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**Strengthening the profession of lawyer in line with European standards**

**CROSS-COUNTRY REVIEW**

**ACCESS TO LAWYER'S PROFESSION AND SYSTEMS OF TRAINING OF LAWYERS IN  
ARMENIA, BELARUS, GEORGIA, THE REPUBLIC OF MOLDOVA AND UKRAINE**

**JANUARY 2022**

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## INTRODUCTION

This cross-country review is undertaken in the framework of the regional project “Strengthening the profession of lawyer in line with European standards” (further – the Project), which is funded by the European Union and the Council of Europe and implemented by the Council of Europe. The Project is being implemented under the “European Union/Council of Europe Partnership for Good Governance” Phase II (PGGII) programme. The participating countries of the Project include Armenia, Belarus, Georgia, the Republic of Moldova and Ukraine.

The cross-country review was conducted from June 2021 to November 2021 by international consultants Mag Roman Završek (prepared the review on Armenia, Belarus and the Republic of Moldova) and Dr Veronika Horrer (prepared the review on Georgia and Ukraine and compiled this cross-country review). The international experts conducted first a desk-work analysis of the applicable legislation and institutional frameworks related to the access to the profession. Then, the international experts carried out online fact-finding interviews<sup>1</sup> with the relevant stakeholders – the Ministries of Justice, bar associations, judiciary, educational institutions, professional associations of lawyers, etc.

In Belarus, due to - and as of the events which ensued after the presidential elections in August 2020, the technical co-operation with the authorities has been suspended in agreement with the European Union (European Commission, Directorate-General for Neighbourhood and Enlargement Negotiations - DG NEAR) and all project activities related to the public authorities in this country have been fully put on hold. Therefore, no online meetings were held with the stakeholders in Belarus and the review of this country was conducted based on desk research only.

A special methodology was drafted and followed during the development of the country reviews and interviews with the relevant stakeholder in four countries.

The cross-country review is primarily focused on the comparison of the legal and institutional frameworks regulating the access to the profession in Armenia, Belarus, Georgia, the Republic of Moldova, and Ukraine. Special attention was paid to the issues of gender and the particular needs of young lawyers.

The process of the development of the cross-country review took place prior to the aggression of the Russian Federation against Ukraine, and therefore the information and analytical data provided in the report on Ukraine reflect the situation in the country before the aggression. With due consideration of the fact that the situation in the country might be changed in the light of the aggression it is deemed necessary and useful to keep the recommendations.

## RELEVANT EUROPEAN STANDARDS

Lawyers play a vital role in the administration of justice. Free exercise of the profession of lawyer is indispensable to the full implementation of the fundamental right to a fair trial guaranteed by the International Declaration of Human Rights of the European Convention on Human Rights. The adequacy of independence (freedom of exercise) and protection available for the lawyer's profession should therefore be a priority for law- and policy makers at international, European, and national level. In this context the issues of comprehensive legal education, proper, transparent, and non-discriminatory procedures for the access to the profession shall be considered as a central element of the independence of the profession. The mentioned aspects are crucial also in terms of implementation of the guarantees for the access to justice, provided under ECHR and other tools of the EU law.

At present, there is no legally binding instrument, either on European or international level, that is specifically concerned with access to the profession and continuous education of lawyers. However, although the lawyer's profession is a matter for regulation within national legal systems, various soft law instruments have elaborated standards concerning access to the profession and continuous education of lawyers.

The key soft law instruments relevant for access to the profession and training of lawyers are the United Nations Basic Principles on the Role of Lawyers<sup>2</sup> ("Basic Principles") and the Recommendation No. R (2000) 21 of the Committee of Ministers to member states "On the freedom of exercise of the profession of lawyer" ("Recommendations").<sup>3</sup>

The Basic Principles contains the provision dealing with discrimination regarding access to the profession:

*"Governments, professional associations of lawyers and educational institutions shall ensure that there is no discrimination against a person with respect to entry into or continued practice within the legal profession on the grounds of race, colour, sex, ethnic origin, religion, political or other opinion, national or social origin, property, birth, economic or other status, except that a requirement, that a lawyer must be a national of the country concerned, shall not be considered discriminatory."*<sup>4</sup>

and the following provision dealing with the training of lawyers:

*"Governments, professional associations of lawyers and educational institutions shall ensure that lawyers have appropriate education and training and be made aware of the ideals and ethical duties of the lawyer and of human rights and fundamental freedoms recognized by national and international law."*<sup>5</sup>

The Recommendation No. R (2000) 21 stipulates following standards on the access to the profession:

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<sup>2</sup> <https://www.un.org/ruleoflaw/files/UNBasicPrinciplesontheRoleofLawyers.pdf>

<sup>3</sup> [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016804d0fc8](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016804d0fc8)

<sup>4</sup> Principle 10 of the Basic Principles.

<sup>5</sup> Principle 9 of the Basic Principles.

*“Decisions concerning the authorisation to practice as a lawyer or to accede to this profession, should be taken by an independent body. Such decisions, whether or not they are taken by an independent body, should be subject to a review by an independent and impartial judicial authority.”<sup>6</sup>*

*“Legal education, entry into and continued exercise of the legal profession should not be denied in particular\* by reason of sex or sexual preference, race, colour, religion, political or other opinion, ethnic or social origin, membership of a national minority, property, birth or physical disability.”<sup>7</sup>*

\* The list of grounds for non-discrimination is made non-exhaustive through the use of “in particular” at the outset of their specification.

*“All necessary measures should be taken in order to ensure a high standard of legal training and morality as a prerequisite for entry into the profession and to provide for the continuous education of lawyers.”<sup>8</sup>*

Regarding education and continuous training of lawyers, the Recommendation No. R (2000) 21 states the following:

*“Legal education, including programmes of continuous education, should seek to strengthen legal skills, increase awareness of ethical and human rights issues, and train lawyers to respect, protect and promote the rights and interests of their clients and support the proper administration of justice.”<sup>9</sup>*

There are two instruments drafted by the Council of Bars and Law Societies of Europe (CCBE)<sup>10</sup>, dealing a.o. with issues of continuous training of lawyers. These are: the CCBE’s Code of Conduct for European Lawyers<sup>11</sup>, the CCBE’s Charter of Core Principles of the European Legal Profession (“the Charter”).<sup>12</sup>

The Charter stipulates, that one of the lawyer’s core principles is to insure and uphold his/her professional competence by acquiring the appropriate professional education and by undergoing the continuous post-qualification training.<sup>13</sup> The Code of Conduct prescribes in Art. 5.8. that, *“lawyers should maintain and develop their professional knowledge and skills taking proper account of the European dimension of their profession.”*

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<sup>6</sup> Principle I.2. of the Recommendation No. R (2000) 21.

<sup>7</sup> Principle II.1. of the Recommendation No. R (2000) 21.

<sup>8</sup> Principle II.2. of the Recommendation No. R (2000) 21.

<sup>9</sup> Principle II.3. of the Recommendation No. R (2000) 21.

<sup>10</sup> <https://www.ccbe.eu/>

<sup>11</sup> [https://www.ccbe.eu/NTCdocument/EN\\_CCBE\\_CoCpdf1\\_1382973057.pdf](https://www.ccbe.eu/NTCdocument/EN_CCBE_CoCpdf1_1382973057.pdf)

<sup>12</sup> [https://www.ccbe.eu/NTCdocument/EN\\_CCBE\\_CoCpdf1\\_1382973057.pdf](https://www.ccbe.eu/NTCdocument/EN_CCBE_CoCpdf1_1382973057.pdf)

<sup>13</sup> Principle (g) of the Charter, also see a Commentary on the Charter of Core Principles.

The International Bar Association (IBA) has dealt with the issue of the access to the profession in its IBA's Task Force Report on the Independence of Legal Profession<sup>14</sup> recommending:

*“Clear and transparent rules on admission, disciplinary proceedings and disbarment (...) that are comprehensible and accessible, so that those who are subject to the rules are able to easily access them, understand their meaning and appreciate the implications of violating them. The existence of comprehensible, clear and transparent rules on admission to the Bar ensures that those seeking admission are well-informed of the requirements and are assessed on the basis of objective criteria that apply equally to all candidates.”<sup>15</sup>*

and with the issue of education and training of lawyers recommending:

*“Comprehensive legal education and professional training (...) appropriate, all-rounded, targeted education and training for those seeking to enter the legal profession. Proper education and training is one of the pillars of a strong and independent legal profession, as it lays the foundation on which young lawyers build their careers, and enables them to understand the importance of independence, objectivity and impartiality. Thorough and all-rounded education and training ensures that young lawyers appreciate the complex legal and ethical obligations associated with the practice of law, and that they are able to undertake their duties and responsibilities in line with their ethical and professional obligations.”<sup>16</sup>*

The issue of access to the lawyer's profession has featured only in very few cases before the European Court of Human Rights. Thus, the court has established that restrictions on registration as a member of a profession – including access to the profession – fall within the sphere of the right to private life. A refusal of admission to the profession on grounds not envisaged by the applicable legislation could potentially lead to a finding that the civil right of the person concerned has been violated.

