



Pro Bono Practices and Opportunities in Ukraine¹

INTRODUCTION

Similar to other countries that were part of the former Soviet Union, pro bono culture in Ukraine is not yet as developed as in western countries. However, the adoption of international standards and traditions with respect to the legal profession, as well as engagement by NGOs in Ukraine, have increased pro bono activity in recent years. The Euromaidan Revolution of 2014 and conflicts in Crimea and Eastern Ukraine have also influenced the development of pro bono culture in Ukraine. During and after these historical events, numerous initiatives appeared aimed at assisting protesters, mobilized persons, volunteers or internally displaced persons, and a significant amount of this work was carried out pro bono.

Additionally, Ukraine is undergoing significant legal reforms aimed at institutionalizing the provision of free legal aid. Today, both national and international law firms and solo legal practitioners have more opportunities than ever before to provide pro bono legal services in Ukraine.

OVERVIEW OF THE LEGAL SYSTEM

The Justice System

Constitution

The Constitution of Ukraine (the “**Constitution**”) establishes the foundation of the Ukrainian justice system, generally sets out the jurisdiction of courts, and provides for the right of citizens to legal aid and defense in criminal cases. The procedures of the justice system are codified in specific statutes.

Procedural Codes and other Laws

The main procedural codes and laws relevant to the Ukrainian justice system are Procedural Codes (Criminal, Civil, Administrative, Commercial), the Code of Administrative Offences of Ukraine, the Laws of Ukraine “On Court System and Status of Judges”, “On Advocacy and Advocates’ Practice” and “On Free Legal Aid”

The Courts

The Ukrainian judicial system consists of the Constitutional Court of Ukraine and lower courts with jurisdiction over either regular, commercial or administrative matters. Regular courts have jurisdiction over civil, criminal and administrative offence cases. Commercial courts oversee certain commercial disputes, e.g. disputes involving contractual obligations and/or corporate governance/management matters. Finally, administrative courts adjudicate actions against governmental agencies and authorities.

Each of the three jurisdictions has four levels: (i) the local courts are the courts of first instance, (ii) courts of appeal hear cases appealed from the local courts, (iii) the cassation court hear appeals from the courts of appeal and (iv) the Supreme Court of Ukraine is the final and highest appellate court. Previously, access to the Supreme Court of Ukraine was limited. In particular, application could not be submitted directly to the Supreme Court of Ukraine. Only the court of the third instance had the right to submit cases to the Supreme Court of Ukraine. However, recently this was partially remedied by the Law of Ukraine “On Securing the Right to Fair Trial”², which expands the grounds for the Supreme Court of Ukraine to hear a case and simplifies the procedure, now allowing parties to submit applications for review of cassation court decisions directly.

¹ This chapter was drafted with the support of Mykola Stetsenko, Dmytro Tkachuk and Andriy Romanchuk from Avellum as well as Dmytro Koval from the Center of International Law and Justice.

² Cf. Law of Ukraine “On Securing the Right to Fair Trial” No. 192-VIII, dated February 12, 2015, available at <http://zakon4.rada.gov.ua/laws/show/192-19> (last visited on September 4, 2015) in Ukrainian.



Historically, Ukrainian citizens held very little trust in the Ukrainian court system due to high levels of corruption. Following the Euromaidan Revolution, the Parliament of Ukraine adopted the Law of Ukraine “On Restoration of Trust in the Judiciary”³ to address corruption. The law imposes strict penalties, including dismissal, for judges that abuse their office or issue politically motivated judgments.

The Practice of Law

Education

To comply with the Bologna Process⁴, Ukraine has recently reformed its education system. The aim has been to bring the system of higher education in Ukraine more in line with wider European standards. A law degree is required for certain categories of the legal profession. For example, only after obtaining a Master’s degree (the specialist’s degree was recently abolished and specialist’s degrees obtained previously are now equated to a Master’s degree), graduates are pre-qualified for the title of “advocate”, the receipt of which, however, requires further qualification (cf. below Sec. II. D.). The same applies to professions like judges or notaries.

Despite the relatively high amount of law graduates each year, the quality of the legal education in Ukraine has not adequately prepared graduates to enter the work force. Graduates often lack practical legal skills and employers must invest substantial effort and time to provide the appropriate level of training⁵. In response, many law firms have taken a more active role in the educational process by giving lectures (on a pro bono basis) and otherwise sharing knowledge.

