



EESTI ADVOKATUUR

ESTONIAN BAR ASSOCIATION

53rd European Presidents' Conference Country report – Estonia

General information

As on 31 December 2024, Estonian Bar Association (EBA) had 1156 members, including:

- 558 attorneys-at-law (in Estonian *vandeadvokaat*)
- 342 assistant attorneys-at-law (in Estonian *vandeadvokaadi abi*) and
- 4 associated members.

252 members had suspended their membership for various reasons (parental leave, working in public service or as in-house counsel, etc.).

EBA members practiced in 211 law firms and statistically there was one attorney for every 1 514 Estonian resident.

In 2024 membership fees stayed the same (for attorneys-at-law and associated members 70 euros and for assistant attorneys-at-law 55 euros per month).

Disciplinary proceedings

In 2024, Ethics Tribunal received 103 complaints (106 complaints in 2023). Ethics Tribunal initiated 26 (29 in 2023) disciplinary cases and applied sanctions in 8 disciplinary cases - 4 reprimands and 4 fines (in 2023 there were 6 sanctions applied).

Participation in legislation

EBA participated actively in legislative process by reviewing and commenting on draft legislation. EBA has established 13 expert committees (on ethics and methodology, state legal aid, protection of fundamental rights, administrative law, commercial law, competition law, family law, insolvency law, IP/IT law, labour law, tax law, financial law and newly in 2024 formed procedural law committee). The committees assisted EBA in responding to requests by the Ministry of Justice and Digital Affairs or other ministries to review and comment on draft legislation. In 2024, EBA was asked for its opinion on a total of 7 intentions to develop a law, 25 on a draft bill and in 17 cases, on another legal document (public consultation, action plan, ministerial decree etc.). EBA's opinions were published 21 times through the expert committees or board of EBA.

EBA wishes to emphasise that overall, relations with the ministries to the input provided by EBA are good, but the involvement of EBA in law-making process still tends to be inconsistent (e.g., EBA is not involved in the legislative process of all relevant draft bills, legislation is not thoroughly analysed, law making process driven by political priorities).

Surveillance and legal professional privilege

In 2024, worrying cases concerning surveillance of attorneys came to the attention of EBA

indicating clearly that the Estonian laws are insufficient to effectively protect legal professional privilege when it comes to surveillance and that there is lack of consistent court practice which could help to overcome the shortages of legislation.

For example, a group of defence attorneys discovered that their telephone conversations with clients have been under surveillance and recorded whereas they were not informed of such activities and the recordings were preserved although there was no suspicion whatsoever that the respective attorneys had committed any crime. The attorneys filed complaints to the Office of the Prosecutor General and Chief State Prosecutor, requesting (i) to identify a violation of their rights in connection with the failure to notify them of the collection of data through surveillance activities, (ii) to identify a violation of their rights in connection with the violation of client confidentiality, and (iii) to oblige the police to delete the collected information and information to be collected in the future through surveillance activities where there is no reasonable suspicion of a crime against them. The complaint was based on the following main arguments:

- the Constitution of the Republic of Estonia must be interpreted in a manner that ensures compliance with the European Convention on Human Rights and the practise of European Court of Human Rights,
- working life of an attorney is also protected by the Constitution,
- European Convention on Human Rights and the practise of European Court of Human Rights take precedence over Estonian law pursuant to the Constitution,
- an intercepted conversation between a client and an attorney may be preserved only if there is a justified suspicion that an attorney has committed a crime.

The Chief State Prosecutor did not satisfy the attorneys' complaint, and the attorneys filed a claim to the court. In January 2025 the court ruled that based on the case law of European Court of Human Rights, it must be considered that an attorney is under a special protection and when he/she has come within the sphere of influence of surveillance activities (exceptions apply according to Code of Criminal Procedure) and data has been collected then this constitutes a very intense invasion of privacy. Therefore, an attorney must always be informed of the collection of data through surveillance activities, and this must be done without delay from the moment when it no longer threatens the purpose of the surveillance activities. The court also stated that Estonian laws for the protection of attorney's professional secrecy is insufficient and regarding the case it must be proceeded from EU Directive 2013/48/EU and the case law of the European Court of Human Rights and therefore, the information collected through surveillance operations must be deleted.

This court order (which has not yet entered into force, as it has been challenged by the Prosecutor's Office) is exceptionally important and EBA continues monitoring the situation and spreads this information among our members so they can use it as guidelines in their work. Unfortunately, there are other similar cases of surveillance where attorneys have filed similar complaints which have not been satisfied by the court. Therefore, EBA is of the opinion that the law must be amended urgently to strengthen the protection of legal professional privilege. Initiation of respective legislative amendments is one of the primary tasks of the EBA in near future.