The importance of members of public having confidence in the ability of the legal profession to provide effective access to justice and to have confidence in the administration of justice would justify requirements regarding the knowledge and skills to act as a lawyer.<sup>17</sup> The decision-making process of admission to the lawyer's profession must satisfy the requirements of fairness and should be subject to review by an independent and impartial judicial authority.<sup>18</sup>

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<sup>14</sup> <https://www.ibanet.org/MediaHandler?id=6E688709-2CC3-4F2B-8C8B-3F341705E438&.pdf&context=bWFzdGVyfGFzc2V0c3wzMTQxNzd8YXBwbGljYXRpb24vcGRmfGg4NC9oZGUvODc5NzEyNTM0NTMxMC82RTY4ODcwOS0yQ0MzLTRGMktOEM4Q0ZrjMOMTcwNUU0MzgucGRmfDk2OTg0ZiU1ZWE5OTJlM2ViZTc2MWEwMGE3Zjc4ZDQwOTYwMwYxMDU4OTNlMDc4YTJlODU0Y2I3OTBhZWQzY2U>

<sup>15</sup> Page 15 of the IBA's Presidential Task Force Report.

<sup>16</sup> Page 23-24 of the IBA's Presidential Task Force Report.

<sup>17</sup> *Kyprianou v. Cyprus* [GC], no. 73797/01, 15 December 2005, at para. 175.

<sup>18</sup> *Hajibeyli and Aliyev v. Azerbaijan*, no. 6477/08, 19 April 2018, at para. 60.



## COMPERATIVE REVIEW

Access to the profession in Armenia, Georgia, the Republic of Moldova and Ukraine is conducted by independent lawyers' self-regulatory organisations ("the bars") on the basis of national laws on the lawyer's profession and acts of the self-government bodies. In all these countries, the acts of the self-regulatory organisations concerning access to or exclusion from the profession are subject to independent judicial review. In all these countries, the Ministries of Justice have no influence on the access to the lawyer's profession. For example, the qualification commissions in Georgia, Republic of Moldova and Ukraine consist of representatives of the lawyer's profession only. In Armenia, the Qualification Commission is composed by eight members five of which are lawyers. The international standard of "the decision by an independent body"<sup>19</sup> is observed in these countries.

In Belarus, the independence of the self-regulation of the profession and independence of lawyers from the state is non-existent. The Ministry of Justice and other state authorities decide on all aspects of the profession including access to the profession, remaining in the profession and on continuous education. For example, the qualification commission on Belarus, is significant dependence of the state: it consists of the Chairman of the Belarusian Republican Bar Association, one representative from each territorial bar association; per one representative from the Supreme Court of Belarus, the General Prosecutor's Office of Belarus, and other state authorities; five representatives from the Ministry of Justice of Belarus; two representatives from scientific organisations. The head of the Qualification Commission is the Deputy Minister of Justice of Belarus. Moreover, the decisions of the qualifications commission in Belarus cannot be challenged in court. Therefore, the standard set up in the Recommendations, that the decision on the access to the profession "...whether or not taken by an independent body, should be subject to a review by an independent and impartial judicial authority"<sup>20</sup> is not observed in Belarus.

In Armenia, Georgia, the Republic of Moldova and Ukraine the bars have to deal with the problem of a relatively weak legal education provided by most universities.<sup>21</sup> The respondents of the interviews voiced their concern that the legal education in their countries was too theoretical, students were required to know laws by heart and spend a lot of time simply memorizing legal acts. The education could focus more on learning to reason, to apply logic, to think systematically, to speak publicly and to apply laws etc. The legal communities of all these countries have been demanding reforms of legal education from their politics for some time.

In Armenia, Georgia, the Republic of Moldova and Ukraine, the states invest additionally into education of their judges and prosecutors by sending the candidates to undergo post-university education at state-funded Schools of Justice (sometimes even for 2 years), etc<sup>22</sup>. The lawyers are left to handle and to finance their education by themselves. The bars try to provide equal education to lawyer's candidates with much less resources that the states have for other justice professions. To educate a lawyer's trainee is a costly undertaking. The bars are balancing the high administrative and financial burden of conducting of such trainee programmes with the requirement, that the profession should be accessible irrespective of the financial resources of

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<sup>19</sup> Principle I.2. of the Recommendation No. R (2000) 21.

<sup>20</sup> See "European Standards" above.

<sup>21</sup> No data for Belarus available.

<sup>22</sup> No data for Belarus available.

candidates. In Armenia, Georgia, Republic of Moldova and Ukraine, the fees for the traineeship and the entry exams/bar exams can be considered affordable considering the life standards in the countries.<sup>23</sup> The bars of Armenia, Georgia, Republic of Moldova and Ukraine constantly work on improving the trainee programmes and the entry exams to ensure the quality of the members of the profession.

Regarding the entry/bar exams, the bars in Armenia, Georgia, the Republic of Moldova and Ukraine strive to make them as transparent as possible to eliminate corruption and bias risks. The bar in Armenia and Georgia have implemented computer-based multiple-choice exams for this matter. Even though the effectiveness of such multiple-choice solution to estimate the quality of the candidate is arguable, it is for sure an effective tool to eliminate corruption and bias from the examination process. Such (maybe interim) solution should be considered by other bars.

In Armenia, Belarus, Georgia, the Republic of Moldova and Ukraine, candidates who have previous experience of work in the legal field as judges, prosecutors, or lawyers' assistants, enjoy – subject to certain requirements – simplified access to the bar than the candidates without experience.<sup>24</sup> However, for those candidates, the acquisition of knowledge of lawyer's professional laws prior to their admission to the bar should be made mandatory.

The bars in Ukraine and the Republic of Moldova require a candidate to become a lawyer to provide the bar with the medical certificates as a proof of a physical and mental health. If there are no grounds for the bar to believe, that the candidate is incapable of properly practicing the profession of a lawyer for longer than merely a temporary period, no medical certificate should be required for the access to the profession. Such certificates may be deemed discriminatory under the international standards of non-discrimination during the process of access to the profession.<sup>25</sup>

Only in Ukraine, a differentiated and detailed rule about the challenging of the composition of the qualification commission based on bias or prejudice exists. A right of a candidate to have a member of the examination commission removed if he/she fears prejudice or bias is a rule in the European countries. Such right is an important tool to ensure the fairness of the examination process, therefore other project countries should consider introducing it.

The final decision on the exam or on the refusal to access the profession can be challenged in court in Armenia, Georgia and Ukraine as stipulated by the international standard.<sup>26</sup> In Belarus, there is no opportunity for the candidate to challenge his/her examination results.

No inequality in access to the profession or to training based on gender has been observed in the project's countries. The general issues of gender equality, that exist in all countries, are addressed prominently only by the Ukrainian National Bar Association (UNBA). UNBA's committee on questions of gender politics aims to promote female leadership in the legal profession and gender equality in all spheres of life, to increase sensitivity to gender issues, to participate in the legislation legal reforms of Ukraine establishing gender equality, etc. The committee of UNBA is quite active, it conducts motivational meetings, round tables, podium

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<sup>23</sup> No data for Belarus available.

<sup>24</sup> See respective section of the review below.

<sup>25</sup> See chapter "European Standards" below.

<sup>26</sup> see Principle I.2. of the Recommendation.

discussions on the question of gender equality and cooperates with Ukrainian NGOs on this issue.

Also, the UNBA is the organisation that has a most systemic and active approach to the problems that young professionals face. UNBA's committee "UNBA NextGen" is dedicated to working with young lawyers and conducts many programmes, conferences, seminars, etc. Even though the Armenian, the Belarussian and the Moldovan Bars have committee for young lawyers, they do not seem to be very active. The "Georgian Young Lawyers Association" does not deal with the issues of young lawyers, but with the provision of access to justice for vulnerable groups. There is also Georgian Bar Association's Young Advocates committee which was established two years ago.

Lawyers from all project countries are under the obligation for continuous professional education, that is an important obligation of a lawyer to uphold and extend his/her knowledge. The bars in Armenia, the Republic of Moldova, Georgia and Ukraine provide and constantly improve this area of service to their members.<sup>27</sup> However, some bars face administrative difficulties to check the fulfilment of this obligation by the thousands of their members. The digital solution for the management of the continuous education process created by the Ukrainian National Bar Association might become an example for other bars. The bars in Armenia and Georgia also implemented digital solutions in this area.