Licensure

The Ukrainian legal profession is comprised of licensed attorneys referred to as “advocates” and unlicensed lawyers referred to as “jurists”. The main difference between advocates and jurists is that only advocates are entitled to represent clients in criminal proceedings.⁶ In addition to obtaining an advanced degree, advocates must also pass an examination testing their practical and theoretical legal skills as well as be proficient in the Ukrainian language.

Jurists are not subject to these same stringent requirements. Jurists are also not covered by the attorney-client privilege.⁷

Demographics

While Ukraine boasts a number of international law firms, most attorneys are employed in smaller offices or act as solo practitioners. As of April 1, 2008 there were approximately 80,000 practicing advocates and

³ Cf. Law of Ukraine “On Restoration of Trust in the Judiciary” No. 1188-VII, dated April 08, 2014, available at <http://zakon4.rada.gov.ua/laws/show/1188-18> (last visited on September 4, 2015) in Ukrainian.

⁴ Cf. http://www.coe.int/t/dg4/highereducation/EHEA2010/BolognaPedestrians_en.asp#P15_226 (last visited on September 4, 2015).

⁵ Cf. Quality education – successful carrier, available at <http://yur-gazeta.com/publications/practice/trudove-pravo/yakisna-osvita--vdala-karera.htm> (last visited on September 4, 2015) in Ukrainian.

⁶ This issue was and is subject of controversial discussions of the last decade between Ukrainian lawyers. Although Ukrainian and international courts in their decisions allowed non-advocates to represent its clients in criminal proceedings, the newly adopted Code of Criminal Procedure of Ukraine lists only advocates as legal representatives of clients in criminal matters. As shown below (cf. Sec. on the Legal Regulation of Lawyers), there are even intentions to establish a representation monopoly for advocates for all types of proceeding before courts.

⁷ V. Kukharchyk and M. Kulya, The Legal Profession in Ukraine (Apr. 2008), available at <http://www.osce.org/odihr/36311> (last visited on September 4, 2015).



jurists. In 2012, this figure increased to 111,026 resulting in 244.2 lawyers per capita (this is significantly above the European average).⁸

Legal Regulation of Lawyers

The activities of advocates are governed by the Law of Ukraine “*On Advocacy and Advocate’s Practice*”⁹, the Regulations “*On Higher Qualifications and Disciplinary Bar Commission*”¹⁰ and “*On Advocates Council*”¹¹ as well as the Rules of Advocates’ Ethics. These laws and regulations establish institutions that regulate the legal profession (e.g. the Higher Qualifications and Disciplinary Commission, Advocates Counsel, qualifications and disciplinary commissions). These institutions are responsible for overseeing licensure and disciplinary matters. There are current efforts underway to significantly change the legal profession. Bill No. 1794-1 of February 2, 2014 “*On Amending the Law of Ukraine ‘On Advocacy and Advocates’ Practice*” presented before the Ukrainian Parliament¹² would (i) increase the licensing requirements for becoming an “advocate”, (ii) expand the definition of attorney-client privilege, (iii) introduce additional disciplinary penalties on “advocates”, and (iv) require that only “advocates” be entitled to represent clients before courts, whether in criminal or civil matters.

Currently “jurists” are not subject to any mandatory requirements or to any binding ethical standards.

LEGAL RESOURCES FOR INDIGENT PERSONS AND ENTITIES

The Right to Legal Assistance

Legal basis

Article 59 of the Constitution provides every citizen with the right to receive legal aid. Additionally, Article 63 of the Constitution specifies that a suspect, an accused or a defendant has the right to a defense, while Article 129 specifies that one of the main principles of legal proceedings shall be to ensure the right of an accused person to a defense.¹³

⁸ Cf. the Report of the European Commission for the Efficiency of Justice on “European judicial systems – Edition 2014 (2012 data): efficiency and quality of justice”, p. 377, 379 available at http://www.coe.int/t/dghl/cooperation/cepej/evaluation/default_en.asp (last visited on September 4, 2015).

⁹ Cf. Law of Ukraine “On Advocacy and Advocate’s Practice” No. 5076-VI, dated July 5, 2012, available at <http://zakon4.rada.gov.ua/laws/show/5076-17> (last visited on September 4, 2015) in Ukrainian.

