

Pro Bono Practices and Opportunities in Poland¹

I. Introduction

The pro bono culture in Poland emerged in the early twentieth century and developed throughout World War II. However, due to the political situation under the communist regime, access to pro bono legal services became limited after the World War II. It wasn't until 1989, when, as a result of the free democratic society being re-established in Poland, involvement of non-governmental organizations (“NGOs”), law firms as well as professional legal associations and successful governmental initiatives became official and supported by the state. As a consequence, after 1989, an active pro bono culture re-emerged and now continues to grow. As a member of the European Union (“EU”), Poland also became bound by the EU’s legal requirements and extensive jurisprudence on the right of access to justice. In the past 20 years, many new pro bono programs have developed and the pro bono activities initiated earlier in the decade have expanded and diversified. Further, in recent years, all Polish Bar Associations have actively promoted various pro bono programs, each attracting thousands of people seeking free legal advice.

II. Overview of Pro Bono Practices

(a)	Professional Regulation	
	<p>1. Describe the laws/rules that regulate the provision of legal services?</p>	<p>The following are the key laws/rules that regulate the provision of legal services in Poland:</p> <ul style="list-style-type: none"> • The Constitution of April 2, 1997 – the supreme law in Poland. • Ratified international agreements, regulations, directives and decisions of the EU. • The May 26, 1982 Law on Attorneys (<i>Prawo o Adwokaturze</i>) regulates the organization and responsibilities of advocates while the July 6, 1982 Law on Legal Advisers (<i>Ustawa o Radcach Prawnych</i>) regulates the organization and responsibilities of legal advisers.² • Free Legal Aid and Education Act of August 5, 2015 determines the scope of free legal assistance (at the pre-court stage) to eligible persons. • The Law on the free legal aid and legal education (<i>Ustawa o nieodpłatnej pomocy</i>

¹ This chapter was drafted with the support of Wojciech Kozłowski and Aleksandra Gliszczyńska-Grabias of Dentons Europe Dąbrowski i Wspólnicy sp. k.

² European Justice Portal, Law, Poland, at: https://e-justice.europa.eu/content_member_state_law-6-pl-en.do?member=1 (last visited on May 1, 2019) and The Polish Legal System, at: http://eur-lex.europa.eu/nlex/info/info-pl/index_en (last visited on May 1, 2019) and Piotr Rakowski and Robert Rybicki, An Overview of Polish Law, available at <http://www.nyulawglobal.org/globalex/Poland1.htm> (last visited on May 1, 2019).

		<p><i>prawnej oraz edukacji prawnej</i>), Dz.U. 2018 pos. 1467.³</p> <ul style="list-style-type: none"> Any rules or regulations framed under the above-mentioned statutes or local government law.
	<p>2. Describe any licensure requirements governing the provision of legal services.</p>	<p>The legal professionals licensed to provide legal advice consist of advocates (<i>adwokat</i>), and legal advisers (<i>radca prawny</i>).⁴ Although there is no material difference between advocates and legal advisers in respect of their scope of competence, a legal adviser can provide legal services on the basis of entering into an employment contract, whereas an advocate cannot practice solely under an employment contract.⁵ Due to historical differences in competence, advocates are generally perceived as more frequently dealing with criminal defense. However this perception is changing over time.</p> <p>The May 26, 1982 Law on Attorneys (<i>Prawo o Adwokaturze</i>) regulates the organization and responsibilities of advocates. The July 6, 1982 Law on Legal Advisers (<i>Ustawa o Radcach Prawnych</i>) regulates the organization and responsibilities of legal advisers.</p> <p>In order to be admitted to practice as an advocate or legal adviser, an individual is required to complete a five-year law program, followed by practical training for three years and six months and pass the final bar examination.⁶</p>
(b)	Pro Bono Practice and Culture	
	<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</p>	<p>There is no legal requirement in Poland to provide pro bono legal services. The key laws/rules that regulate the provision of legal services in Poland are specified in paragraph II.(a).1 above. In particular, the key laws/rules that regulate the</p>

³ Available at: http://orka.sejm.gov.pl/proc8.nsf/ustawy/1868_u.htm (last visited on May 1, 2019).

