



## Pro Bono Practices and Opportunities in France

### INTRODUCTION

France has a long-standing tradition of providing legal aid to indigent clients. This can mainly be explained by the strong support of the welfare state in France. As a result, and given the strict restrictions on advertising until 2014, pro bono has not yet reached the same level of popularity as in Anglo-Saxon countries. Pro bono practice has however experienced rapid development in the last decade thanks to various kinds of private initiatives and to the involvement of the French Bar and specifically the Paris Bar.

### OVERVIEW OF THE LEGAL SYSTEM

#### The Justice System

##### The Constitution and Governing Laws

The current French Constitution was adopted in 1958 and established the French V<sup>th</sup> Republic, a democracy based on the separation of powers. Its preamble directly refers to three other fundamental texts: the Declaration of the Rights of Man and of Citizens of 1789, the 1946 French Constitution's preamble, and the Environment Charter of 2004. These four texts constitute the so-called the Body of Constitutional Rules (*Bloc de Constitutionnalité*), the French supreme standard with which each law must comply.

In order to safeguard French fundamental principles, the Constitutional Council (*Conseil Constitutionnel*) was created in 1958 to review the constitutionality of the law. In order to do so, two means are at its disposal: the Constitutional Council can conduct an advanced verification of the law before the law is enacted following a referral from the President of the Republic, the Prime Minister or by 60 deputies or 60 senators. Since 2008, the Constitutional Council can also undertake its verification once the law has been enacted through the *Question Prioritaire de Constitutionnalité* procedure.

The Constitutional Council has the power to interpret the highest French and international norms. It also ensures that the Constitution, the Constitutional Texts and Principles are upheld. By interpreting article 55 of the Constitution, the Constitutional Council has indicated that international and European treaties are the highest standards. Therefore, the Constitution must be reviewed if it is contrary to any treaty prior to their ratification.

France has a civil legal system stemming from Roman law and based upon codified laws. This is a dual legal system; one branch, Public law (*Droit public*), defines the principles of operation of the State and public bodies. The other system, private law (*Droit privé*), applies to private individuals and private bodies.

##### The Courts

The French Court system is divided into two distinct branches, one handling administrative matters and the other handling judicial matters. The two branches are independent from one another and organized under separate rules.

With respect to judicial matters, there are two sub-branches: the civil courts and the penal courts. The civil branch concerns litigation between individuals whereas the criminal branch concerns public action by French society against criminal behavior. Civil matters can be brought to different first-level courts dealing with cases of different types, scales and significance: the District Court (*Tribunal d'Instance*), Regional Court (*Tribunal de Grande Instance*), Commercial Court (*Tribunal de Commerce*), Labor Court (*Conseil des Prud'hommes*) and the Social Security Court (*Tribunal des Affaires de la Sécurité Sociale*). The penal trial courts are divided into three different instances according to the gravity of the infringement: the Police Tribunal (*Tribunal de Police*), the Criminal Court (*Tribunal Correctionnel*), and the Assize Court (*Cour d'Assises*). For both civil and penal matters, decisions are subject to appeal to the Court of Appeal. The French judicial Supreme Court is the Court of Cassation (*Cour de Cassation*), which has jurisdiction over any final decisions.



The decisions of the French first-level Administrative Tribunal (*Tribunal Administratif*) are subject to appeal to the Administrative Court of Appeal (*Cour Administrative d'Appel*). Finally, the Court of Appeal's decisions are subject to appeal to the Council of State (*Conseil d'Etat*), the administrative Supreme Court.

In line with the democratic principle of the separation of powers, the French judiciary is independent of the executive and legislative powers. Judicial judges (*Juges*, also called *Magistrats*) in France are appointed by the President of the Republic on a proposal from the Minister of Justice. *Magistrats* are highly qualified professionals. Every judge may be appointed during their career at judging functions and/or at the office of the prosecutor (in accordance with the principle of unity of the judiciary). Unlike prosecutors, judges are not submitted to the hierarchical principle and have security of tenure such that any new assignment requires consent. To become a judge, a candidate must first pass a selective exam to enter the national school of magistrature where they will receive a 31-month special training. However, in two specific fields, judges have to be elected. Judges in the Commercial Court are elected by their peers. Judges from the *Conseil des Prud'hommes*, the French labor tribunal, are elected on a national scale through professional elections. Penal court proceedings can be overseen by an investigative judge (*juge d'instruction*). The investigative judge is appointed to a case and is in charge of preparing the case and assessing whether it should come to court. The penal system is known as inquisitorial. As for administrative judges, they are all appointed after passing specific and selective exams, mainly the *Ecole Nationale d'Administration* ("ENA") and the Administrative Tribunal Advisor exams.

