

Pro Bono Practices and Opportunities in Ukraine¹

I. Introduction

While the provision of pro bono legal services in Ukraine remains limited compared to certain Western countries, access to pro bono legal services has continued to increase over the last several years. Since the Euromaidan Revolution in 2014 and the conflicts in Crimea and Eastern Ukraine, numerous pro bono initiatives have been implemented in Ukraine aimed at assisting protesters, volunteers and internally displaced persons. In addition, significant reform of the legal system in Ukraine, continued proliferation of NGO activity and the adoption of international standards and traditions in the legal profession have laid a stronger foundation for pro bono culture in recent years. Although access may still be limited, both national and international law firms and solo practitioners in Ukraine have more opportunities than ever to provide pro bono legal services, and as a result Ukrainian citizens and residents have more access to these services than ever before.

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 legal profession in Ukraine is comprised of licensed attorneys (“advocates”) and unlicensed lawyers (“jurists”). The provision of legal services by advocates is regulated by the Law of Ukraine “On the Bar and Legal Practice.”² This law sets out the general requirements for advocates as well as their rights, duties and professional liability. The provision of legal services by jurists is not regulated by any specific law and is governed by sections of the Ukrainian Civil Code, including those on representation and agreements on the provision of services.³</p> <p>The key difference between jurists and advocates is that only advocates can represent individuals in court proceedings (regardless of the type of proceedings) with minor exceptions. Advocates must obtain an advanced degree and have at least two-year experience in the field of law. Advocates must also comply with certain ethical standards.⁴ As</p>

¹ This chapter was drafted with the support of Mykola Stetsenko, Andriy Romanchuk, Dmytro Tkachuk, Oleksii Izotov and Dmytro Izotov of Avellum.

² See the Law of Ukraine “On the Bar and Legal Practice” No. 5076-VI dated July 5, 2012, available at <https://zakon.rada.gov.ua/laws/show/en/5076-17> (last visited on May 1, 2019) in Ukrainian.

³ See the Civil Code of Ukraine No. 435-IV dated January 16, 2003, available at <https://zakon.rada.gov.ua/laws/show/en/435-15> (last visited on May 1, 2019) in Ukrainian.

⁴ See the Rules of Advocates’ Ethics approved by Congress of Attorneys of Ukraine on June 9, 2017, available at <https://zakon.rada.gov.ua/rada/show/n0001891-17> (last visited on May 1, 2019) in Ukrainian.

		<p>of September 1, 2018, there were approximately 45,000 practicing advocates in Ukraine.⁵</p> <p>Jurists are not subject to any mandatory educational requirements nor binding ethical standards and are not covered by the attorney-client privilege.⁶</p>
	<p>2. Describe any licensure requirements governing the provision of legal services.</p>	<p>In addition to obtaining an advanced degree and gaining relevant experience, advocates must (1) pass an examination verifying their practical and theoretical legal skills, and (2) be proficient in the Ukrainian language. Following the examination, advocates must complete a half-year internship and take the oath of advocate before a regional bar council.⁷</p> <p>There is generally no licensing requirement for jurists, nor are jurists subject to any binding ethical standards.</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 all contexts, details of any mandatory or minimum fees imposed on provision of legal services.</p>	<p>Article 59 of the Ukrainian Constitution provides that every citizen have the right to receive legal aid.⁸ The Law of Ukraine “<i>On Free Legal Aid</i>” sets forth the conditions and requirements for the entitlement to legal aid,⁹ as well as the responsibilities of advocates to provide legal aid.¹⁰</p>

⁵ See the Report of Ukrainian National Bar Association dated September 1, 2018, available at http://unba.org.ua/assets/uploads/7db87c8d8ac5d21d5b9b_file.pdf (last visited on May 1, 2019) in Ukrainian.

⁶ See V. Kukharchyk and M. Kulya, *The Legal Profession in Ukraine* (Apr. 2008), p. 3-6 available at <http://www.osce.org/odihr/36311> (last visited on May 1, 2019).

⁷ See *Id.* at 5. For the detailed information regarding the requirements of becoming an advocate in Ukraine and access to legal profession, see website of Ukrainian National Bar Association, available at <http://en.unba.org.ua/> (last visited on May 1, 2019).

