



53rd European Presidents Conference 2025 in Vienna

Country report

On current developments around the legal profession in Ukraine and UNBA in particular

1. PARTICIPATION OF THE UKRAINIAN NATIONAL BAR ASSOCIATION IN THE EUROPEAN INTEGRATION PROCESS

Ukraine's Deputy Prime Minister for European Integration and Minister of Justice, Chief Negotiator for Ukraine's EU accession, Ms. Olha Stefanishyna, has recently initiated the creation of EuroHub, a space to ensure the most effective coordination between all stakeholders and use of existing experience to conduct an effective negotiation process on EU accession. The Hub started its work in 2024 and hosted the first Ukrainian delegations participating in explanatory sessions of the European Commission as part of the official screening process. The Ukrainian National Bar Association is also constantly being invited to participate in the sessions of the EuroHub and has an opportunity to provide its comments and ideas on what reforms of the Bar institution should be carried out to bring Ukrainian legislation on the Bar in line with European standards and also has the ability to provide an in-depth analysis of the compliance of the existing legislation on the Bar of Ukraine with EU law.

In the process of analyzing the laws and regulations, it is clear that the Ukrainian legislation on the Bar does meet the basic requirements of EU law on the Bar, namely the standards of Council Directive 77/249/EEC of March 22, 1977, to facilitate the effective exercise by lawyers of freedom to provide services, of the Directive 98/5/EC of the European Parliament and of the Council of February 16, 1998, to facilitate the practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained and of the Recommendation No. R (2000)21 of the Committee of Ministers to member States on the freedom of exercise of the profession of lawyer, adopted on October 25, 2000, at the 727th meeting of the Ministers' Deputies.

Accession to the Organization for Economic Cooperation and Development is also a common challenge for all national institutions on which the European future of the state depends. The Ukrainian National Bar Association also contributes to the implementation of the relevant OECD Program for Ukraine. In August 2024, the Ukrainian National Bar Association held a joint interview with representatives of the OECD, during which they discussed in detail the current state of the Bar in Ukraine and the problems caused by martial law. The structured and well-coordinated work of the system of Bar self-government bodies in Ukraine was noted as effective and truly self-regulatory. This is an important guarantee of upholding the rule of law and timely protection of the interests and rights of citizens in society.

2. ATTEMPTS TO DISCREDIT THE INSTITUTION

In 2024, the Ukrainian National Bar Association experienced the largest attack on the institution in the years of its existence. The attacks were carried out by various individuals who pursued their own interests, worked for political forces to manipulate the information space, and used dirty methods of propaganda to achieve their own goals, including political ones. This also shows that society does not fully understand the role of the legal profession and our mission to uphold the rule of law and protect human rights. Using social networks, which have essentially become a new form of mass media, disinformation about the UNBA and the role of the Bar is being wildly spread. Advocates often become targets of hatred and persecution.

In September, the so-called Shadow Report to the Justice and Fundamental Rights section of the European Commission's Report on Ukraine was published, prepared by a coalition of civil society organizations led by the Agency for Legislative Initiatives with the support of the European Union's Pravo-Justice Project and other civil society organizations. After conducting a detailed analysis of the Shadow Report, the members of the Bar Council of Ukraine determined that the nature of the Shadow Report on the Bar indicates that it was drawn up for a purpose contrary to the interests of the institution of the Bar and to the interest of the State of Ukraine on its way to accession to the EU.

In particular, the Bar Council of Ukraine came to the conclusion that the Shadow Report, in part concerning the Bar was created by an incompetent entity - a public organization (persons involved by it), which does not and cannot possess reliable information and objective data on the current state of functioning of the Bar, the actual needs for its improvement and effective ways to ensure its strengthening; the material presented is largely untrue, and the conclusions regarding the need for a fundamental change in the regulatory framework of the Bar are subjective desires of the author(s), which are absolutely toxic to the Bar and aimed at achieving the personal goals of the interested parties; the Shadow Report in part concerning the Bar is unfounded in its content and contains statements and proposals aimed at weakening the institution of the Bar and does not meet the best European and international standards.