In Armenia, the Republic of Moldova, Georgia and Ukraine, the national and the regional bars are providing continuous professional training to lawyers. In Armenia, Georgia and Ukraine, also external (non-related to the bar) providers of continuous training operate on the market. In Belarus, the continuous professional training is in the hand of one institution, the Institute of Advanced Studies at the Belarus State University. In the Republic of Moldova, the training is provided by the Lawyers Training Centre of the Moldovan Union of Lawyers only. The opening of the market to more external providers in order to improve the quality and accessibility of continuous training through more competition is advisable. In the European countries, the markets of continuous education are open to external providers. In the project countries, where accreditation of such providers exists, the accreditation process should be transparent, and the fees should be reasonable.

It is a general practice in the European countries to accept several activities, such as participation in training courses, self-study, teaching, publishing of professional articles, etc. towards the obligation of continuous professional training. In Belarus, only the participation in the training courses is allowed. In Armenia, the participation in the training courses, teaching, participation in session of the Club of the Chamber of Advocates, participation in conferences, etc., and the provision of free legal aid, are accepted. In Georgia, Ukraine and the Republic of Moldova, a wide variety of activities are accepted under the obligation of continuous training, such as training or teaching in professional advanced training programmes for lawyers at higher education institutions; participation in conferences, workshops, round tables, etc.; writing scientific or scholarly articles, etc. It is recommended for the bars in Armenia and Belarus to introduce more varieties for continuous education to accommodate different needs and styles of learning of their members.

The bars in Armenia and Georgia face the challenge that their members are used to continuous training free of charge that was provided during the times of the Soviet Union. Free of charge means that the bars must pay for the courses out of their members contributions (fees). In

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<sup>27</sup> For Belarus no data available.

addition to this, the membership fee in Georgia has not been increased, which means that the bar is forced to provide the same quality of services with the costs raising every year. The introduction of paid courses is inevitable in these circumstances. Also, a free market of training providers is crucial to ensure the high quality of training. In Armenia, there is only one entity, the School of Advocates, that provides continuous training for lawyers.

In general, for the bars to fulfil their tasks, among others to conduct trainings and bar exams as well as continuous training, a strong financial basis is the key. The interference of the state into the financial stability of the self-regulation, by restriction of the membership fee (this is the case in Ukraine), is weakening the self-regulation and is unacceptable. In Georgia and other countries, where the self-regulation is a relatively new concept, the lawyers need to develop an understanding, that the provision of the strong financial basis to their bars is in the interest of the profession.

## COUNTRY DESCRIPTIONS

### ARMENIA

#### Access to legal profession

The access to the profession is regulated by the Law of the Republic of Armenia on the profession of Advocate (“Law on Lawyers of Armenia”) and by the Charter of the Chamber of Advocates of the Republic of Armenia (“Chamber of Advocates”). It is supplemented by the "Procedure of training of lawyers" and the "Procedure of accreditation and continuous education of the training conducting institutions". Both Act procedures were passed by the Chamber of Advocates, a body of the self-regulation of the legal profession in Armenia.

The admission of the profession is conducted by the Chamber of Advocates of Armenia. The Law on Lawyers of Armenia provides that the Chamber of Advocates is a professional association of advocates which, as institution of civil society, shall not be a part of the national government or local self-government bodies<sup>28</sup>. The membership in the Chamber of Advocates is compulsory for all lawyers. The chamber has nine regional coordinators who coordinate regionally Chamber activities.

The Charter and the Code of Ethics are adopted by the General Assembly of the Chamber of advocates<sup>29</sup>. The general assembly of the Chamber of Advocates consists of all its members. The Chamber of Advocates is empowered to organize the licensing of the advocates and the professional education and training of advocates<sup>30</sup>. The Board of Chamber of Advocates as its executive body selects the Qualification Commission. The Board of the Chamber of Advocates decides on issuing advocates licences in accordance with the provisions prescribed by Article 29 of Law on Advocates. The Board of the Chamber of Advocates determines the amount and the order of payment membership fees, admission fees for candidates and other payments, as well as the amount of payments for training<sup>31</sup>. Moreover, more specifically the of entrance fees, attorneys' fees, and benefits are defened by the Order on membership, entry and other payments.

At the moment, there is no draft legislation pending that might change the framework of the access to the legal profession and education of advocates or trainee advocates in Armenia. However, according to the information obtained from the Ministry of Justice, it is preparing the reform of trainee-lawyers education. The Ministry provided no specifics as to this issue.

According to Law on Advocates, to become an advocate in Armenia one needs to:

- have at least a Bachelor degree (BA) in Law;
- be fully legally capable;
- not been convicted for an intentional crime or the conviction shall be expired or deleted from the crime register;

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<sup>28</sup> Art. 7 of the Law on Lawyers of Armenia.

<sup>29</sup> Art 9 of the Law on Lawyers of Armenia.

<sup>30</sup> Art. 7 of the Law on Lawyers of Armenia.

<sup>31</sup> Art. 10 of the Law on Lawyers of Armenia.

- receive a certificate from the Qualification Commission about successful graduation from the School of advocates; and
- Apply to the Chamber of Advocates requesting to get the membership.

### Preparatory training

The preparatory training for the future advocates is taking part at the School of advocacy. The status of the accredited institution for education is recognised to the School of advocacy in accordance with the Law of the Republic of Armenia on the profession of advocate<sup>32</sup> and the Order of accreditation of training conducting institutions. The School of Advocacy conducts the professional training of the trainees, the qualification examination and the continuous training of advocates and performs other activities provided by the Regulations of the School of Advocacy.

The School of Advocacy is a non-profit organization having the status of a foundation. The School of Advocacy is financially independent and finances itself only from payments for education of trainees and for continuous education for licenced advocates. However, the continuous education for advocates is paid by the Chamber of Advocates from the annual members contributions or directly from the advocates (as part of the disciplinary sanction in accordance with the Lawyers training procedure).

The Governing Board of the School of Advocacy is formed by the Chairman and the Board of the Chamber of Advocates, in compliance with the Regulations of the School of Advocacy having at least four appointed members and one representative from the Ministry of Justice of the Republic of Armenia. By virtue of his office the Chairman of the Governing Board of the School of Advocacy is the Chairman of the Board of the Chamber of Advocates. The Governing Board of the School of Advocacy approves the amount of tuition fee, by-laws and staff lists of the School of Advocacy and approves advocates' and trainees' curricula in compliance with the guidelines approved by the Board of the Chamber of Advocates<sup>33</sup>. The School of Advocates has its Charter, which stipulates a possibility of disciplinary proceedings against the candidates studying at the School of Advocates.

The candidate to become an advocate needs firstly to pass the professional training at the School of Advocacy<sup>34</sup>. A person acquires the status of the trainee of the School of Advocacy upon the moment he/she is admitted to the School of Advocacy pursuant to the procedure established by the Regulations of the School of Advocacy.

A trainee of the School of Advocacy can be<sup>35</sup>:

- a natural person who is capable of working
- who has legal education with a bachelor's degree or with a diploma
- not convicted for a crime committed intentionally and the sentence has not been served yet.

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<sup>32</sup> Art. 45.1 of the Law on Lawyers of Armenia.

<sup>33</sup> Art. 45.4. of the Law on Lawyers of Armenia.

<sup>34</sup> Art. 45.2. of the Law on Lawyers of Armenia.

<sup>35</sup> Art 45.6 of the Law on Lawyers of Armenia

The admittance to the school is subject to the entrance exam that consists of written and oral part. The written part consists of 150 questions that need to be solved in 3 hours' time. The written part of the exam is passed if the candidate correctly answers at least 120 questions. The candidate can prepare him/herself by studying the 2,400 exam questions that are available publicly. The written part of exam is performed through the online platform, where a computer programmeme randomly selects 150 questions out of overall 2,400. The candidate finishes the test by pressing the button, and the result is shown to him on screen and result saved under his application number. On average term 130 to 140 questions out of 150 are answered by candidates. The entrance exam was implemented and developed together with the American Bar Association<sup>36</sup>. Only the candidates who successfully pass the written part of the entrance exam are admitted to the oral part.

The oral part is three tier. Firstly, candidate presents himself as to his/her professional path and future plans in legal profession. Secondly, there are questions related to the theory of law, and containing simple questions related to law, norms of law, court precedent, sources of law, etc. The questionnaire is published in advance and is available to the candidate. Third part are questions related to professional issue, civil law or criminal law such as a civil contract, trade, donation, loan, or criminal matters such as recidivism, murder, fraud, etc.

According to the information received during the interviews, due to the transparency there are no grounded appeals. The whole examination process is video recorded, any disagreement can be appealed by the candidate to the Board of the School. If an appeal is lodged the Governing Board of the School of Advocacy has a competence over it<sup>37</sup>. The Board of School has the right to change the decision of the commission by watching the video of the candidate's answer. The candidate who wants to be admitted to the School of Advocates is the direct participant in the whole appeal process.

