

Pro Bono Practices and Opportunities in the Republic of Belarus¹

I. Introduction

Pro bono culture in the Republic of Belarus (“**Belarus**”), as in other countries in the Commonwealth of Independent States, has started to emerge only in recent years after the dissolution of the USSR. Currently, only advocates and law firms are in a position to provide full scale pro bono legal services. However, none of the major law firms in Belarus currently has an established pro bono program. Other potential providers of pro bono legal services are subject to certain restrictions at law which limit the scope of the pro bono advice they are able to deliver. Barriers to the development of pro bono in Belarus are also social in nature – Belarus does not have a tradition of pro bono, and the Belarussian public remains unfamiliar with this type of legal assistance.

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 professionals in Belarus are primarily comprised of: (a) advocates, who can only be individuals; and (b) commercial attorneys, which may be either commercial organizations or individual entrepreneurs. Unlike advocates, commercial attorneys cannot represent their clients in the state courts of Belarus.</p> <p>There is a distinction between provision of legal services and legal assistance.</p> <p>Legal services are provided by commercial attorneys and are subject to licensing requirements (license to provide legal services) in accordance with the Decree of the President of the Republic of Belarus dated 1 September 2010 No. 450 “<i>On Licensing of Certain Activities</i>” (the “Licensing Decree”).²</p> <p>Legal assistance is provided by advocates, who are subject to licensing requirements (license to provide legal assistance) in accordance with the Law of the Republic of Belarus dated 30 December 2011 No. 334-3 “<i>On Advocacy and Legal Practice</i>” (the “Advocacy Law”).³</p> <p>Licensing is conducted by the Ministry of Justice of Belarus (“MoJB”).</p>

¹ This chapter was drafted with the support of Timour Sysouev of Sysouev, Bondar, Khrapoutski SBH Law Office.

² See <http://pravo.by/document/?guid=3871&p0=P31000450> (in Belarusian; no English version currently available) (last visited on October 2, 2019).

³ See [http://www.pravo.by/document/?guid=2012&oldDoc=2012-2/2012-2\(013-043\).pdf&oldDocPage=6](http://www.pravo.by/document/?guid=2012&oldDoc=2012-2/2012-2(013-043).pdf&oldDocPage=6) (in Belarusian; no English version currently available) (last visited on October 2, 2019).

	<p>2. Describe any licensure requirements governing the provision of legal services.</p>	<p>Pursuant to the Licensing Decree and the Advocacy Law:</p> <ul style="list-style-type: none"> • Licenses to practice law in Belarus are issued only to Belarussian legal entities or citizens. Therefore, foreign lawyers and foreign law firms are prohibited from the practice of law in Belarus. • The requirements for commercial attorneys willing to provide legal services are as follows: <ul style="list-style-type: none"> ○ Individual entrepreneurs must hold a legal degree and have at least 3 years of professional experience in the legal sphere; ○ Commercial organizations must have a director, deputy directors and employees. All employees at commercial law firms, except for technical and support staff, must have a legal degree, and at least two of them must have 3 years of professional experience in the legal sphere. • Advocates willing to provide legal assistance must be Belarussian citizens with a recognized legal education, who have completed an internship at an advocate office or with a sole-practicing advocate and have at least 3 years of professional experience. Advocates must also pass a qualification exam set by the qualification commission of the MoJB. • Advocates obtain licenses for the provision of legal assistance and must be admitted to the territorial bar association.
(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>The Resolution of the MoJB dated 19 November 2010 “<i>On Some Issues of Legal Education of the Population</i>” (No. 98) (the “Act on Legal Education”)⁴ permits advocates, commercial attorneys, court officials, notaries, in-house lawyers, NGOs, and university law clinics to provide free legal education in the following forms:</p> <ul style="list-style-type: none"> • distribution of legal information;

⁴ See [http://pravo.by/document/?guid=2012&oldDoc=2010-288/2010-288\(064-071\).pdf&oldDocPage=5](http://pravo.by/document/?guid=2012&oldDoc=2010-288/2010-288(064-071).pdf&oldDocPage=5) (in Belarussian; no English version currently available) (last visited on October 2, 2019).