¹⁰ Cf. Regulation “On Higher Qualification and Disciplinary Bar Commission” approved by Founding Congress of Advocates of Ukraine on November 17, 2012, available at <http://vkdk.org/polojennia/> (last visited on September 4, 2015) in Ukrainian.

¹¹ Cf. Regulation “On Advocates Council of Ukraine” approved by Founding Congress of Advocates of Ukraine on November 17, 2012, available at <http://unba.org.ua/assets/uploads/legislations/pologennya/2014.04.26-27-pologennya-pro-rau-pazy.pdf> (last visited on September 4, 2015) in Ukrainian.

¹² Cf. the Bill “On Amending the Law of Ukraine “On Advocacy and Advocates’ Practice” and certain other legislative acts of Ukraine (regarding the status and guarantees of practice of law, as well as formation and operation of advocacy self-government bodies)” No. 1794-1 registered in the Parliament on February 4, 2015, available at http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=53817 (last visited on September 4, 2015) in Ukrainian.

¹³ Cf. Ukraine Const., available at http://gska2.rada.gov.ua/site/const_eng/constitution_eng.htm (last visited on September 4, 2015).



Implementation of Right to Legal Aid in Civil and/or Criminal Proceedings

Pursuant to the Civil Procedural Code of Ukraine¹⁴ litigants in civil cases have, among other things, the right to free legal representation. Similarly, the *Code of Administrative Procedure of Ukraine*¹⁵ stipulates that individuals with cases before administrative courts have, among other things, the right to free legal representation in the manner prescribed by law.

In criminal proceedings the following persons are entitled to free legal representation: (i) persons who are under administrative detention or administrative arrest; (ii) persons suspected in committing a crime who are arrested by investigative authorities; (iii) persons taken into custody; and (iv) persons entitled to a mandatory defense according to the Criminal Procedural Code of Ukraine¹⁶.

The Law of Ukraine “*On Free Legal Aid*”¹⁷ set forth the conditions and requirements for the entitlement to legal aid.

State-Subsidized Legal Aid

General overview – the Law “On Free Legal Aid”

On June 2, 2011, the Parliament of Ukraine adopted the Law “*On Free Legal Aid*” which became effective on July 9, 2011. The law regulates the provision of free legal aid in Ukraine.¹⁸

The law introduces the concept of primary and secondary legal aid. Within the primary legal aid system, the government provides citizens with information about their rights under the judicial system, including the right to appeal actions or inactions of governmental authorities. Secondary legal aid is legal aid in a “classical” sense and includes, among other things, the provision of defense against prosecution and representation in courts.

Since July 1, 2015, the Ministry of Justice of Ukraine has established 100 centres of free legal aid. The purpose of the centres is to provide free secondary legal aid to socially vulnerable citizens in civil and administrative proceedings as well as to victims and witnesses in criminal proceedings.¹⁹ The Ministry of Justice has taken steps to ensure that attorneys providing secondary legal aid remain independent from government influence.

Eligibility criteria

General Eligibility criteria

All persons who are under the jurisdiction of Ukraine (regardless of citizenship) are entitled to primary legal aid in Ukraine. The following categories of people are entitled to secondary legal aid in Ukraine:

¹⁴ Cf. Article 12 of the Civil Procedural Code of Ukraine No. 1618-IV dated December 18, 2004, available at <http://zakon4.rada.gov.ua/laws/show/1618-15/paran91#n91> (last visited on September 4, 2015) in Ukrainian.

¹⁵ Cf. Article 16 of the Code of Administrative Procedure of Ukraine No. 2747-IV dated July 6, 2005, available at <http://zakon4.rada.gov.ua/laws/show/2747-15/paran158#n158> (last visited on September 4, 2015) in Ukrainian.

¹⁶ Cf. Article 20 of the Criminal Procedure Code of Ukraine No. 4651-VI dated April 3, 2012, available at <http://zakon4.rada.gov.ua/laws/show/4651-17/paran505#n505> (last visited on September 4, 2015) in Ukrainian.

¹⁷ Law of Ukraine “On Free Legal Aid” (Ukraine Const.), available at <http://helsinki.org.ua/en/index.php?id=1311157859> (last visited on September 4, 2015) in the old version. For current version cf. <http://zakon2.rada.gov.ua/laws/show/3460-17> (last visited on September 4, 2015) in Ukrainian.

