

Pro Bono Practices and Opportunities in Luxembourg¹

I. Introduction

The development and provision of pro bono legal services in Luxembourg has been slow and limited given Luxembourg’s exceptional, extensive and well-established State legal aid system. International law firms are the main participants in pro bono initiatives in Luxembourg in the framework of their global pro bono strategy, but domestic Luxembourgish law firms still contribute to an important part of pro bono activities considering the few international law firms currently established in Luxembourg.

II. Overview of Pro Bono Practices

(a)	Professional Regulation	
	1. Describe the laws/rules that regulate the provision of legal services?	<p>The profession of lawyer (<i>avocat</i>) is regulated in Luxembourg by the law of August 10, 1991, as amended from time to time.² This law determines how the profession is organized and how it can be accessed, the lawyers’ rights and duties and the disciplinary proceedings to which they can be subjected.</p> <p>Lawyers in Luxembourg must also abide by the Internal Regulation of the Bar Association of Luxembourg as adopted on January 9, 2013, as amended,³ or the Internal Regulation of the Bar Association of Diekirch of April 22, 2005.⁴ These regulations establish the general principles regarding lawyers’ activities, including lawyers’ fees, legal aid and judicial traineeship.</p> <p>Lawyers are also bound by professional secrecy, which is a matter of public policy and violation of which is a criminal offence.</p>
	2. Describe any licensure requirements governing the provision of legal services.	<p>Lawyers are self-employed and can practice on an individual basis or for a law firm.⁵ In order to practice in Luxembourg, lawyers must be registered with a bar association established in the Grand Duchy of Luxembourg.⁶</p> <p><u>Luxembourgish law students</u>: Upon completion of the complementary courses on Luxembourgish Law</p>

¹ This chapter was drafted with the support of Francisca Salas of Josée Weydert of NautaDutilh.

² See <http://legilux.public.lu/eli/etat/leg/loi/1991/08/10/n3/jo> (last visited on May 1, 2019).

³ See the Internal Regulation of the Bar Association of Luxembourg as adopted on January 9, 2013, Grand Duchy of Luxembourg Official Journal of March 6, 2013 available at <http://www.legilux.public.lu/leg/a/archives/2013/0039/a039.pdf> (last visited on May 1, 2019).

⁴ Internal Regulation of the Bar Association of Diekirch of April 22, 2005, the Grand Duchy of Luxembourg Official Journal of July 28, 2005 available at <http://www.legilux.public.lu/leg/a/archives/2005/0111/a111.pdf> (last visited on May 1, 2019).

⁵ See https://e-justice.europa.eu/content_legal_professions-29-lu-en.do?member=1 (last visited on May 1, 2019).

⁶ See https://e-justice.europa.eu/content_legal_professions-29-lu-en.do?member=1 (last visited on May 1, 2019).

		<p>during a six month period and following receipt of the Certificate of Complementary Training on Luxembourgish Law, students are admitted to one of the two National Bars, namely the Diekirch Bar and the Luxembourgish Bar, and become List II attorneys. Such status enables the attorney to practice as a List I attorney except for the signing of certain acts. Students must then complete a judicial traineeship of a minimum of two years, during which mandatory courses need to be completed, attested by a knowledge assessment exam. To finally become a List I attorney, students must pass the Final Traineeship exam.⁷</p> <p><u>Procedure for EU lawyers:</u> Pursuant to the law of August 10, 1991, as amended from time to time,⁸ EU nationals enjoy a simplified procedure for admittance to the Luxembourgish National Bars pursuant to Article 10 of the Directive 98/5/EC. Fluency in German and French is required, but fluency in Luxembourgish is no longer required.⁹</p> <p><u>Procedure for foreign lawyers:</u> The procedure for EU lawyers also applies to foreign lawyers as long as their country of origin enjoys an extension of the Directive 2005/36/EC¹⁰ in Luxembourg, pursuant to an agreement between both countries.</p> <p><u>In-house counsel:</u> No specific license is required to become an in-house counsel in Luxembourg. Corporate firms usually look for students who have (i) a University of Luxembourg law masters and (ii) completed the Complementary Courses on Luxembourgish Law, even if such requirements are not legally mandatory.</p>
<p>(b) Pro Bono Practice and Culture</p>		
	<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</p>	<p>There are no specific rules in Luxembourg that regulate the provision of pro bono legal services.</p> <p>The Bar Association of Luxembourg manages the legal aid system as it is the entity that assigns legal</p>

⁷ See <https://www.barreau.lu/le-metier-d-avocat/devenir-avocat>
http://mj.public.lu/professions/avocat/stage_judiciaire/index.html (last visited on May 1, 2019).