		<ul style="list-style-type: none"> • oral legal advice; and • provision of legal assistance for certain matters. <p>Pro bono legal aid may also be provided under the Edict of the President of Belarus dated 1 July 2005 “<i>On Provision of Gratuitous (Sponsor) Aid</i>” (No. 300) (the “Edict on Gratuitous Aid”)⁵ for specified purposes, including the development of art, sport or social protection of citizens. Pursuant to the Edict on Gratuitous Aid, persons providing sponsor aid (including in the form of free services) must enter into an agreement with the recipients of the aid in which the parties agree on the aim, amount, and procedure for providing sponsor aid. A template sponsor aid agreement has been developed by the Government of Belarus. Recipients of sponsor aid must also provide reports to sponsors on the utilization of the sponsor aid.</p> <p>Under the Advocacy Law, advocates are required to provide pro bono legal assistance, which means that in certain cases (described below) their fees will be covered not by the clients, but by the bar association or from republican or local budget resources.</p>
	<p>2. Are lawyers required by such rules to work a minimum number of pro bono hours? If so, how many?</p>	<p>Lawyers in Belarus are not required to work a minimum number of pro bono hours.</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 Belarus are not required to complete a minimum number of hours of pro bono legal services in order to become a licensed lawyer.</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>Given the lack of an established pro bono culture in Belarus, there is a wide range of unmet legal needs across various areas of law. However, the most pressing needs are in the following areas: criminal law, labor relations law, property and housing law, and social security law.</p>
	<p>5. Who are the main providers of pro bono legal services? e.g., NGOs, governmental or other public services, schools and universities, private law firms (local or international) or corporate organizations?</p>	<p>As noted in section (d) below, law firms in Belarus that operate as commercial attorneys do not typically establish pro bono programs. However, they do conduct pro bono work on a case by case basis.</p>

⁵ [http://www.pravo.by/document/?guid=2012&oldDoc=2005-105/2005-105\(005-009\).pdf&oldDocPage=1](http://www.pravo.by/document/?guid=2012&oldDoc=2005-105/2005-105(005-009).pdf&oldDocPage=1) (in Belarusian; no English version currently available) (last visited on October 2, 2019).

		<p>Advocates provide pro bono legal assistance in the categories of cases directly specified in the relevant legislation (the Advocacy Law).</p> <p>Otherwise, pro bono assistance is provided by NGOs and legal clinics, subject to certain limitations, and by consumer protection associations in the sphere of consumer rights issues.</p>
(c)	Obstacles to Provision of Pro Bono Legal Services	
	1. Do lawyers require a license to provide pro bono legal services?	Lawyers in Belarus do not require any other license in addition to the regular license to practice law (either the license for provision of legal services or for provision of legal assistance).
	2. Do foreign lawyers require any additional license(s) to provide pro bono legal services?	Foreign lawyers and foreign law firms are not allowed to practice law in Belarus.
	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?	Lawyers in Belarus do not require professional indemnity legal insurance cover for any pro bono legal services that they provide.
	4. Are there any rules that prohibit advertising of pro bono successes or soliciting new pro bono clients?	There are no rules in Belarus that prohibit advertising of pro bono successes or soliciting new pro bono clients.
	5. Do lawyers receive any “Continuing Legal Education” or equivalent credit for pro bono hours worked?	Lawyers in Belarus 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 Belarus.	<p>The right to legal assistance:</p> <ul style="list-style-type: none"> • Article 62 of the Constitution of Belarus states that everyone shall have the right to legal assistance. However, in practice, legal assistance is available only in a limited number of situations. • Legal assistance is provided (a) at the expense of regional bar associations or (b) at the expense of national or regional budgets in

