

Pro Bono Practices and Opportunities in Bulgaria¹

I. Introduction

Free legal representation was institutionalized in Bulgaria in 2006 with the adoption of the Legal Aid Act, which recognized the need to ensure equal access to the justice system for all.² There are no regulatory barriers to providing pro bono legal services in Bulgaria and pro bono legal services in general are becoming increasingly popular in recent years. However, the country’s legal industry still has yet to cultivate a strong pro bono culture.

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 Bar Act of 2004, as most recently amended in 2016 (the “Bar Act”),³ regulates the legal profession, and governs the rights to provide legal services.</p> <p>Amendments adopted in 2005 to the Ordinance on the Unified Requirements for Acquiring Higher Education in Law and the Professional Qualification “Lawyer,”⁴ (the “Legal Education Ordinance”) adopted by the Council of Ministers with Resolution No. 75/Apr. 5, 1996⁵ specifically allow for the establishment of legal clinics, recognizing their role in providing valuable practical experience to law students.⁶</p> <p>Legal professionals’ ethical obligations are governed by the Attorney’s Code of Ethics, adopted by the Supreme Bar Council, a professional organization comprised of elected members representing bar associations across the country. The Code of Ethics addresses matters of independence, confidentiality and conflicts of interest, as well as questions of remuneration for legal services, incorporating by reference Ordinance No. 1 of July 9, 2004 on the Minimum Size of Attorneys’ Fees.</p> <p>The Legal Aid Act of 2006 (“Legal Aid Act”) regulates the provision of state sponsored legal services for qualifying individuals.</p>

¹ This chapter was drafted with the support of Anna Rizova and Oleg Temnikov of Wolf Theiss.

² Promulgated in the Bulgarian State Gazette, issue No. 79/Oct. 4, 2005, in force as of Jan. 1, 2006.

³ Bar Act, Promulgated State Gazette No. 55 (June 25, 2004).

⁴ Promulgated in SG, issue No. 31/Apr. 12, 1996, last amended, SG, issue No. 69 of 25 August, 2017.

⁵ “Ordinance on the Unified Requirements for Acquiring Higher Education in Law and the Professional Qualification “Lawyer,,” Adopted with Resolution of the Council of Ministers No. 75/Apr. 5, 1996, promulgated in SG, issue No. 31/Apr. 12, 1996, last amended SG No. 62 (July 12, 2013), Article 6.

⁶ Legal Education Ordinance, Articles 10a.(1-2).

	<p>2. Describe any licensure requirements governing the provision of legal services.</p>	<p>Pursuant to the Bar Act, anyone wishing to become an attorney must have a university law degree.⁷ Law school is a formally accredited five-year university program that concludes with state oral and written examinations.⁸</p> <p>Under the Legal Education Ordinance, in order to earn a law degree, students must complete at least ten semesters and a minimum of 3,500 hours of study.</p> <p>All graduates of law school are known as “lawyers” but not all graduates of law school become practicing attorneys.</p> <p>Only an attorney admitted to and registered with a Bar Association (<i>адвокатска колегия</i>) may engage in the private practice of law and appear in court on behalf of clients that are not their employer.</p> <p>Non-attorney lawyers, known as legal advisors or juris consultants, work within companies, governmental agencies, or NGOs, and may engage in the practice of law only on behalf of their respective employers.⁹</p>
<p>(b) Pro Bono Practice and Culture</p>		
	<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 Legal Aid Act enshrined free legal representation in Bulgarian law. Prior to this, there was a decentralized and much criticized system for providing legal aid for those who could not afford to pay for an attorney. Private attorneys were permitted to provide free legal assistance to persons entitled to support funds or having financial difficulties, however, there was no requirement that they do so nor was there a tradition or organized system for providing pro bono legal services.¹⁰ In accordance with the policies reflected in the Legal Aid Act, there are no regulatory barriers to providing pro bono legal services.</p> <p>Article 38 of Part 1 of the Bulgarian Bar Act sets out freedom for any attorney to give free legal service to those who need assistance but have no or insufficient means to afford it. In addition, legal</p>

⁷ Article 4.(1).1 of the Bar Act.