¹⁸ Expert Advisory Centre “Legal Analytics,” Free legal aid in Ukraine. Legal review of the Law of Ukraine “On free legal aid,” available at <http://legalanalytics.com.ua/en/consultacija/20-ogladzakonyprobezoplatnypravovydopomogy.html> (last visited on September 4, 2015).

¹⁹ Cf. <http://minjust.gov.ua/ua/news/47371> (last visited on September 4, 2015) in Ukrainian. Map of the centers available at <http://minjust.gov.ua/ua/news/47372> (last visited on September 4, 2015) in Ukrainian.



- persons whose average monthly income is lower than the minimum subsistence level as calculated in accordance with the Law of Ukraine “*On the Minimum Subsistence Level*”;
- orphaned children, children whose parents have been stripped of their parental rights and children that may become or have become victims of family violence;
- persons under administrative detention or administrative arrest;
- persons detained or taken into custody in accordance with the Criminal Procedural Code as well as persons in criminal proceedings whose legal counsel is appointed by the court.
- refugees;
- war veterans, persons with special merits, those who have rendered special labor services to the country, and victims of Nazi persecution;
- persons who are the subject of mandatory psychiatric care or civil incapacitation proceedings;
- persons rehabilitated in accordance with Ukrainian legislation; and
- stateless citizens and foreign citizens who are entitled to legal aid in accordance with Ukraine’s international agreements²⁰.

Mandatory assignments to Legal Aid Matters

The Law of Ukraine “*On Advocacy and Advocate Activities*”²¹ requires advocates which have entered into an agreement on the provision of secondary legal aid with the state to participate in the secondary legal aid regime. Such advocates can decline legal aid assignments only upon certain specified grounds (e.g. temporary disability; lack of qualification for the legal aid case; conflicts of interests; violation of confidentiality; huge workload on other engagements). Moreover, an advocate who provided legal aid during a preliminary investigation stage cannot decline to accept assignment of legal aid in further court proceedings related to the same case.

The state compensates attorneys providing secondary legal aid at a rate significantly lower than market rates. Rates are determined by the Cabinet of Ministers of Ukraine for the performance of discrete tasks (i.e., conducting preliminary analysis of a case, gathering information and documents at any stage of court proceedings).²²

Unmet Needs and Access Analysis

State-funded legal aid has dramatically expanded legal access to the most vulnerable Ukrainian citizens since its introduction in 2011. However, challenges to the provision of effective and quality free legal aid to vulnerable Ukrainian citizens remain. In particular, there is limited funding for free legal aid and the fees received by advocates providing legal aid are minimal, making it difficult to attract high quality advocates.

PRO BONO ASSISTANCE

Pro Bono Opportunities

Private Attorneys

Currently, there are no legislative requirements for private attorneys, whether advocates or jurists, to do mandatory pro bono work. Nevertheless, attorneys in Ukraine are increasingly providing more pro bono services voluntarily. For example, during the Euromaidan events in Kyiv, special coordination centres were established where attorneys provided free legal aid to victims of clashes with the riot police²³. Additionally, due to the events in Eastern Ukraine after the Euromaidan Revolution, there exist various

²⁰ Cf. § III, art. 14 o Law of Ukraine “On Free Legal” Aid.

²¹ Cf. Law of Ukraine “On Advocacy and Advocate’s Practice” No. 5076-VI, dated July 5, 2012, available at <http://zakon4.rada.gov.ua/laws/show/5076-17> (last visited on September 4, 2015) in Ukrainian.

²² Cf. “Procedure for Payment for Services and Reimbursement of Losses for Attorneys Providing Secondary Legal Aid” approved by Resolution of the Cabinet of Ministers of Ukraine No. 465, dated September 17, 2014.

²³ Cf. <http://euromaidansos.org/en/who-we-are> (last visited on September 4, 2015).



initiatives for private attorneys to provide legal aid to soldiers participating in military operations in Eastern Ukraine as well as their families²⁴.

Also, in 2013, the Ukrainian Pro Bono Clearing House was established, where private attorneys can register to provide legal aid to those in need (cf. below under Sec. IV. A.4.(b))²⁵.