3. CONTINUING VIOLATION OF THE RIGHTS OF ADVOCATES AND THEIR CLIENTS AT THE TIMES OF WAR

Recently, the UNBA has received more frequent appeals about violations of the rights of advocates and guarantees of the practice of law. Including by employees of the territorial centers of recruitment and social support. Some of the facts contain signs of a crime. In almost all regions of the country, there are cases when advocates are not allowed to see their clients who are being detained at the territorial centers of recruitment and social support under false pretenses, are forced to refuse to defend or provide legal services and are threatened and abused.

The Parliament of Ukraine is currently considering a draft law to introduce administrative liability for the identification of advocates with their clients. The Bar Council of Ukraine has repeatedly emphasised the inadmissibility of identifying an advocate with a client, as this hinders the exercise of the right to defence and violates the principles of a fair trial.

Currently, the problem of identification of the advocate with the client has become particularly acute due, in particular, to the sharp increase in the number of criminal proceedings on criminal offenses related to the armed aggression of the Russian Federation, as well as the consideration of court cases on the restriction of the rights of persons associated with the aggressor state. That is why the legislative initiative to introduce administrative liability for identification, set out in the draft Law No. 11279 of 21.05.2024 'On Amendments to the Code of Ukraine on Administrative Offences to Establish Liability for Violation of the Guarantees of the Practice of Law', was perceived by the legal community as long-awaited and positive. The draft law gives officials of the Bar self-government bodies the right to draw up reports on administrative offenses in case of violation of the guarantees of the practice of law. The draft law supplements the Code of Ukraine on Administrative Offences with provisions that provide for

administrative liability for violation of one of the guarantees of the practice of law, namely for public identification of a lawyer and a client to whom such a lawyer provides professional legal aid, including through the media, journalists, public associations, trade unions.

4. UNBA HAS LAUNCHED A NEW PROJECT ON SUPPORTING THE MENTAL HEALTH OF UKRAINIAN ADVOCATES DURING THE WAR

Due to the war in Ukraine, the psychological state and mental health of advocates are extremely important. Many advocates suffer from exhaustion, devastation, fatigue, anxiety, panic, and post-traumatic stress disorder in the conditions of war. Ukrainian National Bar Association has launched a mental health program for Ukrainian advocates facing unprecedented challenges during the ongoing war. Advocates, particularly those from vulnerable groups, are struggling to cope with the immense pressures that war has brought into their professional and personal lives.

By launching this project, UNBA seeks to create a more resilient legal community, ensuring that advocates maintain their well-being while continuing to uphold justice despite the ongoing war. Several key vulnerable groups of Ukrainian advocates need urgent support: female advocates, young advocates, advocates in active war zones, and advocates serving in the army. The project has been launched with the following components: individual therapy sessions, psychoeducational events (online webinars) on mental health, and an online library. The total estimated cost of the project for 1 year is USD 70 564. IBA has already donated an initial grant of \$25,000 for the UNBA to be able to launch the program and start providing critical support to our members. We, therefore, call on all European Bars to make donations for this mental health initiative and help to build a more resilient legal community in Ukraine, ensuring that advocates can continue to uphold justice while maintaining their well-being in these difficult times.

5. DR. VALENTYN GVOZDIY, VICE PRESIDENT OF THE UKRAINIAN NATIONAL BAR ASSOCIATION, HAS SUCCESSFULLY COMPLETED HIS ROLE AS THE REPRESENTATIVE OF UKRAINE IN THE COMMITTEE OF EXPERTS ON THE PROTECTION OF LAWYERS AND ITS VICE PRESIDENT AS THE DRAFT CONVENTION FOR THE PROTECTION OF THE PROFESSION OF LAWYER HAS BEEN FINALIZED

The Council of Europe has prepared the final text of the draft Convention for the Protection of the Profession of Lawyer. This is the world's first document that sets international standards for the protection of lawyers, guarantees their independence, and protects them from risks associated with the performance of their professional duties. The Convention is expected to enter into force in the spring of 2025. The finalization of the Convention is a powerful step towards the creation of common international standards that will guarantee the protection of the profession, regardless of the country in which the lawyer is practicing. The emergence of such a document of historic proportions is important not only for the European but also for the Ukrainian Bar, which faces daily challenges that threaten the independence of the institution.

Participation of Ukraine in this process was a powerful recognition of the high level of development of the legal profession in Ukraine, a political signal that Ukrainian professional community is at the forefront of protecting human rights and the rule of law. This is especially important at a time when the Ukrainian National Bar Association is facing unfounded manipulative attacks aimed at undermining its independence.