> (last visited on September 4, 2015); Faculty of Business Administration at the University of Turība turiba@turiba.lv +371.67.607.726

CONCLUSION

Latvia has a functioning State-funded legal aid system, but legal aid is still needed by NGOs and those individuals that do not qualify for State-funded legal aid. Therefore, pro bono services provided by international and domestic law firms can be very helpful in ensuring the proper administration of justice.

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