Law Firm Pro Bono Programs

Many firms in Ukraine evaluate pro bono opportunities on a case-by-case basis and some have been involved in notable cases. For instance, the Kiev office of Egorov, Puginsky, Afanasiev and Partners (formerly Magisters), represented plaintiffs who suffered from the 2006 Elita Center real estate scam in which 1,759 condominium buyers lost an estimated US\$80 million. Firms in Ukraine have provided various pro bono services to different organizations, including the United Nations High Commissioner for Refugees, the Eastern European Foundation, the International Chamber of Commerce and Ukraine's football federation²⁶.

Currently, many law firms in Ukraine focus on educational advocacy and teaching opportunities. In 2013, the Marchenko Danevych Law Firm was recognized for its significant contribution to the development of legal education²⁷. Avellum Partners Law Firm attorneys often lecture at law schools and mentor law students.²⁸ Furthermore, many law firms contribute to the development and implementation of reforms in Ukraine on a pro bono basis²⁹.

Finally, due to the current financial and geopolitical turmoil in Ukraine, many established law firms have stopped practicing in Ukraine. Consequently, the number of new locally based law firms has risen, creating competition among new firms and those more established firms that continue to practice in Ukraine.³⁰ As such, many firms have used pro bono as a means of business development.³¹

Legal Department Pro Bono Programs

Currently, attorneys working "in-house" within legal departments of Ukrainian companies do not commonly participate in pro bono legal work. In addition to the historical lack of a pro bono culture in Ukraine, Ukrainian companies typically do not have pro bono policies in place and pro bono work is rarely encouraged by management. However, in-house attorneys may engage in pro bono activities outside of work by volunteering with NGOs.

²⁴ Cf. <http://legal100.org.ua/> (last visited on September 4, 2015) in Ukrainian.

²⁵ Cf. <http://pro-bono.in.ua/> (last visited on September 4, 2015) in Ukrainian.

²⁶ M. Rachkevych, Firms encourage lawyers to do pro bono work for governments, nonprofits and low-income people (June 30, 2011), Kiev Post, available at <https://www.kyivpost.com/content/business/firms-encourage-lawyers-to-do-pro-bono-work-for-go-107794.html?flavour=mobile> (last visited on September 4, 2015)

²⁷ Cf. <http://www.marchenkodanevych.com/en/press-centre/news-and-events/826--marchenko-danevych-> (last visited on September 4, 2015).

²⁸ Cf. <http://www.avellum.com/en/index/news/1502/>, <http://www.avellum.com/en/index/news/348/> (last visited on September 4, 2015) and <http://www.avellum.com/en/index/news/1525/> (last visited on September 4, 2015).

²⁹ Cf. as example: http://www.asterslaw.com/community/pro_bono.php (last visited on September 4, 2015).

³⁰ For more details cf. <http://www.legal500.com/c/ukraine/legal-market-overview> (last visited on September 4, 2015) as well as following presentations of II. International Forum for Advancing of Legal Services as of December 4, 2014, available at <http://pravo.ua/docs/events/11/Kolesnik.pptx> (last visited on September 4, 2015) and <http://pravo.ua/docs/events/11/Lysenko.pptx>, (last visited on September 4, 2015) both in Russian.³¹ Cf. presentation of Asters law firm with regard to this topic hold at II. International Forum for Advancing of Legal Services hold in Kiev on December 4, 2014, available at <http://pravo.ua/docs/events/11/Yesaulenko.ppt> (last visited on September 4, 2015) in Russian.

³¹ Cf. presentation of Asters law firm with regard to this topic hold at II. International Forum for Advancing of Legal Services hold in Kiev on December 4, 2014, available at <http://pravo.ua/docs/events/11/Yesaulenko.ppt> (last visited on September 4, 2015) in Russian.



NGO's Pro Bono Programs

USAID Access to Justice and Legal Empowerment Project (“LEP”)

The USAID LEP is a four-year project, which is working to improve access to justice in the areas of employment, healthcare, and property rights by increasing the availability of pro bono legal services and the impact of legal and advocacy organizations in Ukraine. The project aims to build a pro bono advocacy network - connecting law school clinics, advocacy NGOs and private attorneys to provide public consultations and legal representation. LEP also runs public information campaigns about the legal rights of citizens. By operating a referral system, the project connects private sector attorneys with vulnerable underrepresented groups in need of legal aid. The LEP engages private law firms and businesses to promote a pro bono culture and engages judicial officials to create a more cooperative and supportive environment for student advocates and pro bono attorneys.³²