The entrance exam is performed twice per year. The price of the entrance exam is approximately 75 Euros (39,000.00 Armenian Drams)

The oral part of the exam was introduced in 2019 when the School of advocates found out that too many candidates pass the written part since it was easy to learn the answers to 2,400 questions by heart but have no legal logic, what lowered the quality of legal service at the end of the process. In average, out all candidates who take the entrance exam only 1/3 pass it and get admitted to the School of Advocacy.

Education of a trainee in the School of Advocacy is conducted according to the procedure and timeframe established by the Regulations of the School of Advocacy. The education shall be conducted in two stages. The first part is a theoretical education which consist of many courses from the civil and criminal field. The second part is the practical training (probation) that is usually performed under the supervision of a mentor. The duration of education takes between 6 to 12 months.

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<sup>36</sup> This information was provided during the interview with the stakeholders in RA

<sup>37</sup> Art 45.4. of the Law on Lawyers of Armenia.

The education of a candidate having at least five years of professional legal experience (usually former judges, prosecutors, state officials, etc.) is conducted according to the simplified procedure provided by the Regulations of the School of Advocacy.

The trainees are educated in the field of civil and criminal law. There are online and in person classes. The total numbers of educational hours which a candidate normally need to pass is 300. The subject of deontology (18 hours) and peculiarities of Law Firm Management (12 hours) are included as well in the curriculum. A lot of attention is paid to professional ethics, on which the candidates take an exam both during the study and during the qualification exam for practicing law.<sup>38</sup> After the completion of every subject or course there is an exam.

Probation of trainees can be conducted both at an advocate and in other institutions set by the Governing Board of the School of Advocacy, most often under the supervision of the senior advocate-mentor and at the law clinics. The volume of probationary programme consists of 280 academic hours, which includes skills in compiling almost all possible documents. Free legal aid in the legal clinic and the practical skills training (simulation trials, professional skills training) are organised directly by the school. The procedure for administering probation is established by the Regulations of the School of Advocacy<sup>39</sup>. The purpose of the probation is to give trainees the practical training (such as psychological training or public speaking, etc.) to the candidates. During the probationary period, the candidates submit reports at a set frequency, and the internship coordinator can check anyone at any time. In addition, at the end of the internship, the candidates present what has been done with the whole programme in paper form, defending it in the presence of the committee. The presentation of the results of the probationary period is video recorded.

The price of education is approximately 1,110 Euros (600,000 Armenian Drams) and the fee for the exam is about 70 Euro<sup>40</sup>. The candidates in weak financial situation or disabled people are entitled to discounts. During the interviews with stakeholders, there were several remarks that the training programme for trainees at the School of advocacy could be more orientated on the legal issues important for the legal profession. The future lawyers need to obtain more substantive knowledge concerning practical aspect of the advocacy work and deontology. However, it was explained by the representatives of the School that all subjects are of practical significance in the whole structure, such as how to file a lawsuit, how to file a complaint to the Constitutional Court, etc. Moreover, the students at the school spend about 6 months practicing in law offices, participate in school-organised simulation trials conducted by current judges, the whole process is videotaped, analysed by a psychologist. A special course on lawyer's rhetoric is organized in terms of overcoming psychological vulnerabilities. The courses are focused on developing practical skills.

Trainees, who have finished the School of Advocacy, are be given a certificate by the Director of the School of Advocacy that allows a trainee to take part in the qualification examination<sup>41</sup> which is performed by the Qualification Commission of the Chamber of Advocates in the manner of organising and summarising the results of qualification examinations<sup>42</sup>.

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<sup>38</sup> This information was exposed during additional comments of the stakeholder after the presentation of the draft to the stakeholders.

<sup>39</sup> Art 45.9. of the Law on Lawyers of Armenia.

<sup>40</sup> <https://advocates.am/en> does not provide this data.

<sup>41</sup> Art. 45.10 of the Law on Lawyers of Armenia.

<sup>42</sup> Art. 12.1 of the Law on Lawyers of Armenia.



## Bar exam

After successfully passing the School of Advocacy and obtaining the certificate the person is entitled to apply for a bar exam and admission to the Chamber of Advocates.

The qualification examination is a unified examination for receiving an advocate's licence. The Qualification Commission conducts the qualification examination. The Board of the Chamber of Advocates determines the rules for the qualification examination.

The Qualification Commission is composed by eight members. The Chairman of the Chamber of Advocates is also the Chairman of the Qualification Commission by virtue of his office, and four members are elected by the general assembly. Other members are: one representative from the Ministry of Justice of the Republic of Armenia (nominated by the Minister of Justice), one law academic from the Academy of Sciences and one judge from the Court of Cassation of the Republic of Armenia. The authorities of the Chamber of Advocates, the procedure for holding sessions and issues not regulated by Charter and with the procedure on the organisation of qualification examinations by the Board of the Chamber of Advocates.<sup>43</sup> The Board of the Chamber of Advocates determines the rules for administering and taking the examination<sup>44</sup>.

The qualification exam consists of a written and an oral part and is free of charge for the candidate. The written part lasts 6 hours. The candidates are asked to draft either a court decisions or other legal document, action, or appeal. The candidate is allowed to use law texts. The exam is anonymized. The oral part is divided on two parts, first part is the question from the field of professional ethics and the second part consist of question from the candidate's specialisation. The oral part of the exam is video recorded for guaranteeing the objectivity. There are no curricula of the type of the questions neither the answer keys as to this regard.

The entrance exam takes place every 6 months. A trainee who has not taken part in the examination or has not passed it, needs to take a special course in the School of Advocacy in order to take the qualification examination again, except when he/she had excused reasons. A trainee who has failed the qualification examination the second time can take part in the qualification examination again after studying at the School of Advocacy anew on general basis. The results of the Qualification Examination can be appealed to the Board of the Chamber of Advocates or to court in one month upon the moment the results of the examination are made public.<sup>45</sup>

## Bar membership

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<sup>43</sup> Art. 12 of the Law on Lawyers of Armenia and Point 18.1 to 18.6. of Charter of Chamber of Advocates.

<sup>44</sup> Art. 45.11 of the Law on Lawyers of Armenia.

<sup>45</sup> Art. 45.11 of the Law on Lawyers of Armenia.

After successfully finishing the School of Advocacy and having passed the entrance exam before the Qualification Committee the candidate is entered into the registry of advocates at the Chamber of Advocates.

To receive an advocate license, a candidate has to submit to the Chamber of Advocates an application requesting to get a membership of the Chamber of Advocates. An application needs to be attached with a copy of the certificate issued by the Qualification Commission. The certificate issued by the Qualification Commission is valid from the day it was issued until the advocated lost his/her license by his/her fault. The application of the applicant shall be examined and decided on by the Board of the Chamber of Advocates in one month. If the application is granted an advocate receives, in five days, an authorization (certificate) endorsed with the seal of the Chamber of Advocates and the signature of the Chairperson. The licence is issued without any time and age limitation. After obtaining an authorization to practice the profession of advocate, an advocate shall take an oath in front of the Board of the Chamber of Advocates during a solemn ceremony. The oath shall be taken individually where each advocate reads the text of the oath. Advocates shall sign the text of the oath, as well. All licenced advocated are listed on the special list of advocates which is published at the Chamber of Advocates home page [www.advocates.am](http://www.advocates.am).

A person is not eligible to become an advocate if he/she<sup>46</sup>:

- has been declared by court judgment as having no or limited legal capacity;
- has been convicted of intentional criminal offence, and the conviction has not expired or been cancelled;
- has lost the licence due to the heaviest disciplinary sanction imposed on advocate in disciplinary proceeding and other reasons which prevents advocate from practising.

An advocate whose membership/licence was terminated due to the disciplinary sanction has the right to re-apply to receive an advocate's license on general principles after the certain time has elapsed. This period can be interrupted if the person commits a new disciplinary violation before the mentioned period expires. In such a case the calculation of the statute of limitations shall begin from the day the new disciplinary violation is committed<sup>47</sup>.

Currently, the admission fee is approximately 100 Euros (54,191.50 Armenian Drams), monthly membership fee is approximately 8.2 Euros (4,433.85 Armenian Drams). The last increase of the fees was in 2012. The lawyers over 70 years are exempted from paying monthly fees. The women advocates are exempted from paying monthly fees the first year after the birth of a child and their fee is reduced to 1/3 for next three years additionally.

### Gender issues/young lawyers

The profession of advocate is quite popular in Republic of Armenia. The women and young lawyers are very attracted by the profession. According to the interviewees about 70 % of all law students would like to become an advocate. After the retirement from the office also judges and prosecutors are keen to becoming advocates.

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<sup>46</sup> Art. 33 of the Law on Lawyers of Armenia.

<sup>47</sup> Art. 39.9. of the Law on Lawyers of Armenia.