⁴ Lawyers' training systems in the EU (Poland) at: https://e-justice.europa.eu/content_lawyers_training_systems_in_the_member_states-407-en.do?clang=en (last visited on May 1, 2019) and Legal Professions (Poland) at: https://e-justice.europa.eu/content_legal_professions-29-pl-en.do?member=1 (last visited on May 1, 2019).

⁵ Lawyers' training systems in the EU (Poland) at: https://e-justice.europa.eu/content_lawyers_training_systems_in_the_member_states-407-en.do?clang=en (last visited on May 1, 2019).

⁶ The Law on the Advocates' Profession dated May 26, 1982 and July 6, 1982 Law on Legal Advisers and <https://www.osce.org/odihr/36308?download=true> (last visited on May 1, 2019).

<p>all contexts, details of any mandatory or minimum fees imposed on provision of legal services.</p>	<p>provision of pro bono legal services in Poland are the Free Legal Aid and Education Act of August 5, 2015 and the Law on the free legal aid and legal education (<i>Ustawa o nieodpłatnej pomocy prawnej oraz edukacji prawnej</i>), Dz.U. 2018 pos. 1467.</p> <p>All practicing attorneys are required to take on <i>ex officio</i> cases of all types (<i>i.e.</i>, legal aid), which are assigned by the court from an alphabetical list of practicing lawyers. Such attorneys are compensated by the State⁷, so it is not classical pro bono work. The judge appoints a lawyer from a list provided by the local bar associations. Legal aid fees are relatively low and capped, principally with no differentiation in payments according to the time spent on a case or its complexity. Private attorneys may take a case directly within their private practices or participate in pro bono activities voluntarily or through their respective bar associations as described below under “Bar Association Pro Bono Programs”. In addition, at the centers run by NGOs carrying out public benefit activities (<i>organizacje pozarządowe prowadzące działalność pożytku publicznego</i>), advice may also be provided by tax advisors, with the exception of the matters related to business activity, and by university law graduates (who have at least three-year experience).⁸</p> <p>The President of Poland signed an amended law on free legal assistance in July, 2018. Pursuant to this amendment, with effect from January 1, 2019, legal aid will be available to every person who states that they are not able to bear the costs of legal representation. This has broadened the scope of eligible persons entitled to pro bono legal services. Furthermore, the new law broadens the areas of legal issues that can be covered with pro bono aid, with the only exclusion being matters related to economic activities. The amended law introduces free mediation as well as a new category of aid called “civic counseling” for issues such as debt,</p>
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⁷ L. Bojarski, “The Role of the Nongovernmental Sector in Pursuing Reform of the Legal Aid System: The Case of Poland.” This report accompanies “Making Legal Aid a Reality: A Resource Book for Policy Makers and Civil Society” (2009), by Public Interest Law Institute available at <http://www.pilnet.org/public-interest-law-resources/19-making-legal-aid-a-reality-a-resource-book-for-policy.html> (last visited on May 1, 2019).

⁸ Szymon Szmak, “Provision of legal services in Poland – free legal aid and legal expenses insurance as selected objects of the recent regulation” available at <https://piu.org.pl/wp-content/uploads/2017/05/WU-2016-04-08-Szmak-en.pdf> (last visited on May 1, 2019) and <https://www.premier.gov.pl/en/news/news/in-january-2016-free-legal-assistance-will-be-launched-throughout-poland.html> (last visited on May 1, 2019).