As of today, more than 128 legal advocacy organizations and legal clinics, and 27 law firms have joined LEP networks. On January 25, 2011, the Ukrainian Bar Association (the “**UBA**”), which includes more than 2,000 lawyers across Ukraine and is a member of the International Bar Association, officially endorsed the Access to Justice Project and encouraged their members to demonstrate social responsibility and join LEP networks to nurture the culture of pro bono legal services in Ukraine.³³

UHHRU and ULAF Initiatives³⁴

The Ukrainian Helsinki Human Rights Union (the “**UHHRU**”) has established a three year program aimed at promoting and cultivating human rights in Ukraine in line with European standards.

Additionally, in 2013, the Ukrainian Legal Aid Foundation (the “**ULAF**”) and UHHRU established the Ukrainian Pro Bono Clearing House (the “**Clearing House**”)³⁵. The Clearing House sets out a platform for the provision of pro bono services in Ukraine - the organization matches attorneys with individuals who apply for legal aid through the program.

The Clearing House partners with a number of private attorneys, law firms, such as DLA Piper and Juscutum, and a number of NGO's.

Aside from its work with the Clearing House, the ULAF also works independently on several projects aimed at further developing the pro bono culture in Ukraine.³⁶

Environmental Advocacy³⁷

The international NGO “Environment People Law” has initiated a project aimed at environmental advocacy and awareness. The project has the following objectives: (i) development of an educational course on environmental law for judges, (ii) raising the awareness of judges about Ukrainian and foreign jurisprudence regarding environmental protection, and (iii) development of recommendations for elimination of barriers in access to justice. The project is funded by USAID.

International Renaissance Foundation

The International Renaissance Foundation, an NGO founded and funded by George Soros focuses on establishing democratic values in Ukraine, eradicating corruption, and fostering the development of civil society³⁸. This NGO has initiated and provided assistance to many pro bono initiatives in Ukraine.

³² Cf. USAID Access to Justice and Legal Empowerment in Ukraine, available at http://pdf.usaid.gov/pdf_docs/pdacx372.pdf (last visited on September 4, 2015).

³³ Id.

³⁴ Cf. Responding to Human Rights Violations and Empowering Citizens and Human Rights Defenders in Ukraine Activity, available at <http://helsinki.org.ua/files/docs/1412853691.pdf> (last visited on September 4, 2015).

³⁵ Cf. <http://pro-bono.in.ua/> (last visited on September 4, 2015) in Ukrainian.

³⁶ Cf. <http://ulaf.org.ua/?lang=en> (last visited on September 4, 2015).

³⁷ Cf. Improvement of access to justice in the sphere of protection of environmental rights of citizens and the environment, available at <http://epl.org.ua/en/about-en/project/1622-project-improvement-of-access-to-justice-in-the-sphere-of-protection-of-environmental-rights-of-citizens-and-the-environment-funded-by-usaid> (last visited on September 4, 2015).



Bar Association Pro Bono Programs

“Let’s Support Law Clinics Together”

In March 2012, the law firm Asters and the UBA, in cooperation with the UBA Students’ League, launched the pro bono project “Let’s Support Law Clinics Together.” The project aims to bring together law firms and bar associations in order to create an effective system of free legal aid, in particular by supporting law clinics throughout Ukraine. As part of the project, law clinics will receive equipment while Asters attorneys will provide advice and support in processing legal requests of persons requiring legal aid. Both Asters and the UBA actively soliciting the assistance of law other law firms and bar associations to join in this effort.³⁹

American Bar Association Rule of Law Initiative

The American Bar Association, through its Rule of Law Initiative program, has made significant contributions to civil society in Ukraine by supporting efforts to combat corruption, cybercrime and human trafficking, as well as efforts to reform the law enforcement system. It also trains justice sector professionals, supports local institutions that provide pro bono legal aid to the poor and educates the public about their rights. From 1992 until 2010, the program supported a network of more than 40 legal advocacy NGOs throughout Ukraine, which provided pro bono legal services to socially vulnerable populations. Currently, one of the program’s projects is aimed at strengthening the prosecution of hate crimes, increasing the protection of victims of such crimes and raising public awareness about, and tolerance for, ethnic and minority populations.⁴⁰