⁸ The Legal Profession Reform Index for Bulgaria, American Bar Association, May 2006, available at <http://www.bili-bg.org/cdir/bili-bg.org/files/LPRI-2006-eng.pdf> (last visited on October 2, 2019).

⁹ The Legal Profession Reform Index for Bulgaria, American Bar Association, May 2006, p.8.

¹⁰ The Legal Profession Reform Index for Bulgaria, p.47.

	<p>assistance and cooperation can be provided to parents, friends or other lawyers. In proceedings, if the adverse party is sentenced to pay the expenses, the lawyer shall have the right to remuneration as determined by the court.</p>
<p>2. Are lawyers required by such rules to work a minimum number of pro bono hours? If so, how many?</p>	<p>There is no obligation on attorneys to work a minimum number of pro-bono hours under Bulgarian law.</p> <p>Pro bono culture in Bulgaria is still developing and commercial practitioners have started to offer pro bono legal services. However, dedicating time and resources to pro bono in a systematic way is the exception rather than the rule.</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 Bulgaria are not required to complete a minimum number of hours of pro bono in order to become a licensed attorney.</p> <p>Article 4 of the Bar Act sets out the requirements to become a licensed attorney, which include completing a university degree in law, acquiring legal competence pursuant to Chapter 14 of the Judiciary System Act, having at least two years of legal practice, successfully passing the state bar examination and having the moral and professional qualities necessary for practicing law.¹¹</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>The main areas of law which present opportunities for the provision of pro bono legal services in Bulgaria traditionally include human rights, discrimination and violence against women. For example, the Gender Alternatives Foundation is a non-governmental organization which works on projects to overcome and prevent domestic violence as well as assisting victims of trafficking in Bulgaria, Slovakia and Romania to receive legal aid.¹²</p> <p>Additionally, the Bulgarian Helsinki Committee focuses on the legal protection of human rights and has worked on matters involving discrimination of ethnic minorities from the Roma community. This issue in particular presents opportunities for pro bono services including stimulating legislative reform to bring Bulgarian legislation in line with</p>

¹¹ Article 4.(1).1 of the Bar Act, Promulgated State Gazette No. 55 (June 25, 2004).

¹² See <http://genderalternatives.org/bg/proekti> (last visited on October 2, 2019)

		<p>international human rights standards and carrying out advocacy for the protection of human rights.¹³</p> <p>Also, the Center for Legal Aid – Voice in Bulgaria has worked on assisting migrants, refugees and other vulnerable groups with their rights, which present another opportunity for the provision of pro bono legal services.¹⁴</p> <p>Other areas as law, such as access to public information, consumer protection, data protection, environmental law and administrative law also increasingly provide opportunities for pro bono work.</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>NGOs offering legal services are the most common providers of pro bono legal services in Bulgaria. The NGOs’ activities may be primarily law-related, or they may cover a broader range of social services, with legal representation as only one aspect of such services.</p> <p>For example, a “legal” NGO may provide (i) free legal representation to individuals in cases involving human rights (e.g., the Bulgarian Helsinki Committee) or refugees’ rights (e.g., the Program for Legal Protection of Refugees and Migrants or the Center for Legal Aid – Voice in Bulgaria), or (ii) free legal consultations for civic organizations (e.g., the Bulgarian Center for Not for Profit Law).¹⁵</p> <p>On the other hand, a “social services” NGO, such as one focused on women’s rights, may carry out a range of activities aimed at promoting women’s rights, including lobbying the legislature, providing medical and psychological support to victims of domestic violence, and offering free legal services to these victims (e.g., the Gender Alternatives Foundation).</p> <p>The law faculties of many universities in Bulgaria operate law clinics where law students provide legal services on a pro bono basis in areas such as human rights, refugee law, employment law.</p> <p>Private practitioners offering pro bono legal services as part of their general practice is the least common approach. There is not much pressure among private, commercial practitioners to</p>

¹³ See <http://www.bghelsinki.org/bg/publikacii/> (last visited on October 2, 2019).

¹⁴ See <http://www.centerforlegalaaid.com/> (last visited on October 2, 2019).