⁸ See <http://legilux.public.lu/eli/etat/leg/loi/2002/11/13/n1/jo> ;
<http://www.legilux.public.lu/leg/a/archives/2008/0195/a195.pdf> (last visited on May 1, 2019).

⁹ Case C-193/05 Commission v Grand-Duché de Luxembourg ECR [2006] I-8673
<http://curia.europa.eu/juris/liste.jsf?language=en&num=C-193/05> (last visited on May 1, 2019).

¹⁰ See <http://www.legilux.public.lu/leg/a/archives/2008/0195/a195.pdf> (last visited on May 1, 2019).

<p>fees imposed on provision of legal services.</p>	<p>aid matters to lawyers and trainees and decides whether or not to grant legal aid.¹¹ The government bears the costs of providing such legal aid. For instance, the Bar Association of Luxembourg requires trainees in Luxembourg to represent anyone who cannot afford a lawyer.¹² Most cases concern political asylum, divorce, or drug-related crime. Trainees are required to provide free legal advice on behalf of the Luxembourg Bar at the Legal Advice Service (<i>Service d'accueil et d'information juridique</i>), where people can receive general legal advice regarding their rights and how to enforce them. Trainees are also required to provide legal advice and consultation in police stations and the Judicial Investigations Department (<i>cabinet d'instruction</i>),¹³ which investigates crimes, interrogates witnesses and suspects, and may decide upon the provisional detention of suspects, in the Luxembourgish courts.</p>
<p>2. Are lawyers required by such rules to work a minimum number of pro bono hours? If so, how many?</p>	<p>In Luxembourg, participation in pro bono initiatives is carried out on a voluntary basis and is not a mandatory requirement for lawyers, contrary to legal aid matters that cannot be refused by designated lawyers or trainees.</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 Luxembourg 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>The main areas of law which present opportunities for the provision of pro bono legal services in Luxembourg include family, employment, small business advice, immigration advice and welfare rights.</p>
<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 Luxembourg are: - NGOs¹⁴, such as the Support Association for Immigrant Workers (<i>Association de Soutien</i></p>

¹¹ Law of August 18, 1995 on legal aid, as amended <http://legilux.public.lu/eli/etat/leg/loi/1995/08/18/n4/jo> (last visited on May 1, 2019).

Grand Ducal Regulation of September 18, 1995 on legal aid, as amended <http://legilux.public.lu/eli/etat/leg/rgd/1995/09/18/n2/jo> (last visited on May 1, 2019).

¹² See Art. 2.9.1 of the Internal Regulation of the Bar Association of Luxembourg: <http://www.legilux.public.lu/leg/a/archives/2013/0039/a039.pdf> (last visited on May 1, 2019).

¹³ <https://www.barreau.lu/votre-avocat/assistance-judiciaire> ; http://mj.public.lu/services_citoyens/assistance_judiciaire/index.html (last visited on May 1, 2019).

¹⁴ See <https://cooperation.gouvernement.lu/en/partenaires/ong-partenaires.html> (last visited on May 1, 2019).

		<p><i>aux Travailleurs Immigrés</i>)¹⁵, Caritas Luxembourg¹⁶, the Red Cross Luxembourg¹⁷, Solidarity Action for the Third World (<i>Action Solidarité Tiers Monde</i>)¹⁸, Indian and Nepali Children’s Aid (<i>Aide à l’Enfance de l’Inde et du Nepal</i>)¹⁹, Friendship Luxembourg or Men’s Earth Luxembourg (<i>Terre des Hommes Luxembourg</i>)²⁰ (For more details on these NGOs, please refer to paragraph d) 2 below ;</p> <p>- the Law Clinic within the European Private Law LL.M at the University of Luxembourg²¹ (For more details, please refer to paragraph d) 2 below) ;</p> <p>- and a few private law firms.</p> <p>NautaDutilh participates in Pro Bono Connect.²² Pro Bono Connect links civil society to lawyers from top law firms to give them free legal advice or assistance in legal proceedings.²³</p>
(c) Obstacles to Provision of Pro Bono Legal Services		
	1. Do lawyers require a license to provide pro bono legal services?	Lawyers in Luxembourg do not require a license to provide pro bono legal services.
	2. Do foreign lawyers require any additional license(s) to provide pro bono legal services?	<p>Unless they have been admitted to one of the Luxembourgish National Bars pursuant to the applicable directive, foreign-qualified lawyers are prohibited from providing advice as to the laws of Luxembourg, and must inform potential recipients of legal advice where they are qualified to practice law.</p> <p>Pursuant to Article 2 (2) of the law of August 10, 1991²⁴, as amended, <i>nobody is allowed to give, directly or indirectly, on a regular basis and against compensation, legal advice, unless he/she is</i></p>

¹⁵ See <https://www.asti.lu> (last visited on May 1, 2019).