The Chamber of Advocates established a committee that is dedicated to working with young lawyers. The gender structure of Armenia's legal profession is quite balanced: approximately 43 % of lawyers are female and approximately 57 % are male the Board of the Chamber of Advocates 5 out of 12 members are women, and in the top management 8 out of 12 staff are women. The percentage of female partners in law firms is low. Female lawyers in Armenia face difficulties to reconcile family and carrier since they are expected to work the same hours and do the same amount of work as their male colleagues and – at the same time – bear the main responsibility for children and family.

As to this regard and to enable the female population to have a balanced family life, there are certain bonuses for a female advocate population concerning the continuous education and disciplinary proceeding. The chamber of Advocates does not institute the disciplinary proceeding against the female from thirty weeks of pregnancy to childbirth and additional three years if they submit a relevant medical document. Female with at least three minor children (up to one of the children) becoming an adult are exempted from the continuous education if they present child's birth certificate<sup>48</sup>. There were no issues related to the gender-based discrimination during the procedures of the access to the profession observed.

#### Work of foreign advocates/lawyers

Foreign advocates can practice in the Republic of Armenia pursuant to Law on Advocates and to the Charter of the Chamber of Advocates, unless otherwise prescribed by international agreements of the Republic of Armenia. A foreign advocate can practice in the Republic of Armenia based on the license issued by the relevant institution of his/her home country and after accreditation by the Chamber of Advocates in the procedure provided by the Charter of the Chamber of Advocates. Foreign advocates do not become members of the Chamber of advocates. <sup>49</sup> The order for granting and terminating accreditation is issued by the Board of the Chamber of Advocates. The Board of the Chamber can terminate the effectiveness of accreditation if the foreign advocate violates the requirements of the Law on Advocates, the Charter of the Chamber of Advocates or the Code of Conduct. Fees for accreditation determined by the Board of the Chamber of Advocates are charged to the foreign advocate.

In order to be admitted in the Republic of Armenia a foreign professional may be accredited for one year or only for a certain case, in accordance with the procedure approved by the Board of the Chamber and by the Charter of the Chamber. The accreditation is granted with full rights (apart from the right to provide legal counselling on matters related to state secrets or official classified information of the Republic of Armenia) or the ability to act in cooperation (joint action) with an Armenian advocate.

The issue of granting advocate's accreditation to a foreign professional applying for it to the Chamber of Advocates first time shall be decided by the Board of the Chamber, in 30 days after receiving such application. The issue of granting accreditation to a foreign professional applying for it the second or more times shall be decided by the Chairman of the Chamber, in 15 days after receiving such application.

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<sup>48</sup> Point 41. of the Lawyers training procedure

<sup>49</sup> Provision 20.9. of the Charter of the Chamber of Advocates

Accreditation for joint action with an Armenian advocate is granted through a simplified procedure defined by the Board (without the interview or examination on knowledge of the RA legislation), based on application from a foreign professional, written agreement of the Armenian lawyer and other documents required by the Board of the Chamber. In order to grant accreditation with full rights to a foreign professional, the Board of the Chamber assesses the knowledge of the legislation of the Republic of Armenia, in a defined procedure (interview, test or another way). A foreign advocate with no knowledge of Armenian language can participate in the session of the Board of the Chamber with an interpreter hired by his own means.

## **Training of lawyers**

Law on Advocates provides<sup>50</sup> that an advocate can get training at the School of Advocacy or in other institutions accredited by the Board of the Chamber of Advocates. An advocate must get training courses in the procedure and timeline set by the Board of the Chamber of Advocates, which cannot be less than forty-eight hours in two years. Failure on the part of advocates to attend pre-trial and (or) trial proceedings during training shall be considered as an excused reason if the advocate has notified the respective body about it. More precisely the training of advocates with the purpose to increase the knowledge, skills and professional training of lawyers is regulated with the Lawyers training procedure.

The Code of Conduct of Advocates provides that an advocate shall continuously improve his/her knowledge and professional abilities and follow the legislative amendments. Moreover, the advocate shall take part in training courses provided by the Law in the procedure and timeframe approved by the Chamber Council<sup>51</sup>. The list of general topics of the training courses is approved in advance by the decision of the President of the Chamber of Advocates for each semester. The schedule of training courses for each month (which includes the topic of the course, the name of the trainer, the month, date, time of starting the course other necessary information) is published in advance on the website of the Chamber of Advocates.

Lawyers are trained in the Chamber of Advocates of the Republic of Armenia, in the "Law School of the Republic of Armenia", as well as in other institutions accredited by the Board of the Chamber of Advocates of the Republic of Armenia.

The seminar and courses offered to advocates are free of charge and the cost of continuous education is borne by the Chamber. The programme of continuous education (curriculum) is prepared by the School of Advocacy. The Chamber of Advocates organises free training courses for advocates for the minimum number of hours which is 12 academic hours. For each semester (six months), a lawyer must complete a minimum of 12 (twelve) academic hours. Out of this amount of hours every advocate should be trained for at least 4 (four) hours during one calendar year (January- After completing 12 (twelve) hours of training for the reporting semester, the advocate may participate in the training if there is a vacancy in the group, but the attendance time for that lawyer is not calculated and is not moved to the next semester, except from the first half of the year (January-June) the hours exceeding the minimum time can be moved to the next half (July-December) and deontology hours exceeding 4 (four) hours

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<sup>50</sup> Art 45.12. of the Law on Lawyers of Armenia.

<sup>51</sup> Rule 2.8 of the Ethics Code.

during the calendar year may be moved to the next calendar year for the purpose of calculating deontology courses only.

The advocate pays approximately 1.8 Euros (1,000 Armenian Drams) for one academic hour for participating in additional training courses for a lawyer as a disciplinary sanction, as well as for participating in training courses at the Chamber of Advocates after the suspension of the suspended license.

Training courses are conducted by physical presence, distance, or online forms. Existing "distance" trainings can be combined. The school of lawyers offers nowadays the course also via online platforms such as Zoom, Blue button and others, if possible, also in physical form. The training of distance lawyers is conducted using information technology or telecommunications between the "trainer" with their direct participation.

The online training of advocates is conducted by watching the pre-videtaped material in the prescribed manner. The training courses are published on the website of the Chamber of Advocates in advance. Advocates need to register electronically or otherwise identify the registrant to participate in the training. The list of general topics of the training courses is approved in advance by the decision of the President of the Chamber of Advocates for each semester. Every advocate should be trained for at least 4 (four) hours during one calendar year (January-December) on a common topic of advocacy ethics (principles of advocacy ethics (deontology)).

Within the framework of the free legal aid (pro bono) programme organized by the Chamber of Advocates, the free consultation provided by an advocate to one citizen is equated to participation in a two-hour training course. In case of providing other legal assistance (representation, judicial representation, defence, representation of a witness) within the framework of the programme, the equalized time shall be determined by the Chief of Staff of the Chamber of Advocates based on the lawyer's application. The hours of participation of advocates in training abroad or other training courses (seminars) may be calculated by the President of the Chamber of Advocates in the Minimum Time of Advocate, and in case of additional payment receipt, also in additional training time.

The hours of participation of advocates in the sessions of the Board of the Chamber of Advocates are proportionally calculated as training hours included in the Minimum Time Calculation (as a rule, 1 (one) club session - 4 (four) hours. Additional hours of educations could be obtained accredited also for lecturers in the field of law at a state or accredited non-state higher education institution, as well as of persons (lecturers) teaching at the Academy of Justice or to the authors of the publication of a professional scientific work or manual or textbook, as well as participation in the conference based on the decision of the President of the Chamber of Advocates.

The speakers and panellist are accredited by the School of Advocacy and are mostly judges, prosecutors and prominent lawyers who are also speakers at other events organised by other state and private institutions. Criteria for selecting trainers and the procedure for selecting trainers, as well as the training programme plan, shall be approved by the President of the Chamber of Advocates. According to the clarifications of the representatives of the school the

speakers are specialists, who have practical experience, scientific degree. As for the selection mechanism, both the competition system and the individual appointment system are in place. For each six months semester, an advocate must complete a minimum of 12 academic hours of courses, in one calendar year an advocate needs to complete 24 academic hours of courses out of this number of hours at least 4 hours on common topic of advocacy ethics. Not fulfilling the requested number of hours of education (48 in two calendar years<sup>52</sup>) is a reason for a disciplinary sanction. If there are no grounded reasons for not fulfilling the obligation, the Board of Chamber could impose a sanction<sup>53</sup>. The sanction could be also participation in additional training courses. The number of hours for participating in additional training courses shall be determined by the Board of the Chamber. The cost for these courses is borne by the advocate him/herself. Participation in additional training courses can also be applied as a supplementary measure of penalty along with applying the penalties provided by the law.

The training procedure also includes a list of activities that are accepted under the obligation of continuous training, such as professional scientific work, participation in conferences, etc., based on the decision of the President of the Chamber.