¹⁵ See <http://bcnl.org/en> (last visited on October 2, 2019).

		demonstrate a commitment to pro bono.
(c)	Obstacles to Provision of Pro Bono Legal Services	
	1. Do lawyers require a license to provide pro bono legal services?	<p>Under Bulgarian law there are no general regulatory prohibitions or regulatory regimes for providing pro bono legal services.</p> <p>However, a distinction should be drawn between general legal services, which could be provided by any lawyer and not necessarily attorneys-at-law (<i>адвокату</i>) (such as legal consultations, review and drafting of legal documents, etc.); and services which may be provided exclusively by attorneys-at-law (<i>адвокату</i>) (such as court representation).</p> <p>Where the former may be provided without need of any particular license, the latter, if the provided services fall into the scope of services which may be provided exclusively by attorneys-at-law, may be provided only by registered attorneys (Article. 3 of the Bar Act).</p>
	2. Do foreign lawyers require any additional license(s) to provide pro bono legal services?	<p>Once again, a distinction should be made between (1) general legal services not requiring attorneys-at-law to be involved and (2) services which may be provided exclusively by attorneys-at-law.</p> <p>In the first case there are no particular requirements in respect of foreign lawyers.</p> <p>In respect of attorneys-at law, under the Bar Act there are particular formalities to be followed by European Union Lawyers and Foreign Country lawyers:</p> <ul style="list-style-type: none"> • Article 10 sets out the requirements of foreign country lawyers to practice in Bulgaria. A foreign lawyer has to be authorized to pursue the profession of a lawyer in accordance of his or her own country, and may appeal before judicial bodies of the Republic of Bulgaria as defense counsel or representative of a national of his or her own country, acting on a specific case, together with a Bulgarian attorney-at-law. • Article 11 to Article 15 set out that European Union lawyers who are practicing the profession of a lawyer within the Republic of Bulgaria on a temporary basis shall have the rights and obligations of an attorney-at-law, excluding those rights and obligations that arise from being permanently established in

	<p>Bulgaria.</p> <ul style="list-style-type: none"> • Article 16 to Article 19a. set out the requirements for European lawyers to permanently establish themselves in the Republic of Bulgaria. Some of the requirements include registering at the Single Register of Foreign Attorneys-at-Law of the Supreme Bar Council and in the register of foreign attorneys-at-law kept by the relevant Attorney’s College. Following a three year period of actual and uninterrupted practicing of the profession of a lawyer within the Republic of Bulgaria or upon successfully passing a conversion exam, a European Union lawyer may apply for registration with a Attorney’s College. • Article 19b., to Article 19d. set out the requirements for a lawyer to practice in Bulgaria on a temporary basis, which include notifying the Bar Council in writing.
<p>3. Do lawyers require professional indemnity legal insurance cover for any pro bono legal services that they provide? If so, are they prohibited from working under the cover of another pro bono provider, such as a private law firm or organization working on the same pro bono project?</p>	<p>A distinction should be made between (1) general legal services (not requiring attorneys-at-law to be involved) and (2) services which may be provided exclusively by attorneys-at-law.</p> <p>In the first case, there is no requirement for mandatory insurance.</p> <p>Attorneys-at-law shall be insured for the duration of their professional activity against the damages, which may occur as a result of a failure to exercise their obligations.</p> <p>Pro bono legal services are established in Article 38 of the Bar Act and they fall within the definition of “professional activity of a lawyer”. Therefore, pro bono legal services shall be covered by professional liability legal insurance, for the duration of the lawyer’s professional activity.</p> <p>Each lawyer will be covered by a personal insurance, where individual law firm or other group insurances can also be added on top. Pro bono activity per se does not require additional insurance.</p>
<p>4. Are there any rules that prohibit advertising of pro bono successes or soliciting new pro bono clients?</p>	<p>Article 132 of the Bar Act imposes restrictions on direct advertisement of professional activities of lawyers. In respect of attorneys-at-law, as pro bono legal services fall within the scope of the professional activities of lawyers, the advertisement of these services is prohibited and constitutes a</p>