¹⁶ See <https://www.caritas.lu> (last visited on May 1, 2019).

¹⁷ See <http://www.croix-rouge.lu/missions-des-offices-sociaux> (last visited on May 1, 2019).

¹⁸ See <http://astm.lu> (last visited on May 1, 2019).

¹⁹ See <https://www.aein.lu> (last visited on May 1, 2019).

²⁰ See <http://www.terredeshommes.lu/fr> (last visited on May 1, 2019).

²¹ See https://www.en.uni.lu/university/news/latest_news/university_law_clinic_offers_free_assistance (last visited on May 1, 2019).

²² See <https://www.nautadutilh.com/en/our-firm/corporate> (last visited on May 1, 2019).

²³ See <https://probonoconnect.nl/en/> (last visited on May 1, 2019).

²⁴ See <http://legilux.public.lu/eli/etat/leg/loi/1991/08/10/n3/jo> (last visited on May 1, 2019).

		<p><i>authorized to exercise the profession of a lawyer.</i></p> <p>There are a few exceptions. For instance in-house lawyers (Article 2 (3.3) are allowed to provide legal advice provided that is linked to the activities of their employer.</p> <p>This law does, however, not prohibit the sharing of legal information and documentation (see Article 3).</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>Pro bono work undertaken by lawyers at law firms is generally covered under the professional indemnity insurance (“PII”) of that law firm.</p> <p>In-house lawyers who are employed by a company should be covered by their employer’s insurance when they provide pro bono legal services on behalf of their company.</p> <p>When lawyers (either in-house or NGO lawyers) are not giving pro bono legal advice as employees, but only in their capacity as volunteers, they can apply to their liability civil insurer Private Life, which in general, does not exclude such activities, but it is highly recommended to conclude a special insurance to cover any damages that they may cause to a third party, even though claims resulting from pro bono legal advice rarely occur.</p>
	<p>4. Are there any rules that prohibit advertising of pro bono successes or soliciting new pro bono clients?</p>	<p>There are strict rules regulating advertising for lawyers in Luxembourg. Title 6 of the Internal Regulation of the Bar Association of Luxembourg²⁵ prohibits canvassing and states that advertisements may not identify the clients represented, or the matters being handled, by the lawyer or the law firm, unless they have obtained prior informed consent from the clients in order to do so. As such, it appears difficult for Luxembourg law firms to enhance their professional reputations or create goodwill by conducting pro bono work.</p> <p>There are no specific socio-cultural barriers to pro bono in Luxembourg (i.e. corruption or lack of public trust in the judiciary).</p>
	<p>5. Do lawyers receive any “Continuing Legal Education” or equivalent credit for pro bono hours worked?</p>	<p>All trainee lawyers in Luxembourg have to accept legal aid cases in order to become qualified at the Luxembourg Bar, but there is no equivalent credit for pro bono hours worked.</p> <p>There is also no specific tax regime for pro bono</p>

²⁵ See <http://legilux.public.lu/eli/etat/leg/ri/2013/01/09/n1/jo> (last visited on May 1, 2019).