		<p>situations set out in Article 28 of the Advocacy Law. Pro bono legal assistance is provided in the following cases at the expense of the applicable regional bar association:</p> <ul style="list-style-type: none"> ○ for plaintiffs that have labor or alimony claims in district (city) courts or regional courts; ○ oral advice for veterans of the Second World War, in connection with non-business-related matters; ○ for citizens of Belarus in connection with the preparation of pension and allowance applications; ○ oral advice for certain disabled persons that does not require review of documents; and ○ for minors or their parents / guardians in connection with the protection of the minor’s interests. <ul style="list-style-type: none"> ● Legal assistance in these matters is provided by individual advocates or advocate offices who are admitted to practice by the applicable regional bar association. The regional bar associations determine the procedure for providing legal aid and they distribute the expenses for conducting the same to the applicable advocate or advocate office. ● Legal assistance is provided to the victims of human trafficking or terrorism from the national budget. Reimbursement of advocates’ fees for the provision of such legal assistance is made in accordance with the Resolution of the Council of Ministers of the Republic of Belarus dated 6 February 2012 “<i>On Procedure of Reimbursement of Advocates’ Fees for Provision of Legal Aid to Victims of Human-trafficking and Terrorism</i>” (No. 122), as follows: <ul style="list-style-type: none"> ○ 70 per cent. of the first category tariff rate for one working day in the Supreme Court and in regional courts; and ○ 50 per cent. of the first category tariff rate for one working day in the district (city) courts, where such work can include participation in preliminary
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		<p>investigation, giving of oral advice and explanations, drafting of statements, complaints and other legal documents.</p> <ul style="list-style-type: none"> • Legal assistance is provided to criminal suspects or defendants from the applicable regional budget by advocates appointed at the request of the court. Reimbursement of advocates' fees for the provision of such legal aid is determined by the Resolution of the Ministry of Justice and the Ministry of Finance of the Republic of Belarus dated 30 August 2007 "<i>On Instruction of Reimbursement of Advocates' Fees from Regional Budgets</i>" (No. 57/129), as follows: <ul style="list-style-type: none"> ○ 70 per cent. of the first category tariff rate for one working day at the appointment in the Supreme Court or regional courts; ○ 50 per cent. of the first category tariff rate for one working day at the appointment of district (city) courts; and ○ 50 per cent. of one working day salary in connection with conducting of inquiry procedures, preliminary investigation and trial. • Importantly, advocates' fees for the provision of legal assistance to criminal suspects and defendants that are paid out of regional budgets must be reimbursed by such individuals in the event they are found guilty by the court. • Each regional bar association can also determine other categories of individuals to whom its members can provide legal assistance at the expense of such bar association in addition to the categories of individuals eligible to receive mandatory legal assistance (set out above).
	<p>2. Describe the main non-governmental sources of pro bono and/or other pro bono resources in Belarus.</p>	<p>Law firms in Belarus that operate as commercial attorneys do not typically establish special pro bono programs. Pro bono work is conducted by them on a case-by-case basis, and is not generally considered to be notable or prestigious.</p> <p>NGOs can generally provide limited pro bono assistance in the form of oral legal advice under the Act on Legal Education. There are also special</p>

	<p>types of NGOs that can provide free legal aid on specific matters, such as trade unions and consumer protection associations.</p> <p>In particular, pursuant to the Law “<i>On Protection of Consumers' Rights</i>” dated 9 January 2002 (No. 90-3),⁶ consumer protections associations are entitled to:</p> <ul style="list-style-type: none"> • provide free legal consultations to consumers on the protection of their rights; • submit claims on behalf of consumers to manufacturers or, as the case may be, sellers, suppliers, or their representatives; and • submit claims on behalf of consumers to courts and also represent consumers’ interests in courts. <p>In accordance with the Act on Legal Education, legal clinics established by universities can carry out free oral legal consultations to vulnerable social groups such as indigent citizens, the disabled, veterans of the Second World War, orphans, and single mothers. These consultations are provided by students under the supervision of their professors. Legal clinics have been established at the Belarussian State University, Grodno State University, Vitebsk State University, Gomel State University and Brest State University.</p> <p>The New Eurasia Establishment (the “NEE”) has implemented a legal clinic support program that promotes a network of university-based legal clinics providing free legal services to vulnerable social groups.⁷ Through this project, the NEE aims to enhance the professional capacity of legal clinic tutors and clinicians and strengthens the educational role of legal clinics to produce qualified lawyers. The project facilitates networking between legal clinics and promotes their advocacy role in the provision of free services for vulnerable people. A list of legal clinics participating in the NEE’s network is available at the NEE’s website.⁸ The program is supported by the Eurasia Foundation with funding from various donors including the US</p>
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⁶ <http://pravo.by/document/?guid=3871&p0=h10200090> (in Belarussian; no English version currently available) (last visited on October 2, 2019).

⁷ See <http://eurasia.by/en/about/on-the-establishment/> (last visited on October 1, 2019).

⁸ See <http://eurasia.by/en/partners/> (last visited on October 2, 2019).

		Agency for International Development (USAID) and the UK Foreign and Commonwealth Office. ⁹
	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?	There is currently no such organization in Belarus.

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⁹ See <http://eurasia.by/en/donator/> (last visited on July 1, 2019).