## The Practice of Law

### Education

The traditional path to becoming an attorney (*avocat*) in France is to enter a law program to pursue a three-year *licence* (the Bachelor's French equivalent) and a two-year master's degree during which students usually specialize in a specific branch of law. At least a first year master's degree is required to take the bar. The French legal education does not involve any specific pro bono specific rules or requirements.

### Licensure

- French Law Students: Bar exam (minimum master's 1) followed by the French Bar Admission Course lasting 18 months, out of which two semesters are dedicated to professional experience. French legal education is finally attested by the Professional Lawyer's Certificate (Certificat d'Aptitude à la Profession d'Avocat).
- Procedure for EU Attorneys: Foreign attorneys who are EU nationals are given a choice: they can either take the French law exam (*Examen d'aptitude en droit français*) dedicated to foreign attorneys willing to have their professional title recognized in France, or be exempted from taking such exam and instead take the same Professional Lawyer's Certificate exam, as any French law student.<sup>1</sup>
- Procedure for Foreign Attorneys: Two conditions must be satisfied: (i) being an attorney in one's home country and (ii) the reciprocity of the procedure for French attorneys in such home country. Foreign attorneys are exempted from taking the Professional Lawyer's Certificate exam, but they do need to pass the French Law exam.<sup>2</sup>
- In-House Counsel: No specific license is required to become an in-house counsel but a 2<sup>nd</sup> year master's degree is highly recommended.

### Demographics

There were 60,223 attorneys in France as of January 2014, which equated to 92.7 attorneys per 100,000 inhabitants. However, great disparities are observed between the different regions, with Paris accounting

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<sup>1</sup> See Decree of November 27, 1991, No. 91-1197, Art. 99.

<sup>2</sup> See Decree of November 27, 1991, No. 91-1197, Art. 100.



for the greatest number of attorneys (41% of French attorneys were members of the Paris Bar in 2014).<sup>3</sup> Overall, the number of attorneys in France has increased by 41% in the last ten years.

### Legal Regulation of Lawyers

Lawyers are currently regulated by the following laws and regulations in France:<sup>4</sup>

- The Law No. 90-1259 of December 31, 1990 amending Law No. 71-1130 of December 31, 1971 on reform certain legal and judiciary professions and its implementing Decree No. 91-1197 of November 27, 1991.
- The National Internal Regulation (in its consolidated version of December 5, 2014), including the European Code of Ethics, merges into a single text the various internal rules adopted by local bars.

## LEGAL RESOURCES FOR INDIGENT PERSONS AND ENTITIES

The contemporary legal aid system in France has two components: (a) *accès au droit*, which gives all indigents the necessary resources to have equal access to legal information and (b) *aide juridictionnelle*, which coordinates funding public legal representation to those who fall below a certain financial threshold. Both systems grew out of a legislative initiative to systematize the legal assistance program in France, beginning with the Law of January 3, 1972,<sup>5</sup> and then the Law of July 10, 1991.<sup>6</sup>

### The Right to Legal Assistance

The first category of legal aid, the *accès au droit*, provides clients in need with consultations and assistance to help them make informed legal decisions.<sup>7</sup> For several years now the French Bar has provided free anonymous and confidential consultations by volunteer attorneys, regardless of the client's financial situation, intended to guarantee equal access to legal information.<sup>8</sup> General consultations under the *accès au droit* program are available, in particular, at the courthouse (*Palais de Justice*), in each of the 20 *arrondissements* in Paris, in the *Maisons de la Justice et du Droit* ("MJD" Justice and Law Houses) and in the *Points d'accès au droit* ("PAD" Access Points to Law). Specific legal advice is available in tax law, entrepreneurial law, employment law, family law, immigration/naturalization law, criminal law, juvenile law, elderly law, and general victims' rights.<sup>9</sup> In addition, the Paris Bar, in partnership with Paris town hall, has implemented free legal consultations provided by volunteer attorneys at the *Maison des Entreprises et de l'Emploi and Espaces pour l'Insertion*.

The *accès au droit* form of legal work, unlike *aide juridictionnelle*, is unpaid and completely voluntary. One problem that has emerged in recent years for some French attorneys is the inability of those who donate their time to perform a conflict-of-interest check for each individual client. Despite this difficulty, the *accès au droit* program has been such a success that the Paris Bar has been forced to turn away many attorneys who have volunteered.

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<sup>3</sup> See the Paris bar website available at [http://cnb.avocat.fr/Les-Chiffres-cles-de-la-profession-actualises-pour-l-annee-2012--Observatoire-du-Conseil-national-des-barreaux--Mai\\_a1642.html](http://cnb.avocat.fr/Les-Chiffres-cles-de-la-profession-actualises-pour-l-annee-2012--Observatoire-du-Conseil-national-des-barreaux--Mai_a1642.html) (last visited on September 4, 2015).