		<p>disciplinary offence under the Bar Act.</p> <p>In respect of general legal services, although there are no formal prohibitions, if they overlap with attorneys-at-law activities, any advertisement could potentially lead to sanctions, including from the Commission for Protection of Competition.¹⁶</p>
	<p>5. Do lawyers receive any “Continuing Legal Education” or equivalent credit for pro bono hours worked?</p>	<p>Under the Bar Act attorneys-at-law are obliged to maintain and develop their qualifications (Article 27 and 28). The details of the requirements are set out in Ordinance No. 4 of 2006 for the Maintenance and Improvement of the Qualification of Attorneys-at-Law and European Attorneys-at-Law.¹⁷</p> <p>The Ordinance does not address pro bono activities and there are no relevant precedents to establish whether pro bono activities could cover such obligations.</p>
<p>(d) Sources of Pro Bono Opportunities and Key Contacts</p>		
	<p>1. Describe any governmental sources of pro bono and/or other legal services in Bulgaria.</p>	<p>Government sources of legal services include free legal support funded by the Legal Aid Act. The purpose of the law is to ensure equal access to justice by ensuring and providing effective legal assistance.</p> <p>The agency responsible for administering legal aid is the Bulgarian National Legal Aid Bureau (“NLAB”), an independent state entity, whose structure and functions are regulated by the Legal Aid Act, the Decree of the Council of Ministers No 4/06.01.2006.¹⁸</p> <p>The responsibilities of the NLAB include the monitoring and supervision of activities related to the provision of legal aid, the administering of payments for legal aid, the maintenance of the National Register of Legal Aid and the promotion of the legal aid system.¹⁹</p> <p>Attorneys wishing to provide legal aid under the Legal Aid Act must file an application with the NLAB, which must be pre-approved by their local Bar Council. The NLAB then includes all such individuals in the National Legal Aid Register, which is a public document, available to individuals</p>

¹⁶ See <http://cpc.bg/> (last visited on October 2, 2019).

¹⁷ See <https://www.lex.bg/bg/laws/ldoc/2135515374> (last visited on October 2, 2019).

¹⁸ SG 5/17.01.2006.

¹⁹ Legal Aid Act, Article 8.

	seeking legal aid.
<p>2. Describe the main non-governmental sources of pro bono and/or other pro bono resources in Bulgaria.</p>	<p>The main sources of non-governmental sources of pro bono are described below:</p> <p>The Center for Legal Aid – Voice in Bulgaria (“CLA”)²⁰ promotes the rights of migrants, refugees and asylum seekers on the territory of Bulgaria, through legal aid and advocacy. The CLA provides pro bono legal consultations to asylum seekers, refugees and migrants, as well as legal representation in administrative and judicial proceedings on the national and European levels. The CLA is also actively engaged in protecting the basic human rights of undocumented migrants and its representation includes weekly visits to the Detention center for undocumented migrants in Sofia, Busmantsi district.</p> <p>The Bulgarian Helsinki Committee²¹ is an independent non-governmental organization for the protection of human rights. Some of the objectives of the committee are to promote respect for the human rights of every individual, to stimulate legislative reform to bring Bulgarian legislation in line with international human rights standards and to carry out advocacy for the protection of human rights.</p> <p>Bulgarian Lawyers for Human Rights (“BLHR”)²² is a nonprofit organization that seeks to promote the establishment and effective implementation of Bulgaria to international standards of legal protection of human rights. BLHR works with over 25 authoritative practitioners and covers issues concerning protection of human rights in virtually all major sectors of the Bulgarian legislation.</p>
<p>3. Is there any public or private organization with which a local or foreign attorney can register in order to be made aware of pro bono opportunities?</p>	<p>Please see above.</p> <p>Attorneys wishing to provide legal aid under the Legal Aid Act must file an application with the NLAB, which must be pre-approved by their local Bar Council. The NLAB then includes all such individuals in the National Legal Aid Register, which is a public document, available to individuals seeking legal aid and the attorneys will be made aware of the opportunities they can be involved</p>

²⁰ See <https://www.centerforlegalaid.com/> (last visited on October 2, 2019).

²¹ See <http://www.bghelsinki.org/en/> (last visited on October 2, 2019).

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