	housing problems or social security. Free civic counseling will be provided by NGOs and funded from the state budget. ⁹
2. Are lawyers required by such rules to work a minimum number of pro bono hours? If so, how many?	While all practicing attorneys are required to take on <i>ex officio</i> cases, there is no legal requirement in Poland to provide pro bono legal services. Neither the Free Legal Aid and Education Act of August 5, 2015 nor the professional ethical rules of the bar associations require a minimum of pro bono hours.
3. Are aspiring lawyers required to complete a minimum number of hours of pro bono legal services in order to become licensed lawyers?	Neither the Free Legal Aid and Education Act of August 5, 2015 nor the professional ethical rules of the bar associations require aspiring lawyers in Poland to work a minimum of pro bono hours in order to become licensed lawyers.
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?	Areas of law which present opportunities for pro bono legal services in Poland include, civil, criminal, family law, labor and unemployment, inheritance, administrative, housing, financial, refugees, social aid, healthcare and disability issues. ¹⁰ Other major unmet legal needs in Poland include, legal aid to victims of violence, legal aid to migrants and refugees, as well as to the LGBTQ community.
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?	The main providers of pro bono legal services in Poland are: (i) private law firms; (ii) NGOs; (iii) Bar Associations; and (iv) University legal clinics. Currently, many domestic and international law firms in Poland have dedicated pro bono programs and policies providing for significant legal assistance. ¹¹ The Pro bono Center (<i>Centrum Pro Bono</i>) publishes an annual report that highlights the activities of all private law firms in Poland that collaborate with the Pro bono Center. According to the most recent report, in 2017 law firms

⁹ Full text of the amended law is available (in Polish) at:

<http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20180001467> (last visited on May 1, 2019). Also, see news report dated July 30, 2018, titled “Poland’s President signs law on free legal aid”, available at:

<https://polandin.com/38296662/polands-president-signs-law-on-free-legal-aid> (last visited on May 1, 2019); The Free Legal Aid and Education Act of August 5, 2015 and Szymon Szmak, “Provision of legal services in Poland – free legal aid and legal expenses insurance as selected objects of the recent regulation” available at <https://piu.org.pl/wp-content/uploads/2017/05/WU-2016-04-08-Szmak-en.pdf> (last visited on May 1, 2019).

¹⁰ Legal Clinics, 2016/2017 report, available at: <http://www.fupp.org.pl/kliniki-prawa/publikacje/raporty> (last visited on May 1, 2019).

¹¹ Centrum Pro bono, at <http://www.centrumprobono.pl/o-programie/idea-pracy-prawnikow-pro-bono/> (last visited on May 1, 2019).

	<p>collaborating with the Pro bono Center provided legal advice in a wide range of cases, including matters involving non-profit organizations, people with disabilities, environmental protection, and animal rights. Lawyers were also advising on intellectual property law, privacy law, labor law, tax law, business law, internet law and public procurement.¹² On June 22, 2007, the Pro Bono declaration was signed at a roundtable on Pro Bono in Poland, as a public affirmation of law firms' commitment to the provision of legal services to the poor.</p> <p>There are a number of noteworthy NGOs that are active in Poland. The Pro bono Center¹³ coordinates a cooperative network between law firms and NGOs. Most aspects of pro bono work distribution between NGOs and private law firms are now handled by the Pro bono Center. The Helsinki Foundation for Human Rights (“HFHR”) is devoted to research and education in the field of human rights in Poland and abroad (primarily in the Russian Federation, Ukraine, Belarus, the Caucasus and Central Asia). The HFHR runs several programs aimed at providing cost-free legal advice, including free legal assistance at administrative proceedings, preparing opinions on drafts of legal acts and organizing seminars to educate the public on various laws.¹⁴ The Federation for Women and Family Planning (<i>Federacja na rzecz Kobiet i Planowania Rodziny</i>) provides free legal advice by phone and an online forum. For many women, this is the only chance to obtain legal advice anonymously and free of charge.¹⁵ Other NGOs of note include: The Polish Society of Antidiscrimination;¹⁶ Campaign Against Homophobia;¹⁷ and Empowering Children Foundation.¹⁸</p> <p>There are also a number of Bar Association Pro Bono Programs in Poland. The National Council of</p>
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¹² 2017 Report available at <http://www.centrumprobono.pl/wp-content/uploads/2014/02/raport-2017-1MB.pdf> (last visited on May 1, 2019).

¹³ Centrum Pro bono, available at <http://www.centrumprobono.pl/> (last visited on May 1, 2019).

¹⁴ Helsinki Foundation for Human Rights, Legal Programs, at: <http://www.hfhr.pl/en/programy/programy-prawne/> (last visited on May 1, 2019).

¹⁵ <http://federa.org.pl/> (last visited on May 1, 2019).

¹⁶ <https://interwencjaprawna.pl/en/> (last visited on May 1, 2019).