<sup>4</sup> See the Paris Bar Website available at [http://cnb.avocat.fr/Etre-avocat-en-France-Reglementation-professionnelle-Les-textes\\_a1449.html](http://cnb.avocat.fr/Etre-avocat-en-France-Reglementation-professionnelle-Les-textes_a1449.html) (last visited on September 4, 2015).

<sup>5</sup> See Law of January 3, 1972, No. 72-11.

<sup>6</sup> See Law of July 10, 1991, No. 91-647.

<sup>7</sup> See Law of July 10, 1991, art. 53.

<sup>8</sup> See the Paris Bar website, available at <http://www.avocats.paris/particulier/acces-au-droit-et-a-la-justice-2/consultations-gratuites-2.html> (last visited on September 4, 2015).

<sup>9</sup> Id.



There are approximately 70 PAD in Paris, coordinated by the association *Accès aux Droits Solidarité Paris*, in partnership with the Paris town hall and the association *Droit d'Urgences*. Every year, around 30,000 interventions are provided by volunteer attorneys in Paris.<sup>10</sup> In addition, there are 137 MJD in France that carry out different kinds of actions according to the nature of the dispute. As far as criminal matters are concerned, they promote preventive actions regarding delinquency and provide an appropriate answer to petty crime with alternative measures to prosecution.<sup>11</sup> As for civil matters, MJD provides assistance to everyday-disputes resolution through mediation and conciliation.

## State-Subsidized Legal Aid

The second category of legal aid, the *aide juridictionnelle*, allows indigents to receive legal representation from a qualified attorney who is paid by the State.<sup>12</sup> The program, run by the French Bar, has created an entire market of French attorneys whose practice focuses on cases referred through the *aide juridictionnelle* system. The work these attorneys receive tends to be individualized and often concerns smaller daily matters from clients who cannot afford any other form of representation.

In 2013, 919,625 matters were referred to the *aides juridictionnelles* in France.<sup>13</sup> In 2014, 26,174 attorneys were engaged in at least one *aide juridictionnelle* matter.<sup>14</sup>

### Eligibility Criteria

#### Immigration Status

Legal aid can be claimed by French citizens or European citizens, foreigners whose legal and habitual residence is located in France and asylum seekers. However legal aid will be given to any foreigner if he/she (i) is kept in waiting zones, (ii) is temporarily detained for the verification of his/her right of residence, (iii) was refused a temporary residence card or residence permit, (iv) is the subject of an expulsion measure, (v) is detained in migrants detention centers, (vi) is a minor, (vii) is subject to the status of “*témoin assisté*,” “*mis en examen*,” “*accusé*,” “*prévenu*” or “civil party,” (viii) is a condemned foreigner, (ix) is benefiting from a protection order against violent partners, or (x) is subject to a plea bargaining procedure.

#### Financial Means

The essential criterion for receiving *aide juridictionnelle* is financial need. The system distinguishes between full and partial aid, depending on the claimant's financial situation. If full legal aid is granted, it will cover all the costs of the proceedings, including the fees paid directly to the attorneys or other practitioners (bailiff, notary, etc.). People who benefit from specific welfare benefits (namely the Solidarity Allowance for Elderly, the Income of Active Solidarity or the Temporary Waiting Allowance) and victims of particularly serious crimes (torture, rape, etc.) do not need to provide proof of income and can automatically benefit from the *aide juridictionnelle*. For others, the evaluation will be carried out on the basis of their available resources and the number of dependents they have.

In 2015, applicants with total resources (excluding family allowances and certain welfare benefits) of less than €941 per month qualify for full aid. Partial Aid covers between 15 and 85% of the costs incurred, with

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<sup>10</sup> See *Accès aux Droits Solidarité Paris* website available at <http://www.accesdroit.org/> (last visited on September 4, 2015).

<sup>11</sup> See the Ministry of Justice website available at <http://www.justice.gouv.fr/la-justice-du-21e-siecle-12563/acces-au-droit-27911.html> (last visited on September 4, 2015).

<sup>12</sup> The Law of January 3, 1972 has instituted the *aide juridictionnelle*, involving the state in the remuneration of the attorneys. As this system was still insufficient, the Law of July 10, 1991, modified it.

<sup>13</sup> See the Ministry of Justice website available at <http://www.justice.gouv.fr/budget-et-statistiques-10054/chiffres-cles-de-la-justice-10303/> (last visited on September 4, 2015).