Information Security

To address threats in cyber world and to protect sensitive client data, EBA introduced Guide for the implementation of information security protection measures for law firms in 2023.

EBA also launched a pilot project among 5 law offices of different sizes to test and get feedback regarding implementation of the guide. Project ended 15.08.2024 and the feedback from the participants brought out the complexity of the topic, the fact that fulfilling information security requirements without the support of an IT consultant is very time-consuming and even risky and implementing even minimum measures is more difficult than expected and without IT consultant not achievable.

EBA itself has also raised the level of information security. EBA carried out necessary actions throughout 2024 and in the beginning of 2025 got recognized with ISO27001 (international standard for information security management) and through its implementation EBA is better prepared to ensure the confidentiality, integrity and security of the organisation's information (which also includes very sensitive data regarding attorneys and their clients).

Fighting against aggression, threats, and harassment towards attorneys

In 2023, EBA conducted among its members a CCBE survey regarding threatening or harassment of attorneys. The responses show that verbal violence/harassment by counterparty or third persons related to counterpart or by clients is very present in attorneys' everyday professional life.

In 2024, to provide support to its members, EBA organized a training with the help of experts, which purpose was to provide knowledge on how to communicate in conflict situations of varying intensity in a way that would stop the escalation of the situation and direct the situation towards calming. The lecturers also compiled a short guide to conflict management in verbally aggressive situations to attorneys. Since the training was very popular, EBA is planning to repeat it in the future.

State legal aid

According to the law, EBA has the duty to arrange state legal aid. In 2024, the funding of state legal aid was 5.675m EUR (about the same as in 2023). 10 400 legal aid applications were submitted (incl. ca 52% defence in criminal proceedings, ca 45% representation in civil proceedings and ca 0.6% representation in administrative procedures) and there were in average 103 attorneys who provided state legal aid. Compared to 145 attorneys in 2021, the number has fallen remarkably over the past few years and is on a critical level for the system to be sustainable.

State legal aid fees have not risen since 06.02.2023, which continuously raises concerns over the sustainability of the system, as it does not attract new attorneys (especially younger ones and new members) to enter the system. As a result, individuals' fundamental rights may not be adequately protected. There is also no promise from the state to increase the state legal aid fees, although EBA regularly draws attention to the necessity of it. On the contrary, in 2024 there have been different ideas regarding changing the system in the direction where EBA should take over certain state legal aid proceedings from the state (and courts), but these plans have no adequate analyse and funding.

Foreign relations

2024 was an active and productive year for EBA in foreign relations, where several interesting meetings took place, for example:

On 25-26.04.2024 European Judicial Training Conference was held in Brussels where also EBA was represented. The aim of the conference was to involve stakeholders in the process of

drafting the next European Judicial Training Strategy. The conference discussed the training needs of the judiciary in relation to the digitalisation of justice and how to increase digital capacity through training.

27.05.2024 EBA hosted a delegation of 15 Ukrainian judges from different levels and branches of the judiciary. The aim of the visit was to support the strengthening of the independence of the Ukrainian courts and the reduction of corruption through the sharing of Estonian know-how and experience.

On 18.09.2024, five judges from Italy, France, the Netherlands, Bulgaria and Romania visited EBA through the European Judicial Training Network (EJTN). The program aims to develop a European judicial culture based on mutual trust between judicial authorities within a common European judicial area.

On 19.09.2024, a delegation from the Thai Prosecutor's Office visited EBA and they were introduced the structure of the Estonian legal system and the role of the EBA in it, the process of becoming a member of EBA, the training obligation of lawyers, Estonian state legal aid system etc.

Representatives of EBA have also been actively engaged to the work of various CCBE committees and working groups (Anti-Money-Laundering, Criminal Law, European Private Law, Future of the Legal Profession and Legal Services and ad hoc working group on CCBE future strategy).

Amendment of the Estonian Bar Association Act

EBA has submitted proposals to the Ministry of Justice and Digital Affairs to amend the Bar Association Act, which include the annulment of the obligation to publish various notices in the Official Announcements concerning the members of EBA, the modernisation of the regulation of the Bar Register and the repeal of the provisions relating to the bar examination and the amendment of the Bar Rules of Procedure in such a way that the conditions of the examination, the conduct of the examination and the procedure for assessing the results of the examination would be stipulated in the Rules of Procedure. Based on input from EBA, the ministry has prepared an initial draft and the work is ongoing. In 2024 The Board of EBA also continued working towards amendment of the Bar Association Act in various other aspects.