¹⁷ Kampania przeciw Homofobii: <https://kph.org.pl> (last visited on May 1, 2019).

¹⁸ Dajemy Dzieciom Siłę: <https://fdds.pl/what-do-we-do/support/> (last visited on May 1, 2019).

		<p>the Bar and the National Council of Legal Advisers coordinate annual countrywide events for people who cannot afford to pay for legal services to receive free legal advice. The National Council of the Bar has hosted a “Day of Free Legal Advice” every year since 2006.¹⁹ There are also reports on local National Councils of the Bar associations organizing pro bono legal aid days. The “Blue Umbrella” is another free legal advice program and week-long event organized by the National Council of Legal Advisers. First held in 2009, “Blue Umbrella” is now a bi-annual event. Most clients have sought assistance in matters related to inheritance, alimonies, and distribution of marital assets in cases of divorce. Persons also often inquire about issues related to labor law, insurance law, as well as real estate and traffic accidents. The National Notary Council organizes an annual “open door” event offering free advice in cases involving various aspects of real estate or estate law.²⁰</p> <p>There are a number of University Legal Clinics in Poland through which law students provide supervised pro bono legal services. The Legal Clinics Foundation has set up a network of legal clinics and promoted pro bono work throughout Poland. During the academic year of 2016/2017, there were 26 legal clinics in 17 cities and the legal clinics accepted 6,531 cases.²¹ The Legal Clinics Foundation’s programs and initiatives aim to incorporate pro bono ethics into legal education. It also involves lawyers in its pro bono activities. In 2004, the Legal Clinics Foundation launched the “Pro bono Lawyer” competition, which has now become an annual event.²²</p>
(c)	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 Poland are required to be admitted to a particular bar association in Poland in order to be able to provide legal services, including pro bono legal services, as an advocate or legal adviser.</p>

¹⁹IX Dzień Bezpłatnych Porad Prawnych już 18 kwietnia, at: <http://www.adwokatura.pl/z-zycia-nra/dzien-bezplatnych-porad-prawnych-18-kwietnia/> (last visited on May 1, 2019).

²⁰ Dzień Otwarty Notariatu, available at <http://www.porozmawiajznotariuszem.pl/> (last visited on May 1, 2019).

²¹ Legal Clinics, 2016/2017 report, available at: <http://www.fupp.org.pl/kliniki-prawa/publikacje/raporty> (last visited on May 1, 2019).

²² Lawyer Pro bono, Legal Clinics Foundation, available at <http://www.fupp.org.pl/en/lawyer-pro-bono/lawyer-pro-bono-contest-s> (last visited on May 1, 2019).

<p>2. Do foreign lawyers require any additional license(s) to provide pro bono legal services?</p>	<p>Subject to reciprocity and the international agreements ratified by the Republic of Poland or the provisions of the international organizations, foreign lawyers are entitled to practice law in Poland on a permanent basis after having been entered onto one of the lists of foreign lawyers kept by District Bar Councils or Councils of District Chambers of Legal Counsellors.</p> <p>A lawyer from the EU entered on the list kept by the District Bar Council is entitled to practice within the scope corresponding to the profession of advocate, whereas a lawyer entered on the list kept by the Council of District Chamber of Legal Counsellors can practice within the scope corresponding to the profession of legal counsellor.</p> <p>A lawyer from outside the EU entered on the list kept by the District Bar Council is solely permitted to provide legal advice and prepare legal opinions on domestic law of their home state and on international law, within the scope corresponding to the profession of advocate, and a lawyer entered on the list kept by the Council of District Chamber of Legal Counsellors is permitted to solely provide legal advice and prepare legal opinions on domestic law of their home state and on international law, within the scope corresponding to the profession of legal counsellor.²³</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>Every advocate and legal advisor performing their professional duties in Poland is required to be insured. The Law on Attorneys, states that advocates are obliged to be insured in terms of civil liability for damages caused within the exercise of their professional activities. Advocates are obliged to prove to the regional Bar that they have concluded a proper insurance contract with a relevant insurance company. The Law on Legal Advisers requires legal advisors to also comply with the above-mentioned requirement.²⁴</p> <p>In practice, the local bar associations, like the Warsaw Bar Association, conclude insurance contracts with insurance companies and the</p>

²³ ACT of July 5, 2002 on the provision by foreign lawyers of legal assistance in the Republic of Poland.