<sup>14</sup> See the Paris Bar website available at [http://cnb.avocat.fr/Les-Chiffres-cles-de-la-profession-actualises-pour-l-annee-2014--Observatoire-du-Conseil-national-des-barreaux--Mars\\_a2222.html](http://cnb.avocat.fr/Les-Chiffres-cles-de-la-profession-actualises-pour-l-annee-2014--Observatoire-du-Conseil-national-des-barreaux--Mars_a2222.html) (last visited on September 4, 2015).



the maximum rate applying to those with resources in a bracket between €942 to €984, and the lowest rate to a bracket between €1,305 to €1,411. Four other intermediate brackets exist, corresponding to reimbursement rates of 25, 40, 55 and 70%. In the case of partial aid, the applicant has to pay a supplementary fee agreed between the applicant and the attorney, but reviewable by the Chairman of the Bar in the event of a dispute. For both full and partial aid, the financial thresholds are raised by €169 for each of the first two dependents the household comprises and by €107 for each additional dependent.<sup>15</sup>

### Merits

The likelihood of a case succeeding will never be taken into account when allocating legal aid. However, in some exceptional circumstances, if the resources of the applicant exceed the limits, the applicant may still be eligible to receive legal aid if their action is particularly worthy of interest given its subject matter and the likely cost.<sup>16</sup>

### Legal Issues/Case Type

Legal aid is given in contested and non-contested matters in all courts. Aid can be given for all or part of the proceedings and to assist with settlement proceedings before trial. Legal aid is given provided the action is not manifestly inadmissible or devoid of substance. This condition does not apply to defendants, to persons liable civilly, to witnesses, to persons under examination, charged or accused, or to persons convicted.

The case types concerned are trials, internal appeals, transactions, the implementation of a court decision, pleas of guilty, procedures conducted in another EU State member and cases that involved a minor being heard by a judge.

### Applicant Type

Legal aid is given to claimants and defendants, whether they are natural persons or not-for-profit legal persons whose head office is located in France.

## Mandatory assignments to Legal Aid Matters

As far as legal aid is concerned, private attorneys cannot be required to accept matters assigned to them. The assignment is made on a voluntary basis by registering on a list of volunteers or by signing a letter of acceptance of the legal aid matter.

Under the system of *aide juridictionnelle*, attorneys who donate their time receive compensation from the Bar according to a level set by the State.<sup>17</sup> The amount paid for each matter is based on the Decree of December 19, 1991, which establishes a coefficient for each legal procedure and a base unit value which, multiplied together, determines the payment.<sup>18</sup> The base unit of value, equivalent to 30 minutes of *aide juridictionnelle* work, is determined each year by the Finance Act. The base unit value set by the 2014 Finance Act was €22.84.<sup>19</sup> This payment, however, is insignificant in comparison to what many attorneys in Paris typically receive.<sup>20</sup>

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<sup>15</sup> See <http://vosdroits.service-public.fr/particuliers/F18074.xhtml> (last visited on September 4, 2015)

<sup>16</sup> See Law of July 10, 1991, art. 6.

<sup>17</sup> Id. at art. 27.

<sup>18</sup> See Decree of December 19, 1991, No. 91-1266. For example, the unit value is €22.50 (VAT excluded) since 2007, and the coefficient for a divorce proceeding is 36 (2009/2010), so the attorney would be paid €765.

<sup>19</sup> See the Paris Bar website available at [http://cnb.avocat.fr/Loi-de-finances-pour-2014-nouvelles-dispositions-sur-laide-juridique\\_a1880.html](http://cnb.avocat.fr/Loi-de-finances-pour-2014-nouvelles-dispositions-sur-laide-juridique_a1880.html) (last visited on September 4, 2015).

<sup>20</sup> See Alain Balsan, GUIDE PRATIQUE DE L'AIDE JURIDICTIONNELLE. The base unit value varies from €22.84 to €25.90 (depending on the Bars), and the coefficients vary from four to 36 for civil matters, two to 50 for criminal matters, and three to 20 for administrative matters.



In addition, according to Article 37 of the Law of July 10, 1991 as recently modified by the 2014 Finance Act, and in cases where the losing party is not eligible to *aide juridictionnelle*, attorneys ought to ask the judge to order the losing part to pay them compensation in place of State compensation.

### Unmet Needs and Access Analysis

The French Legal Aid system has evolved over the years and manages to meet the legal needs of indigent people efficiently. Since 1992, when the French Legal Aid system entered into force, there has been a tremendous increase in the number of *aides juridictionnelles* allocated to indigent people; from 348,587 in 1992, almost 800,000 were allocated 15 years later and more than 900,000 in 2012.<sup>21</sup>

However, although efficient, the French Legal Aid system suffers from a lack of financial resources which raises questions about its long-term viability. Since the 2014 Finance Act exempted *aide juridictionnelle* beneficiaries from payment of stamp duty,<sup>22</sup> the French government has been urged to fill the resulting financial gap between an increasing demand and limited State resources. The 2015 Finance Act has thus worked on finding new financial sources, among which the taxation of legal expenses insurance contracts have been targeted.<sup>23</sup>