The respondents of the fact-finding interviews voiced their wish for the accreditation of the speakers to be more transparent to leave no room for possible favouritism. Furthermore, the respondents wished for curricula of continuous education courses to be more oriented on the needs of advocates and for more providers of the courses, such as, for example, professional associations of advocates.

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<sup>52</sup> Art 45.12. of the Law on Lawyers of Armenia.

<sup>53</sup> Art. 39.9 of the Law on Lawyers of Armenia.

## Recommendations

1. The oral part of the Bar exam shall be more objective, or at least the answer keys at the oral part shall exist for every question concerning the substance of law subjects beforehand and ambiguity shall be avoided.
2. The training at the School of Advocates shall be the same for all trainees regardless of the previous practical experience as regard the specific topics concerning legal profession, since all of them shall have the lawyers' skillset and the understanding of the core values of the legal profession. There can be some exceptions for members of other judicial professions entering the profession of advocate with the previous experience such as legal correspondence and literacy, civil or criminal procedure, material codes or marital relations modules but members of other judicial professions (judges, prosecutors) need to get an understanding of the professional laws for lawyers and professional code of conduct and other topics such as:
  - understanding of the function and the role of the legal profession;
  - understanding of professional and ethical rules, including the meaning of terms like independence, professional secrecy, client confidentiality, legal professional privilege and representation of interests;
  - understanding of the rights and duties arising from the collegiate nature of the legal profession, especially those derived from relationships with colleagues, clients, opposing parties' courts and other public bodies;
  - understanding of the rights and duties arising out of the giving of advice;
  - understanding of rights and duties in the mission of assistance and representation before courts;
  - understanding of standards applicable to lawyers' fees;
  - understanding of standards applicable to handling clients' funds;
  - understanding of rules relating to communication and publicity.

And at least the substantive knowledge concerning the professional status:

  - understanding of the organisation of and the services provided by the Chamber;
  - understanding of the disciplinary and sanctioning regime;
  - understanding of professional liability and of professional indemnity insurance;
  - understanding of the various legal forms which a legal practice may take;
  - understanding of the status of colleagues and partners.
3. The following activities should be accepted under the obligation of continuous training as well:
  - E-learning;
  - Teaching.

## BELARUS

### Access to legal profession

The access to the profession in Belarus is regulated by the “Law of the Republic Belarus on the Bar and Advocacy Activity in the Republic of Belarus” as amended of 27.05.2021 (“Law on the Bar and Advocacy”). The Law addresses the most essential aspects of the legal profession including the access to legal profession, training of lawyers, the organisation of the profession, the professional liability of advocates and the self-governance of the bar. The legal framework includes also legal acts of the Republican Bar - the methodical recommendations and guidelines.

Following the new law of Belarus "On amending the legislation regulating the activities of advocates" (as of 27 May 2021) the following changes will be introduced in the field of advocacy:

As regards the organisation of the advocacy concerning the access to legal profession and training:

- the only form of advocacy in Belarus will be activities within Legal Consultations;
- the Legal Consultations will be created in agreement with the Ministry of Justice;
- the previously existing forms of advocacy as individual advocacy and within Advocates Bureaus will be terminated.

As to the Bar organisation:

- disciplinary proceedings will be conducted by the council of the bar (republican/territorial) and not by the disciplinary commission, which will be abolished;
- a number of powers of the general meeting of territorial bars will be transferred to the council (e.g., approval of the size of fixed contributions of lawyers).

As regards the powers of the Ministry of Justice, in addition to a number of existing excessive powers of the Ministry of Justice in the field of advocacy (e.g., development of the Rules of Advocates' Ethics, approval/termination of powers of the Chairmen of the Republican Bar) the powers of the Ministry will be further expanded. In particular:

- approval of the candidacies of members of the councils of the bars,
- participation of the officials of the Ministry in the activities of lawyers' self-governing bodies, requesting/ receiving from the bar associations, Legal Consultations, and lawyers' information and documents necessary for the exercise of the powers provided for by the Law on the Bar (subject to the observance of the lawyer's secrecy).

An advocate in Belarus may be a natural person:

- who is a citizen of Belarus,
- has a higher legal education,
- who has accomplished an internship,
- who has passed the qualification exam,
- received special permission (license) to carry out advocacy activity (license),
- who is a member of the territorial bar association.

An access to the profession can be denied if the candidate:



- is recognised in accordance with the established procedure as incapable or partially incapable;
- was previously committed an intentional crime;
- was expelled from the bar association, as well as dismissed from law enforcement and other authorities and organisations due to defamatory circumstances, within three years from the date of adoption of the relevant decisions on dismissal;
- had applied for a license within one year from the date of entry into force in respect of this person or in respect of this person in the status of individual entrepreneur (or in respect of legal entity where this person acted as founder or leader), decisions to terminate or revoke a special permit (licenses) for the practice of advocacy activity, the provision of legal services in cases established by legal acts, except for termination of the relevant special permit (license) on the sole initiative of the licensee;
- from the date of filing an application for admission to the qualification exam until the day the license was provided, he/she occupied positions which are credited as qualifying periods for the civil service.

## Internship

A candidate to become an advocate needs to go through obligatory internship and must pass the qualification exam.

Following the new Law of "On amending the legislation regulating the activities of advocates" applicants who have previously worked (served) in courts, prosecutor's offices, at the Ministry of Justice and its subdivisions or organisational parts, law enforcement agencies, and structural subdivisions (secretariats) of such bodies, heads of relevant republican bodies, undergo internships only up to three months and pass the qualifying exam only in oral form. The internship is carried out with an advocate of a legal consultation only, per reference of the territorial bar association from three months to one year. For the candidates with a previous work experience the internship lasts from three to six months and for the rest from six months to one year<sup>54</sup>. The length of the internship and the calculation of the previous working experience is calculated and decided by the Council of Ministers of Belarus or body authorized by the Council.

The decision on accepting the applicant as an intern is made by the council of territorial bar association based on perspective intern's application and applications from the entity offering the internship or per reference of the Belarusian Republican Bar Association. The Ministry of Justice of Belarus, to ensure the availability of legal assistance in the territory of an administrative division, has the right to submit to the corresponding territorial bar association the notion on the number of interns who are to be sent for internship in legal consultations with the conclusion of the contracts.

The intern could not be accepted as an intern for the same limitations as one prevents a person being an advocate. At the end of the internship, the advocate, under whose guidance the intern accomplished the internship, draws up a report on the readiness of the advocate

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<sup>54</sup>Article 6 of the Law "On amending the legislation regulating the activities of advocates" amending Article 9

intern to carry out advocacy activity, and the intern's report on the results of the internship in accordance with the requirements established by the Ministry of Justice of Belarus.

Advocate intern is hired on the terms of a part -term employment contract concluded with the territorial bar association in the case of referral for an internship in a legal consultation. An employment contract concluded with the territorial bar association may stipulate a condition obliging an advocate intern after completing an internship and, subject to obtaining a license, to work for two years in the legal consultation specified in this agreement. An advocate intern shall accomplish an internship under the supervision of an advocate who has at least five years of experience as an advocate, the intern performs the duties of assistant advocate and other duties stipulated by the employment contract.

An advocate has the right to have only one intern at a time. If the advocate intern who received a positive opinion of the advocate, under whose guidance he completed the internship, does not pass the qualification exam, such an advocate, by decision of the council of the territorial bar association, may be removed from the supervision of the interns for up to two years. The internship procedure is established by the Ministry of Justice of Belarus.

At the end of the internship, the advocate, under whose guidance the intern accomplished the internship, draws up a report on the readiness of the advocate intern to carry out advocacy activity, and the intern's report on the results of the internship in accordance with the requirements established by the Ministry of Justice of Belarus.

For admission to the qualification exam, the applicant applies to the Qualification Commission for Advocacy Activity in Belarus, established under the Ministry of Justice of Belarus (hereinafter - the Qualification Commission). The application for exam is attached with the following documents:

- copy of a law degree;
- copies of documents confirming the relevant work experience for at least three years;
- conclusion on the readiness of the advocate intern to carry out advocacy activity and a report;
- on the results of the internship;
- autobiography.

#### Qualification exam – Bar exam

After applying, within a month the Qualification Commission checks the applicant for compliance with the requirements established by the Law on Advocates. Reasoned decision on admission or on refusal to admit the applicant to the qualification exam is made based on the results of the examination. The decision of the Qualification Commission on the refusal to admit the applicant to the qualification exam may be appealed to the court within a month from the date of the adoption of the decision.

The procedure and programme of the qualification exam is determined by the Ministry of Justice of Belarus. The qualification exam is conducted in constitutional, criminal, civil, housing, family, labour and administrative law, criminal, civil, economic, and administrative processes, legal acts on the activities of the Bar and the Rules of Professional Ethics of an Advocate within a month from the date of the decision on applicant's admission to the

qualification exam. A qualification exam consists of verifying the knowledge of applicants in written and oral forms.