²⁴ Art. 8a Section 1 of the May 26, 1982 Law on Attorneys (*Prawo o Adwokaturze*), which regulates the organization and responsibilities of advocates and Art. 22 Section 7 of the July 6, 1982 Law on Legal Advisers (*Ustawa o Radcach Prawnych*), which regulates the organization and responsibilities of legal advisers.

		<p>member-advocates of the given bar pay monthly, quarterly or annual contribution fees for this group insurance. At the same time, lawyers are free to purchase their own or additional insurance if they deem it necessary or appropriate. Many global law firms are also purchasing additional insurance policies that cover some or all of their branches worldwide, but this depends on their internal decisions and insurance contracts. This is also applicable in Poland for professionals acting as legal advisors (<i>radcowie prawni</i>).</p> <p>A foreign lawyer providing pro bono legal services in Poland is required to maintain civil liability insurance against damage done in the provision of legal assistance, pursuant to the principles applicable to advocates or the principles applicable to legal counsellors, depending on which list he/she has been entered onto.</p> <p>The obligation specified above can be waived in respect of persons who can prove that they are covered by insurance or a guarantee taken out pursuant to the laws of their home state, and that the conditions and scope of such insurance or guarantee are equivalent to the conditions and scope of the insurance referred to above. Where the equivalence is only partial, the foreign lawyer is obliged to enter into an agreement providing for additional insurance or additional guarantee.²⁵</p>
	<p>4. Are there any rules that prohibit advertising of pro bono successes or soliciting new pro bono clients?</p>	<p>The set of rules established by the Polish Bar Council (<i>Zbiór Zasad Etyki Dziennikarskiej I Godności Zawodu</i>) generally prohibit advertisement of legal services, for example, through press, television etc. as well as solicitation of clients. However, there are no provisions prohibiting the advertisement of pro bono successes by way of public announcements, for example, on the law firm’s website.²⁶</p>
	<p>5. Do lawyers receive any “Continuing Legal Education” or equivalent credit for pro bono hours worked?</p>	<p>Generally, lawyers in Poland do not receive any credits or other benefits for time spent on pro bono work. However, private law firms in Poland may establish their own internal systems for encouraging involvement in pro bono work.</p>

²⁵ ACT of July 5, 2002 on the provision by foreign lawyers of legal assistance in the Republic of Poland.

²⁶ Please see <http://www.nra.pl/dokumenty.php?pgnum=0&sort=1&limit=30&datado=3000&slowa=kodeks+etyki> (last visited on May 1, 2019).

(d)	Sources of Pro Bono Opportunities and Key Contacts	
	1. Describe any governmental sources of pro bono and/or other legal services in Poland.	<p>The Commissioner for Human Rights in relation to the Polish Ombudsman (<i>Rzecznik Praw Obywatelskich</i>) is the constitutional authority for legal control and protection and is integral and independent from other state authorities. The Commissioner also provides pro bono legal aid as part of his statutory activities.²⁷</p> <p>Other similar state-established and state-sponsored entities include, the Commissioner for the Rights of the Child (<i>Rzecznik Praw Dziecka</i>) and the Commissioner for Patients' Rights (<i>Rzecznik Praw Pacjentów</i>). These institutions provide individuals with free legal advice and intervene, on pro bono basis, in individual cases of various violations of freedoms and rights.²⁸</p>
	2. Describe the main non-governmental sources of pro bono and/or other pro bono resources in Poland.	Please see II.(b).5 above.
	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?	A local or foreign attorney can register with the Centrum Pro Bono in order to be made aware of pro bono opportunities. ²⁹

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²⁷ See <https://www.rpo.gov.pl/en> (last visited on May 1, 2019).

²⁸ See <http://brpd.gov.pl/> (last visited on May 1, 2019) and <https://www.bpp.gov.pl/en/> (last visited on May 1, 2019).

²⁹ Please see <http://www.centrumprobono.pl/> (last visited on May 1, 2019).