### Alternative Dispute Resolution

#### Mediation, Conciliation and Arbitration

Civil Mediation involves a moral or legal person mandated by a judge hearing a civil dispute for which mediation seems possible. The judge sets the duration of the mediation during which the mediator tries to find an agreement between the parties. The parties can also mandate their own mediator without the intervention of the judge. If an agreement is found, they can then ask the judge to recognize it. The mediator's remuneration is set by the judge and entirely borne by the parties. However the *aide juridictionnelle* can cover a party's cost if such party is eligible.<sup>24</sup>

As far as penal mediation is concerned, the aim is to find an alternative to prosecution in the context of a penal dispute. The mediator seeks to find an agreement between the parties in order to repair the damage. Penal mediation does not apply to crimes and serious offenses but only to minor offenses such as deteriorations, minor acts of violence or minor family disputes. Penal mediation is instigated at the initiative of the Public Prosecutor.<sup>25</sup> It is free of charge for both the victim and the offender, and an *aide juridictionnelle* can be provided to eligible parties in order to hire an attorney.<sup>26</sup>

Conciliation is very similar to mediation both in terms of procedure and scope of application. However, the conciliation procedure can be imposed by the judge on the parties within mediation. In addition, conciliation is completely free of charge for both parties.

Arbitration offers an alternate dispute resolution process that is limited to cases where the parties have agreed to resort to arbitration. In addition, arbitration is limited to certain fields, for instance, it is not used in penal matters, divorce issues, violation of public order issues etc. The arbitrator is appointed by the parties. The arbitration process is praised for the fast and discreet justice it provides, but can be extremely expensive in practice and that cost is not assisted by the *aide juridictionnelle*.

<sup>21</sup> See the Senate website available at <http://www.senat.fr/rap/r07-023/r07-0232.html> (last visited on September 4, 2015).

<sup>22</sup> See the Paris Bar website available at [http://cnb.avocat.fr/Loi-de-finances-pour-2014-nouvelles-dispositions-sur-l-aide-juridique\\_a1880.html](http://cnb.avocat.fr/Loi-de-finances-pour-2014-nouvelles-dispositions-sur-l-aide-juridique_a1880.html) (last visited on September 4, 2015).

<sup>23</sup> See the Paris Bar website available at [http://cnb.avocat.fr/Loi-de-finances-pour-2015-nouvelles-dispositions-relatives-a-l-aide-juridique\\_a2126.html](http://cnb.avocat.fr/Loi-de-finances-pour-2015-nouvelles-dispositions-relatives-a-l-aide-juridique_a2126.html) (last visited on September 4, 2015).

<sup>24</sup> See the French Government official website available at <http://vosdroits.service-public.fr/particuliers/F1805.xhtml> (last visited on September 4, 2015).

<sup>25</sup> Id. See <http://vosdroits.service-public.fr/particuliers/F1824.xhtml> (last visited on September 4, 2015).

<sup>26</sup> See the Ministry of Justice website available at [http://www.justice.gouv.fr/publication/fp\\_mediation\\_penale.pdf](http://www.justice.gouv.fr/publication/fp_mediation_penale.pdf) (last visited on September 4, 2015).



### Ombudsman

The French Ombudsman (*Défenseur des Droits*) can be solicited by anyone, regardless of their age or nationality, and the Ombudsman's intervention is completely free of charge. The Ombudsman's scope of intervention is limited to disputes questioning a public service.<sup>27</sup> The Ombudsman enjoys important information and investigative powers. The Ombudsman also enjoys specific prerogatives regarding discrimination issues and children's rights protection. Their sanctioning powers are, however, limited: they can offer a transaction to the applicant and also make recommendations and direct the respondent to comply with them.

## PRO BONO ASSISTANCE

### Pro Bono Opportunities

#### Private Attorneys

In France, participation in pro bono initiatives is done on a voluntary basis and is not a mandatory requirement for attorneys. The Paris Bar promotes individual involvement in pro bono activities. It launched the lawyer solidarity leave initiative (*Congé de solidarité libéral*) in partnership with the association *Planète Urgence*. This is intended to allow all Paris attorneys who wish to implement social, educational or legal projects for the poorest populations in France and abroad during their annual leave.

#### Law Firm Pro Bono Programs

In France, pro bono programs carried out by law firms generally take two forms; financial aid through donations or endowment funds, or direct assistance provided by attorneys to associations, which generally consists of legal advice.

Most of the pro bono initiatives in France come from international law firms or networks. There are still few domestic law firms promoting pro bono initiatives. Some domestic law firms chose not to centralize their pro bono activities contrary to most international law firms whose pro bono programs are often monitored by a dedicated team.<sup>28</sup> By contrast, some medium-sized law firms in France rely on their attorneys to initiate pro bono activities, allowing them to work on issues of personal interest.

Pro bono projects can concern economically-oriented activities such as social entrepreneurship and fair-trade project management or the development of French local entrepreneurship. Pro bono projects can also relate to international human rights in France, for example, representing individual clients before international bodies, defending individuals before the ECHR, as well as asylum seekers or victims of trafficking.