Based on the results of the qualification exam, the Qualification Commission decides on the compliance or non-compliance of the applicant with license requirements and conditions. An applicant, in respect of whom a decision has been made on non-compliance with licensing requirements and conditions, can pass the next qualification exam no earlier than six months later.

The role of the Qualification Commission is as follows:

- to check applicants for compliance with the requirements,
- to make a reasoned decision on admission or refusal to admit an applicant for the qualification exam,
- to take a qualification exam with applicants,
- to consider applications and (or) other documents on granting licences, making amendments and (or) additions to it, suspending, renewing, terminating a license, and revoking it,
- to evaluate the capabilities of license applicants (licensees) of license requirements and conditions,
- conducts regular and extraordinary attestations of the lawyer or orders conducting the next attestation of a lawyer by the territorial bar association<sup>55</sup>,
- to decide to include or refuse to include an advocate of a foreign state in the Register of Advocates,
- to consider other issues of advocacy activity.

The Qualification Commission<sup>56</sup> consist of the Chairman of the Belarusian Republican Bar Association, one representative from each territorial bar association; per one representative from the Supreme Court of Belarus, the General Prosecutor's Office, and other state authorities; five representatives from the Ministry of Justice; two representatives from scientific organisations. The head of the Qualification Commission is the Deputy Minister of Justice.

Decisions of the Qualification Commission are made by an open majority of votes of the members of this commission. In the event of the equality of votes of the members of the Qualification Commission when making decisions, its chairman shall have a casting vote. The Regulation on the Qualification Commission and its composition shall be approved by the Ministry of Justice of Belarus.

The candidate for the exam, has no opportunity to challenge the constitution of the Qualification commission at his exam. There are no rules as to this regard.

## Bar membership

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<sup>55</sup> Article 10 of the Law "On amending the legislation regulating the activities of advocates" amending Article 14 para 6

<sup>56</sup> Clause 14 of the Law on the Bar and Advocacy.

Advocates are entitled to carry out advocacy activities only after obtaining a license.<sup>57</sup> Lawyers can practice as members of the territorial bar association, which is obliged to accept an advocate. To be admitted to the membership of the territorial bar association, the person who received the license shall submit a written application (indicating the intended place of work) to the appropriate territorial bar association, which shall decide at a meeting of the council of the territorial bar association no later than one month from the date of application. The document confirming the legal status of an advocate and his membership in the corresponding territorial bar association is the advocate's certificate. The form and procedure for issuing an advocate's certificate is determined by the Ministry of Justice of Belarus.

Following the new Law on Lawyers<sup>58</sup>, lawyers are obliged to pass the attestation (certification) the order of which is carried out and determined by the Ministry of Justice. Pregnant women are exempted from passing the certification. Lawyers whose legal activity at the time of certification is suspended in accordance with the established procedure, shall be certified not earlier than in six months after the resuming of advocacy. Lawyers who do not practice advocate activities for valid reasons (temporary incapacity for work) and others, can pass the attestation after the disappearance of the reasons which were the basis for temporary discontinuation of advocacy activities, of which they notify the territorial board of lawyers.

Membership in a territorial bar association is obligatory. The Republican Bar Association is a non-profit organisation based on mandatory membership of territorial bar associations, whereas the territorial bar associations are non-profit organization based on mandatory membership of advocates of a separate administrative division (7 in total, out of which 6 are regional bar associations associated with the existing oblasts Brest, Vitebsk, Gomel, Grodno, Minsk City, Minsk Regional and Mogiliev, and 1 Minsk bar association).

Information about advocates, legal consultations shall be included in the Register of Advocates, which is maintained by the Ministry of Justice of Belarus.<sup>59</sup>

Advocacy activity is terminated in cases of revocation or termination of the license due to exclusion from the territorial bar association on the grounds provided with the Law and other legal acts. A license may be terminated also by the Ministry of Justice of Belarus if a disciplinary sanction applies to an advocate in the form of an exclusion from the Law. The decision to revoke or terminate the license is taken by the Ministry of Justice of Belarus based on the conclusion of the Qualification Commission.<sup>60</sup>

The additional reasons for excluding an advocate from the territorial bar are as follows<sup>61</sup>:

- exercise of advocacy activity, as well as occupation of elective positions in the advocates' self-governance bodies while having suspension of advocacy activity on the grounds provided for in sub-clause 1 of clause 12 of this Law;
- failure to carry out advocacy activity during the year without good reason;
- systematic (two or more times within 12 consecutive months) violations of the requirements and conditions for the practice of advocacy activity established by law;

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<sup>57</sup> Clause 11 of the Law on the Bar and Advocacy

<sup>58</sup> New article 14 Attestation of lawyers

<sup>59</sup> Clause 15 of the Law on the Bar and Advocacy.

<sup>60</sup> Clause 13 of the Law on the Bar and Advocacy.

<sup>61</sup> Clause 24 para 2 of the Law on the Bar and Advocacy.

- committing misconduct incompatible with the title of advocate, the list of which is established by the Rules of Professional Ethics of an Advocate;
- violation of the procedure for reimbursing the costs of an advocate's work in the event of providing legal assistance at the request of the authority conducting the criminal procedure that entailed the illegal spending of budget funds in an amount of ten or more basic units established on the day the violation was committed;
- hindering the activities of the Ministry of Justice of Belarus in carrying out measures to monitor compliance with licensing laws, licensing requirements and conditions, including failure to comply with legal orders or requirements of officials of the Ministry of Justice of Belarus in the exercise of their official powers, deliberate submission to these officials of inaccurate documents and (or) other information related to the implementation of advocacy activity;
- violation of the requirements of sub-clause 4 of clause 18 of this Law;
- the impossibility of an advocate to perform professional duties due to insufficient qualifications, confirmed by the decision of the Qualification Commission;
- termination of citizenship of Belarus;
- the entry into force of a court verdict recognising an advocate guilty of an intentional crime;
- refusal to provide legal assistance in cases where the provision of such assistance in accordance with the law is mandatory, on the grounds not provided for by regulatory legal acts;
- systematic (two or more times during 12 consecutive months) without a good reason failure to pay or partial payment of funds in the form of contributions to the maintenance of the territorial bar association.

#### Work of foreign advocates/lawyers<sup>62</sup>

Advocates of foreign states acting in accordance with international treaties of Belarus may provide legal assistance in the territory of Belarus after their inclusion in the Register of advocates, advocates bureaus, legal consultations and special permits (licenses) for the right to carry out advocacy activity (hereinafter Register of Advocates) in the manner determined by the Ministry of Justice of Belarus. No detailed rules or practical guidance are available.

#### Gender issues/young lawyers

The constitution set a general Rule in Article 22 that "All shall be equal before the law and have the right to equal protection of their rights and legitimate interests without any discriminate and that the State shall create all necessary conditions for the free and effective participation of the young people in the political, social, economic and cultural development of society"<sup>63</sup>. There are no specific rules provided in the Law on Advocacy or bylaws as to the gender issues and young lawyers.

There is a Council of Young Lawyers established within the Belarusian Republican Bar Association. There are also associations of young lawyers established at least by the territorial bars of Minsk city bar and Gordnensk regional bar.

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<sup>62</sup> Clause 7 of the Law on the Bar and Advocacy.

<sup>63</sup> Article 32 of the Constitution.

There are currently 2,047 lawyers in Belarus, of whom 1,272 (62%) are women.

There is no special committee in the Republican Bar for the protection of women's rights. However, according to the new Law on amending the legislation regulating the activities of advocates, pregnant women are exempted from passing the certification procedure<sup>64</sup>.

### **Training of lawyers**

Advocates are required to improve their professional skills. The system of continuous legal education is in sphere of the Institute of Advanced Studies which is a structural element of the Belarus State University. The Institute was created in 1999. It conducts mandatory and voluntary continuous legal trainings. Each advocate shall attend a 1-week training on various areas of law every 5 years. There are generally groups of 50 to 100 lawyers present during the training week. After each training week an oral interview is conducted with lawyers. Rules of professional ethics are always included into the training programmes. In recent years the Institute has introduced courses on modern issues such as alternative dispute resolution or economic law. The Institute runs also specialised trainings for the heads of the local bar associations.

### **Recommendations**

The Ministry of Justice in Belarus is the authority that decides on who will become a lawyer in Belarus and who will stay in the profession. According to the United Nations Basic Principles on the Role of Lawyers and the Recommendation No. R (2000) 21 of the Committee of Ministers to member states "On the freedom of exercise of the profession of lawyer" stated in the introduction to this review, the legal profession must be independent from the state and state authorities. Therefore, the first step would be to establish an independent bar association in Belarus as a self-governed body and give it the powers to regulate the profession. The independence of the bar and the lawyers shall be respected by the state. The Ministry of Justice shall not have a power to decide who will become a lawyer, who will stay in the profession, how a lawyer shall exercise the profession or how he/she should conduct continuous training. All other recommendations could only be effective and operational if there would be an independent bar association, where the state does not decide on most important issues of the profession, such as admittance, disciplinary measures, training, or disbarment.