		<p>hours and initiatives. The law only provides for tax reduction under certain conditions in the context of cash donations to recognized public-interest organizations.</p>
<p>(d) Sources of Pro Bono Opportunities and Key Contacts</p>		
	<p>1. Describe any governmental sources of pro bono and/or other legal services in Luxembourg.</p>	<p>There are no specific governmental resources dedicated to pro bono legal services in Luxembourg. The Bar Association of Luxembourg manages the legal aid system as it is the entity that assigns legal aid matters to lawyers and trainees and decides whether or not to grant legal aid. The government bears the costs of providing legal aid (<i>assistance judiciaire</i>) to persons selected by the Bar Association who cannot afford to pay the costs of their defense for instance.²⁶ Considering this substantial involvement in the State-run legal aid system, the Bar Association has not developed any specific pro bono program.</p>
	<p>2. Describe the main non-governmental sources of pro bono and/or other pro bono resources in Luxembourg.</p>	<p>Some law firms, both international and domestic, are involved with, and provide a wide range of pro bono projects, helping individuals and community groups across Luxembourg, Luxembourgish NGOs, or other public interest organizations.</p> <p>The Support Association for Immigrant Workers (<i>Association de Soutien aux Travailleurs Immigrés</i>) is an NGO established in Luxembourg which provides free consultation to refugees.²⁷ and administrative assistance on immigration matters (how to settle down in Luxembourg, to find accommodation, to apply for a green card, to get a visa to visit Luxembourg, to reunite family members living abroad, to change nationality ...). It prepares asylum seekers for the labor market in Luxemburg by teaching them how to prepare a CV, training them for a job interview and helping them with their professional project. It publishes guidelines in this respect in many languages.</p> <p>Caritas Luxembourg is an NGO established in Luxembourg which provides support for asylum seekers including housing, legal advice, integration support and translation.²⁸</p> <p>The Red Cross Luxembourg is an NGO established</p>

²⁶ Law of August 10, 1991, art. 37 (1): <http://legilux.public.lu/eli/etat/leg/loi/1991/08/10/n3/fo> (last visited on May 1, 2019).

²⁷ See <https://www.asti.lu/> (last visited on May 1, 2019).

²⁸ See <https://www.caritas.lu/> (last visited on May 1, 2019).

		<p>in Luxembourg and works in partnership with the Social Offices of Luxembourg to provide assistance to people in need, generally unemployed people, indebted people, or people going through a divorce or the death of their spouse. The assistance provided can take various forms, helping people through administrative procedures, providing financial management, or even psychological support.²⁹</p> <p>Solidarity Action for the Third World (<i>Action Solidarité Tiers Monde</i>)³⁰, Indian and Nepali Children’s Aid (<i>Aide à l’Enfance de l’Inde et du Nepal</i>)³¹, Friendship Luxembourg or Men’s Earth Luxembourg (<i>Terre des Hommes Luxembourg</i>)³² are also NGOs established in Luxembourg which are involved in international actions in various fields including asylum, health, poverty, and children.</p> <p>The Law Clinic within the European Private Law LL.M at the University of Luxembourg is the only existing legal clinic. Students offer free assistance to members of the public (who are not eligible for legal aid or who cannot afford to pay for any legal services) on consumer rights disputes as part of their Master studies.³³</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>There is a website “<i>Portail du bénévolat</i>”³⁴ in Luxembourg which explains how to create and manage an association, which gives legal advice on how to become a volunteer (Statute ...) and which provides a list of existing associations³⁵ and which can be used as a source for opportunities in respect of pro bono legal services.</p> <p>The government of the Grand Duchy of Luxembourg has also published a list of NGOs³⁶ in order to promote pro bono opportunities. So any lawyer interested in pro bono activities can get in touch with an NGO and indicate that they want to contribute and apply for membership. Pursuant to Article 3 of the law of August 10, 1991³⁷, it is not prohibited to share legal</p>

²⁹ See <http://www.croix-rouge.lu/missions-des-offices-sociaux/> (last visited on May 1, 2019).

³⁰ See <http://astm.lu/> (last visited on May 1, 2019).

³¹ See <https://www.aecin.lu/> (last visited on May 1, 2019).

³² See <http://www.terredeshommes.lu/fr/> (last visited on May 1, 2019).

³³ See https://www.wen.uni.lu/university/news/latest_news/university_law_clinic_offers_free_assistance (last visited on May 1, 2019).

³⁴ See <http://benevolat.public.lu/fr/index.html> (last visited on May 1, 2019).

³⁵ See <http://benevolat.public.lu/fr/espace-benevole/decouvrir-associations/index.html> (last visited on May 1, 2019).

³⁶ See <https://cooperation.gouvernement.lu/en/partenaires/ong-partenaires.html> (last visited on May 1, 2019).

		<p>information and documentation. But, as explained in paragraph (c) 2 above, unless they have been admitted to one of the Luxembourgish Bars, foreign-qualified lawyers are prohibited from providing advice and must inform potential recipients of legal advice of the jurisdiction where they are qualified to practice law.</p>
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May 2019
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³⁷ See <http://legilux.public.lu/eli/etat/leg/loi/1991/08/10/n3/jo> (last visited on May 1, 2019).