International law firms may expand their presence within the *accès au droit* framework. The *accès au droit* form of public legal aid is the area in which most law firms have provided U.S.-style pro bono aid to the community. Many attorneys at large firms have opted to donate some of their time on a weekly or monthly basis to one or more of the consulting services. Firms can systematize their participation within specific *accès au droit* programs, such as by offering a rotation for young attorneys through an already established consultation agency.

#### Corporate Pro Bono Programs

Specific pro bono programs within corporate legal departments are rare in France. However, a new perspective of pro bono has recently been developing, driven by economic development and innovation, and based on the concept of skills-sponsorship. To this end, employees are made available to carry out

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<sup>27</sup> See the French government website available at <http://vosdroits.service-public.fr/particuliers/F13158.xhtml> and the dedicated website of the French Ombudsman: <http://www.defenseurdesdroits.fr/> (both last visited on September 4, 2015).

<sup>28</sup> See the study conducted by Village de la Justice, available at <http://www.village-justice.com/articles/cabinets-avocat.10959.html> (last visited on September 4, 2015).



activities of public interest, leveraging the skill sets of the relevant attorneys to advance a project. Skills-sponsorship is experiencing a substantial rise in popularity, especially among mid-cap companies, with 46% of them practicing skills-sponsorship.<sup>29</sup> For example, the Pro Bono Lab association provides other associations of social utility with volunteers with the specific skills they need to build their respective project. To this end, Pro Bono Lab regularly organizes its so-called “Pro Bono Marathons” that mobilize teams of professional volunteers during one day. Specific Pro Bono partnerships between French enterprises, including Carrefour, Bouygues, and Société Générale, and schools as HEC or SciencesPo, have been developed for these events.<sup>30</sup>

### Bar Association Pro Bono Programs

To provide legal services to the most destitute, the Paris Bar has developed partnerships with public interest aid groups. Starting in March 2003 with the association *Droits d’Urgence*,<sup>31</sup> the *Barreau de Paris Solidarité* provides an effective comprehensive service for those in extreme difficulty. To this end, the Paris Bar Solidarity Bus was formed, which is an actual functional bus that drives throughout the city five days a week with volunteer attorneys in order to provide free legal consultations in various locations of Paris. The scope of the legal assistance provided is vast, including employment, housing, health, education, citizenship, asylum, entrepreneurial law, and microfinance. This initiative has experienced increasing success, with 4,551 beneficiaries in 2012, which corresponds to a 17% growth in only one year.<sup>32</sup> In 2013, 756 consultations took place involving 228 attorneys.<sup>33</sup>

In addition, on February 1, 2012, the Paris Bar officially launched the Solidarity Endowment Fund of the Paris Bar (*Fonds de dotation Barreau de Paris Solidarité*). The Fund’s purpose is to centralize, strengthen and improve the structure of existing initiatives (such as the *Paris Bar Solidarity Bus*), to encourage members of the Paris Bar and NGOs to participate in financial, legal and logistical operations of humanitarian and social works, and to ensure the promotion of these activities. The Fund focuses on the development of *accès au droit*, legal culture, human rights, and the environment in France and abroad. Furthermore, in 2012, the *Barreau de Paris Solidarité* created the *Trophées Pro Bono* that reward every year several pro bono projects undertaken by French law firms and individual attorneys.

Finally, the Paris Bar has also developed several partnerships between public entities and the Paris Town Hall and the City of Paris to launch various pro bono projects, such as The Lawyer in the City (*L’Avocat dans la Cité*), consisting of an event taking place each year for one week in Paris. At such events, people are provided free legal consultations with volunteer attorneys as well as a guided tour of the Lawyer Museum, students meetings, etc.

### University Legal Clinics and Law Students

Student pro bono initiatives are another opportunity for pro bono in France. More and more students from the French Bar Admission have been getting involved in pro bono activities recently, either independently or within a specific program. For example, a partnership has been developed between the French Bar Admission, the association Pro Bono Lab and the *Barreau de Paris Solidarité*, resulting in regular events during which students and attorneys provide free legal assistance. Two French Bar Admission students won the *Trophée Pro Bono 2014* for the creation of the association “Printemps International des Droits de l’Homme” aiming at rising awareness among students of the defense of human rights, which illustrates students’ increasing involvement in pro bono activities.

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<sup>29</sup> Further information available at <http://www.pro-bono.fr/2015/01/mecenas-competences-seduit-les-eti-entreprises-taille-intermediaire/> (last visited on September 4, 2015).

<sup>30</sup> See the Pro Bono Lab website available at <http://probonolab.org/> (last visited on September 4, 2015).

<sup>31</sup> See Droits d’Urgence website available at <http://www.droitsdurgence.org> (last visited on September 4, 2015).