⁸ Cf. Ukraine Const., available at https://www.ecoi.net/en/file/local/1226402/1226_1484303007_ukraine-constitution-am2016-eng.pdf (last visited on May 1, 2019). See also, Article 15 of the Civil Procedural Code of Ukraine No. 1618-IV dated December 18, 2004, available at <https://zakon.rada.gov.ua/laws/show/1618-15> (last visited on May 1, 2019) in Ukrainian (availability of free legal aid in civil proceedings); Article 16 of the Code of Administrative Procedure of Ukraine No. 2747-IV dated July 6, 2005, available at <https://zakon.rada.gov.ua/laws/show/2747-15> (last visited on May 1, 2019) in Ukrainian (availability of free legal aid in administrative proceedings); Article 20 of the Criminal Procedure Code of Ukraine No. 4651-VI dated April 3, 2012, available at <https://zakon.rada.gov.ua/laws/show/4651-17> (last visited on May 1, 2019) in Ukrainian (availability of free legal aid in criminal proceedings).

⁹ See the Law of Ukraine “*On Free Legal Aid*” No. 3460-VI dated June 2, 2011, available at <https://helsinki.org.ua/en/articles/the-law-of-ukraine-on-free-legal-aid/> (last visited on May 1, 2019) as amended on June 2, 2011. For current version cf. <https://zakon.rada.gov.ua/laws/show/3460-17/ed20181104> (last visited on May 1, 2019) in Ukrainian.

¹⁰ For more information on state-funded legal aid, see report prepared by the Ukrainian National Bar Association “*Legal Aid System in Ukraine: Current Issues and Recommendations for Reform*”, available at <http://en.unba.org.ua/assets/uploads/news/novosti/2016-05-23.legal.aid.report.pdf> (last visited on May 1, 2019).

	<p>Under the general rule, there is no requirement, whether from the bar associations or by law, for either advocates or jurists to provide pro bono legal services. However, if an advocate voluntarily enters into the agreement with a center for provision of free legal aid, such person may be mandatorily required to provide pro bono legal services to the persons applying to the said centers.¹¹</p> <p>It should be noted that there are no particular requirements advocates or jurists must meet to provide pro bono legal services. In particular, if the individual is permitted to represent the client under the laws regulating legal representation in Ukraine, such individual will be permitted to represent the client in the pro bono matter.¹²</p>
<p>2. Are lawyers required by such rules to work a minimum number of pro bono hours? If so, how many?</p>	<p>Generally, lawyers in Ukraine are not required to work a minimum number of pro bono hours. However, if an advocate voluntarily enters into the agreement with a center for provision of free legal aid, such agreement can prescribe specific number of pro bono hours a lawyer has to work.</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 Ukraine 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>Although pro bono culture in Ukraine remains underdeveloped, generally legal professionals are able to provide pro bono legal services across all areas of law. Opportunities are available to both provide the more traditional pro bono legal services to the disabled, veterans or orphans, as well as to the internally displaced and other Ukrainians affected by the conflicts in Crimea and Donbass region. Institutional barriers remain, as well as a historical lack of a pro bono culture and advocacy, but the implementation of the judicial reform and change in the legal landscape in Ukraine is likely to continue to yield positive developments in pro bono legal services in Ukraine.</p>
<p>5. Who are the main providers of pro bono legal services? e.g., NGOs, governmental or other public</p>	<p>Pro bono opportunities have been historically very limited, with pro bono culture practically non-existent in Ukraine during Soviet times. Then,</p>

¹¹ See *Id.* Articles 21-22.

¹² See *Id.* Article 9.

	<p>services, schools and universities, private law firms (local or international) or corporate organizations?</p>	<p>subsequent to the break-up of the Soviet Union and prior to the recent military conflicts in Ukraine in 2014, pro bono opportunities were generally limited to offerings provided through NGOs and various social programs.</p> <p>Now, while still developing, pro bono opportunities are wide-ranging following the events and aftermath of the Euromaidan Revolution, which led to greater awareness in Ukrainian society of pro bono legal services. For example, as further described below in Section (d) below, attorneys could often get involved in pro bono matters through their law firms, which frequently have their own pro bono initiatives, a number of NGOs located in Ukraine, various initiatives provided through the bar association and through university legal clinics.</p>
<p>(c) Obstacles to Provision of Pro Bono Legal Services</p>		
	<p>1. Do lawyers require a license to provide pro bono legal services?</p>	<p>Lawyers in Ukraine only require those licenses that relate to the legal profession in general (e.g. non-Ukrainian speakers or individuals who are not advocates may not provide representation in court proceedings (with minor exceptions)).</p>
	<p>2. Do foreign lawyers require any additional license(s) to provide pro bono legal services?</p>	<p>Foreign lawyers in Ukraine only require those licenses that relate to the legal profession in general, though in practice lawyers without knowledge of Ukrainian culture or language will find difficulties.</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>Advocates or jurists involved in pro bono legal assistance in Ukraine do not require any professional indemnity legal insurance cover for any pro bono legal services that they may provide.</p>
	<p>4. Are there any rules that prohibit advertising of pro bono successes or soliciting new pro bono clients?</p>	<p>Ukrainian law does not prohibit advertising of pro bono successes or soliciting new pro bono clients.</p> <p>At the same time, the Rules of Advocates' Ethics¹³ establish a number of general requirements that any advocate must comply with when advertising any of</p>

¹³ Rules of Advocates' Ethics, approved by the Congress of Advocates of Ukraine on 9 June 2017 (<https://zakon.rada.gov.ua/rada/show/n0001891-17>) (last visited on May 1, 2019).