Legal Aid to Soldiers and their Families⁴¹

The UBA has initiated a project, aimed at the provision of civil legal aid to soldiers participating in military operations in Eastern Ukraine as well as their families. For example, attorneys provide pro bono legal services to help such individuals obtain the financial compensation and/or health care to which they are entitled, but have not yet received, from the Ukrainian government. Such services include, among other things, assistance in obtaining financial assistance, housing assistance, death and disability benefits and obtaining a military operations participant status⁴². From September 2014 until July 2015, 121 attorneys voluntarily participated in the project, 378 requests for help were submitted, 250 consultations were provided, and 60 court proceedings were initiated, ten (10) of which were favorably adjudicated. UBA does not provide services to soldiers fighting for separatist groups in Eastern Ukraine.

University Legal Clinics and Law Students

Pursuant to the Law “*On Free Legal Aid*” university legal clinics and law students are not permitted to provide legal aid. However, as a matter of practice, such legal clinics do exist in many universities and provide free pro bono legal aid. Law students usually participate in the legal clinics on a voluntary basis.

Historic Development and Current State of Pro Bono

Historic Development of Pro Bono

During Soviet times, pro bono culture was practically non-existent in Ukraine. Following the breakup of the Soviet Union, international and national NGOs started to appear in Ukraine, various social programs

³⁸ Cf. <http://www.irf.ua/en/about/irf/> (last visited on September 4, 2015).

³⁹ A presentation of the Pro Bono project “Let’s Support Law Clinics Together” has been held, available at <http://jurliga.ligazakon.ua/news/2012/3/6/58791.htm> (last visited on September 4, 2015). Also cf.: http://www.asterslaw.com/news_media/news/2676/ (last visited on September 4, 2015).

⁴⁰ For further initiatives see Rule of Law Initiative Ukraine’s homepage available at http://www.americanbar.org/advocacy/rule_of_law/where_we_work/europe_eurasia/ukraine.html (last visited on September 4, 2015).

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⁴² This status provides the soldier and his family with numerous benefits, including healthcare, education, pensions, public transportation, municipal services and beneficial tax treatment.



began to emerge and Ukrainian private practitioners, law firms, and NGOs began to adopt western pro bono practices. Recent geopolitical events have increased the provision of pro bono practices in Ukraine.

Prior to the Euromaidan Revolution and subsequent military conflict, pro bono activities were mainly focused on providing legal aid to socially vulnerable groups such as the disabled, low-income persons, veterans or orphans. After the Euromaidan Revolution and the subsequent conflict, legal practitioners provided pro bono assistance to help internally displaced persons and other efforts to provide humanitarian aid to those affected by the conflict. This has led to a greater awareness of the need for pro bono services and has helped to create a greater desire to participate in pro bono among legal practitioners. Last, there are legislative efforts underway in Ukraine to reform governmental institutions and remove corruptions from all facets of the government. The results of such efforts remain to be seen, but this could open a new field for socially engaged attorneys and NGOs to provide services on a pro bono basis.

Barriers To Pro Bono Work And Other Considerations

Pro bono opportunities for international law firms located in Ukraine are largely limited to representing and consulting NGOs, as well as consulting individuals on their respective civil matters. Non-Ukrainian speakers or attorneys without an “advocate” license are unable to represent individuals in criminal cases in Ukrainian courts. Further, non-Ukrainian attorneys without an advanced knowledge of the Ukrainian language and culture will even face difficulties in representing clients in civil cases. Despite these more formal institutional barriers, the main barrier to a thriving pro bono culture in Ukraine is the historical lack of pro bono culture or advocacy. However, the establishment of free legal aid, and the mandatory provision of legal services by attorneys practicing in Ukraine, is a significant change in the legal landscape. At this point, it is too early to assess the effectiveness and quality of the free legal aid. Nevertheless, the general outlook for the future is positive.

CONCLUSION

Ukraine has long been in need of a legal aid system that can serve its indigent citizens. Since the breakup of the Soviet Union, the provision of pro bono services has increased and this trend is likely to continue in the future. Governmental efforts to increase legal aid have also support this trend, although the effectiveness of these programs remain to be seen. Today, legal practitioners have many opportunities to provide pro bono services by working individually or collaborating with existing NGOs. The provision of such services will help create a robust and functioning civil society in Ukraine.

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