<sup>32</sup> See the Barreau de Paris Solidarité 2013 Report available at [http://www.barreausolidarite.org/pdf/rapport\\_final\\_2012\\_2013.pdf](http://www.barreausolidarite.org/pdf/rapport_final_2012_2013.pdf) (last visited on September 4, 2015).

<sup>33</sup> See the Barreau de Paris Solidarité 2014 Trophées Pro Bono Report available at <http://dl.avocatparis.org/com/mailling2014/bps/probono/laureats.pdf> (last visited on September 4, 2015).



Although emerging in the French educational system, legal clinics remain unusual in France. It is still a very recent and uncommon trend among French universities. The first legal clinic in France opened at the University of Caen in 2009 as the *Centre de Recherche sur les Droits Fondamentaux et les Evolutions du Droit* (the Centre of Research on Fundamental Rights and Law Development).<sup>34</sup> Some other universities followed, including the Paris II Law Faculty that created the “*Maison du Droit*” providing free legal consultations organized in Paris with volunteer attorneys and selected students. Similarly, the SciencesPo Law School launched its own legal clinic organized around four main programs: Accès au Droit, Asylum and Immigration, Corporate Social Responsibility and Human Rights, Economic Development and Globalization. Finally, the Paris 8 Law Faculty won the 2014 Pro Bono Trophy for its project The Legal Clinic (*La Clinique Juridique*) in which students provide free legal assistance.<sup>35</sup>

### Lawyers’ Pro Bono Networks

In addition to law firm pro bono programs, more and more attorneys organize themselves, independently to undertake pro bono activity. Justice for Cambodia is a good example of such initiatives. The organization is an association of attorneys created in 2003 to represent some of the Khmer Rouge regime’s victims before the Extraordinary Chambers in the Courts of Cambodia. The *Collectif d’AvocatEs ExpertEs BénévolEs* is a more recent example. This group of female attorneys was rewarded last year by the 2014 Pro Bono Trophy for their work on prostitutes’ rights.

### Non-Governmental Organizations

When involved in pro bono programs, initiatives by NGOs can take two forms: partnerships with law firms or companies as mentioned above, or within the framework of their own activity. Many NGOs are established in France, including *Médecins sans frontières France*, *Handicap International* or *Action contre la Faim*.

## Historic Development and Current State of Pro Bono

### Historic Development of Pro Bono

Pro Bono was introduced in France in the early 2000s and has not reached comparable prevalence to that seen in Anglo-Saxon countries. Although there has been an increase in the number of firms with offices in France that take part in pro bono, they are almost all international law firms.<sup>36</sup> In fact, for many centuries, the French *bâtonnier* (Chairman of the Bar) assumed the responsibility for organizing pro bono activities, with little or no state help or financial sponsorship.

This evolution has mainly been influenced by U.S. parent companies that promote pro bono culture among their French subsidiaries. In addition, the recent emphasis put on corporate social responsibility in France has enabled pro bono to infiltrate the corporate sector and become more integrated in French culture.

Furthermore, the restriction on legal advertising which ended in 2014 has undoubtedly impeded an effective communication of pro bono activities in France. Until last year, it was illegal to solicit legal work in any form, either by going to the residence or workplace of a potential client or by sending a personalized proposition of work without having been properly invited beforehand. Advertising was only permissible in order to convey strictly necessary information to the public. In this respect, the law of March 17, 2014 is a great step forward towards better external communication for attorneys. This law now permits attorneys to advertise their services and solicit legal work under certain conditions. Nothing now

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<sup>34</sup> See the University of Caen website available at <http://www.unicaen.fr/recherche/mrsh/crdefed/clinique> (last visited on September 4, 2015).

<sup>35</sup> See La Clinique Juridique website available at <http://lacliniquejuridique.fr/> (last visited on September 4, 2015).

<sup>36</sup> See the Thomson Reuters Foundation website available at <http://www.trust.org/spotlight/pbi15/?tab=data> (last visited on September 4, 2015).



prevents attorneys and law firms from communicating the pro bono services they provide and from soliciting individuals and associations to offer pro bono services.

## Current State of Pro Bono

### Laws and Regulations Impacting Pro Bono

One problem facing pro bono practices in France is the lack of a specific tax regime for pro bono hours and initiatives. First, in France, an attorney's fees are increased by the standard VAT rate (currently 20%). Although access to law and justice is a fundamental right, citizens who defend themselves or get legal advice pay VAT at a full rate. Through the end of 2010, a reduced rate of 5.5% VAT was applicable to attorneys' fees when provided as part of *aide juridictionnelle*. However, the French legislator<sup>37</sup> replaced it by the standard VAT rate for these services following a ruling by the Court of Justice on June 17, 2010.<sup>38</sup>

In addition, article 238 bis of the General Taxes Code introduces, in case of donation, a tax reduction of 60% of any donation. However, this does not apply to pro bono initiatives provided by law firms. Not taking into account pro bono activities in a specific tax regime constitutes an incentive to move away from pro bono activities in favor of other economic choices such as endowment funds.