		<p>its legal services (including when using pro bono projects in such advertising).</p> <p>In particular, such advertising must be objective, specific and understandable, and must not be misleading. Advertising of advocates’ legal services must not involve criticism of other advocate’s legal activities or create unreasonable expectations from the clients.</p>
	5. Do lawyers receive any “Continuing Legal Education” or equivalent credit for pro bono hours worked?	Under Ukrainian law, lawyers do not receive any “Continuing Legal Education” or equivalent credit for pro bono hours worked.
(d) Sources of Pro Bono Opportunities and Key Contacts		
	1. Describe any governmental sources of pro bono and/or other legal services in Ukraine.	<p>In addition to information centers that provide free information of rights under the judicial system, the government has also instituted a program whereby advocates, that (1) are included in the list of advocates who provide free legal aid, and (2) entered into agreement with relevant center, may be mandatorily assigned to cases representing indigent victims and witnesses in criminal proceedings. Advocates can decline such assignments only upon certain specified grounds.</p>
	2. Describe the main non-governmental sources of pro bono and/or other pro bono resources in Ukraine.	<p>NGOs are currently the main providers of pro bono legal services in Ukraine.</p> <ul style="list-style-type: none"> • There are a number of NGOs which support citizens affected by recent conflicts, including: HIAS in Ukraine,¹⁴ CrimeaSOS¹⁵ and EuroMaidan SOS.¹⁶ • Ukrainian Pro Bono Clearing House: a platform where Ukrainian attorneys can register to provide free legal services.¹⁷ • USAID’s Access to Justice and Legal Empowerment Project, aiming to improve access to pro bono legal services in Ukraine.¹⁸

¹⁴ See <https://www.hias.org/ukraine> (last visited on May 1, 2019).

¹⁵ See <http://krymsos.com/en/about/krym-sos/> (last visited on May 1, 2019).

¹⁶ See <http://euromaidansos.org> (last visited on May 1, 2019).

¹⁷ See <https://pro-bono.in.ua/> (last visited on May 1, 2019).

¹⁸ See <https://www.usaid.gov/ukraine/democracy-human-rights-and-governance> (last visited on May 1, 2019).

		<ul style="list-style-type: none"> • The Ukrainian Helsinki Human Rights Union has established a program aimed at promoting and cultivating human rights in Ukraine in line with European standards.¹⁹ • Environment People Law focuses on increasing environmental advocacy and awareness.²⁰ • International Renaissance Foundation is an NGO focused on fostering democratic values in Ukraine.²¹ • Caritas Ukraine is the project whose main aim is to provide legal assistance to migrants, asylum seekers and refugees detained at detention facilities and asylum seekers and refugees who are in the procedure of granting refugee status in Ukraine.²²
	<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>Law firms and programs implemented by the Ukrainian Bar Association also contribute to pro bono culture in Ukraine.</p> <ul style="list-style-type: none"> • Law firms are among the most frequent providers of pro bono services in Ukraine. <ul style="list-style-type: none"> ○ Avellum²³ ○ Asters²⁴ ○ AEQUO²⁵ ○ Vasil Kisil and Partners²⁶ • The Ukrainian Bar Association has also launched a number of pro bono initiatives. <ul style="list-style-type: none"> ○ Ukrainian Bar Association launched the project “Legal Support to Sport in Ukraine” aiming at legal support of the activity of persons involved in sports and legal representation of

¹⁹ See <https://helsinki.org.ua/> (last visited on May 1, 2019).

²⁰ See <http://epl.org.ua/> (last visited on May 1, 2019).

²¹ See <http://www.irf.ua/en/> (last visited on May 1, 2019).

²² See <http://www.caritas-ua.org/> (last visited on May 1, 2019).

²³ See <https://avellum.com> (last visited on May 1, 2019).

²⁴ See <https://www.asterslaw.com/> (last visited on May 1, 2019).

²⁵ See <https://aequo.ua/> (last visited on May 1, 2019).

²⁶ See <http://vkp.ua/> (last visited on May 1, 2019).

		<p>interest of persons involved in sports.²⁷</p> <ul style="list-style-type: none">○ Clinics that advise soldiers and their families of rights, including compensation, health care and housing assistance, that they are entitled to but have not yet received.
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²⁷ See <https://uba.ua/eng/projects/68/> (last visited on May 1, 2019).