Finally, there is no professional indemnity legal insurance covering pro bono activities available for attorneys in France. Legal insurance is available for clients under the name of "*Assurance Protection Juridique*,"<sup>39</sup> but such insurance usually provides limited legal assistance and does not target indigent people.

### Socio-Cultural Barriers

One of the main challenges that pro bono faces in France is the strong support of the welfare state. In French culture, the public good is in principle not the private sector's responsibility, which explains the substantially well-developed state-subsidized legal aid system while pro bono is having difficulties integrating into the culture of French domestic law firms.

In addition, some attorneys in France rely on the income they get from legal aid assignments and are thus reluctant to support international law firms' pro bono initiatives. However, the system's lack of financial resources makes it essential to find new viable solutions in the private sector.

Finally, most French law firms refuse to integrate their pro bono achievements in their marketing strategy and provide very limited communication about pro bono on their website. The Pro Bono Trophies established 2012 have counterbalanced this trend and made law firms realize the positive impact communication could have on them as well as on pro bono expansion.

### Pro Bono Resources

Information on legal aid and pro bono opportunities in France can be found on the following websites, mostly in French:

- Paris Bar: [www.avocatparis.org](http://www.avocatparis.org)
- Conseil National des Barreaux: [http://cnb.avocat.fr/Acces-au-droit-et-a-la-justice\\_a135.html](http://cnb.avocat.fr/Acces-au-droit-et-a-la-justice_a135.html) (last visited on September 4, 2015)
- Ministry of Justice: <http://www.vos-droits.justice.gouv.fr/aide-a-laccess-au-droit-11952/aide-juridictionnelle-20262.html> (last visited on September 4, 2015)
- Paris City Hall: [www.paris.fr/pratique/aides-allocations-demarches/aide-juridique-gratuite/p6918](http://www.paris.fr/pratique/aides-allocations-demarches/aide-juridique-gratuite/p6918) (last visited on September 4, 2015); [www.v2asp.paris.fr/commun/pdf/acces\\_en.pdf](http://www.v2asp.paris.fr/commun/pdf/acces_en.pdf) (last visited on September 4, 2015) (brochure in English)
- Fonds de dotation Barreau de Paris Solidarité: <http://www.barreausolidarite.org/> (last visited on September 4, 2015)

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<sup>37</sup> See Law of December 29, 2010, No. 2010-1658.

<sup>38</sup> See judgment of the Court of Justice of June 17, 2010, *Commission v French Republic*, C-492/08, [2010] I-5471.

<sup>39</sup> More information is available under the following link: <http://vosdroits.service-public.fr/particuliers/F3049.xhtml> (last visited on September 4, 2015).



- Défenseur des droits : <http://www.defenseurdesdroits.fr/> (last visited on September 4, 2015)
- Centre français des fonds et fondations: [www.centre-francais-fondations.org](http://www.centre-francais-fondations.org)
- Pro Bono Lab: <http://probonolab.org/> (last visited on September 4, 2015)
- NGO:
  - Droits d'urgence: [www.droitsdurgence.org](http://www.droitsdurgence.org) (last visited on September 4, 2015)
  - Médecins du Monde: [www.medecinsdumonde.org](http://www.medecinsdumonde.org) (last visited on September 4, 2015)
  - Adie: [www.adie.org](http://www.adie.org) (last visited on September 4, 2015)
  - Restaurants du Coeur: [www.restosducoeur.org](http://www.restosducoeur.org) (last visited on September 4, 2015)
  - PlaNet Finance: [www.planetfinancegroup.org](http://www.planetfinancegroup.org) (last visited on September 4, 2015)
  - Planète Urgence: [www.planete-urgence.org](http://www.planete-urgence.org) (last visited on September 4, 2015)

## CONCLUSION

The French legal aid system attempts to create an exhaustive system run by the Bar to assist the indigent community. The *aide juridictionnelle* system gives all clients in need an attorney, paid for by the Bar, to represent their interests in a courtroom. The *accès au droit* system seeks to ensure that the indigent community is sufficiently well-informed to make proper legal decisions by organizing consultations with unpaid volunteer lawyers. At the same time, pro bono has played an increasingly important role in France in recent years with the development of individual, student and corporate initiatives. The emphasis put on communication in the last few years as well as ending the restrictions on advertising have contributed considerably to such pro bono expansion. Finally, considering the financial difficulties currently experienced by the French *aide juridique* system, the integration of pro bono practices within French culture is particularly welcome as a viable compliment to State-subsidized legal aid in the future.

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Pro Bono Practices and Opportunities in France

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