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<sup>64</sup> Amended Article 14

## GEORGIA

### Access to lawyer's profession

Access to the lawyer's profession in Georgia is regulated by the "Law of Georgia on Lawyers" ("Law on Lawyers"), by the Charter of the Georgian Bar Association ("GBA") and by the Bar Exam Regulations and the Professional Adaptation Programme Regulations. The Charter of the GBA is passed by the General Meeting of the GBA<sup>65</sup>; the "Regulations" are passed by the Executive Board of the GBA.<sup>66</sup> At the moment, there is no draft legislation pending that might change the framework of the access to the legal profession in Georgia.

The admission to the profession is conducted by the GBA, an independent body of the self-government of the legal profession in Georgia. Neither Ministry of Justice, nor any other state authority has any influence on the process of admission to the profession in Georgia.

According to Art. 10 of the Law on Lawyers, a lawyer may become:

- a citizen of Georgia;
- who has a higher legal education;
- who has passed a bar exam under the procedure established by this law or passed a qualification examination for judges or prosecutors;
- who has completed a one-year professional adaptation programme approved by the Executive Board of the GBA, which consists of a theoretical course and an internship.

Bachelor's degree in law is sufficient. In Georgia, a candidate must take the bar exam *before* entering the practical training (adaptation programme).

### Bar exam

The bar exam is conducted at least biannually by the GBA<sup>67</sup>. The Executive Board of the GBA approves the procedure for conducting the exam and the exam programme and sets the date and place of the exam.<sup>68</sup> In Georgia, a candidate may decide to obtain his/her licence either in civil law or criminal law and to take a civil law bar exam or criminal law bar exam respectively.<sup>69</sup> A candidate can also take both bar exams to obtain a so-called "general licence".<sup>70</sup> All lawyers can practice administrative law and represent clients before constitutional court without any additional licence.<sup>71</sup> A candidate may commence his/her legal practice within 10 years after the passing of the bar exam.<sup>72</sup> After this time the bar exam certificate expires and the bar exam has to be taken anew. The fee for a bar exam is approximately 54 Euros (190 Georgian Laris).

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<sup>65</sup> Art. 12.2. of the Charter of the GBA.

<sup>66</sup> Art. 15.1.j) and m) of the Charter of the GBA.

<sup>67</sup> Art. 11 sec. 2 of the Law on Lawyers.

<sup>68</sup> Art. 11 sec. 2 of the Law on Lawyers.

<sup>69</sup> Art. 11 sec. 3 and 4 of the Law on Lawyers.

<sup>70</sup> Art. 11 sec. 3 and 4 of the Law on Lawyers.

<sup>71</sup> Art. 11 sec. 8, 2nd sentence of the Law on Lawyers.

<sup>72</sup> Art. 11 sec. 11 of the Law on Lawyers.

A candidate can prepare for the bar exam on his/her own or can attend a 3-month preparatory course organised by the GBA and by private training providers. The preparatory courses are very popular among candidates; a civil and criminal specialisation courses cost is approximately 213 Euros (750 Georgian Lari). The bar exam preparatory course of the GBA is held twice a year, in spring and fall, in criminal law, civil law and in general specialization<sup>73</sup>. The preparatory course provides an in-depth study of the areas of law specified in the examination programme, the introduction of legislative changes, and the study of test/case resolution methods.<sup>74</sup>

The bar exam is a purely computer-based multiple-choice test with no oral exams and no human discretion for the results of the exam. The multiple-choice tests are developed by the GBA, are changed on the annual basis and are not available publicly. For passing the bar exam a candidate must give a correct answer to at least 75 out of 100 questions. Law texts cannot be used during the exam, a candidate needs to know them by heart. The latest bar exam was conducted in July 2021 with appr. 700 candidates of which only 166 candidates passed the exam (approximately 24 %). The failure rate is therefore approximately 76 %.

A candidate who failed the exam can repeat the exam as many times as necessary to pass it. A candidate who has failed the exam can appeal to the Internal Commission of the Examination Centre. The Commission reviews the appeal and can increase the score of the candidate or decline the appeal. The candidate can appeal the decision of the Internal Commission to a court. The exam is anonymous. Persons who took judges or prosecutors qualification exams do not have to take the bar exam to become lawyers.

#### Adaptation programme (theoretical and practical training)

A candidate who passed the exam can apply to the GBA to be admitted to the adaptation programme, which consists of a 3-month theoretical course and a 9 month internship with a mentor lawyer. The adaptation programme is usually carried out in two cohorts each year: the first cohort begins in February and the second cohort begins in September.<sup>75</sup> The capacity of the GBA is 300-600 candidates annually, the GBA is prepared to increase the capacity in the future.

During the theoretical course of the adaptation programme a candidate is taught practical skills needed for a lawyers' practice. The theoretical course, with a specialisation in civil Law and criminal Law, consists of a 60-hour curriculum, and for a general specialisation - a 70-hour curriculum, comprising the following compulsory modules:

- Legal writing,
- Lawyer's professional ethics,
- Communication with client, first interview, fee agreement,
- Organising a law practice / bureau,
- Trial skills,
- Oratorical arts and presentation skills,
- European standards for human rights,

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<sup>73</sup> <https://gba.ge/en/training-center/Preparatory/courses>

<sup>74</sup> <https://gba.ge/en/training-center/Preparatory/courses>

<sup>75</sup> <https://gba.ge/en/training-center/Educational-Programs/Professional-Adaptation-Program/About-Program>



- Alternative dispute resolution mechanisms.<sup>76</sup>

During the internship with a mentor-lawyer a candidate “looks over the shoulder” of an experienced lawyer. The intern can choose his/her mentor freely from the list of mentor-lawyers provided by the GBA. A mentor-lawyer does not have to accept every intern, therefore better qualified candidates have better chances to be accepted by leading lawyers or law firms. The internship itself is not closely supervised by the GBA.

Internship part focuses on the development of practical skills of the intern with the assistance of a mentor. The intern has to conduct certain practical assignments, the minimum requirements of which are set forth in the Professional Adaptation Programme Regulations, and the individual plan and schedule agreed between the mentor lawyer and the intern. The fee for the 3-month theoretical part of the adaptation programme is approximately 213 Euros (750 Georgian Lari) and the 9-month internship part of the adaptation programme is free of charge. The internship is part time and can be undertaken alongside the full-time job of the candidate.

There is an exception to the requirement of going through the adaptation programme: a person who has at least three years of experience as a judge of the Constitutional Court of Georgia, a judge of common courts of Georgia, and/or a prosecutor is only required to complete the three-month theoretical component of the professional adaptation programme.<sup>77</sup>

### Bar membership

Upon the completion of the adaptation programme a candidate has to apply to become a member of the GBA.<sup>78</sup> The membership in the GBA is mandatory for all Georgian lawyers.<sup>79</sup>

The Law on Lawyers stipulates certain grounds for the refusal of the access to the profession. No person may be a lawyer if he/she:

- has been convicted for an intentional serious or a particularly serious crime, unless the conviction has been removed or expunged in the manner established by legislation;<sup>80</sup>
- is currently a state official under Art. 2 of the Law of Georgia on Conflict of Interests and Corruption in Public Service;<sup>81</sup>

A lawyer whose membership with the GBA was terminated due to a decision of the Ethics Commission of the GBA or a court decision may apply again for a membership in 3 years after the termination.<sup>82</sup> The list of documents to be submitted to the GBA can be found in Art. 8 of the Charter of the GBA (incl. criminal record). The Executive Board of the GBA has to take a decision to admit or to refuse the applicant within one month after the submission of an

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<sup>76</sup> <https://gba.ge/en/training-center/Educational-Programs/Professional-Adaptation-Program/About-Program>

<sup>77</sup> Art. 10 sec. 4 of the Law on Lawyers.

<sup>78</sup> Art. 21 sec. 1 of the Law on Lawyers.

<sup>79</sup> Art. 1 sec. 2 of the Law on Lawyers.

<sup>80</sup> Art. 10 sec. 2 of the Law on Lawyers.

<sup>81</sup> Art. 10 sec. 3 of the Law on Lawyers.

<sup>82</sup> Art. 21 sec. 3 c) of the Law on Lawyers.

application.<sup>83</sup> A decision of the Executive Board of the GBA on the refusal of membership may be appealed to a court within one month after its receipt.<sup>84</sup> In a case a candidate fulfils all requirements he/she has a right to be admitted to the bar. There is no admission fee, the newly admitted lawyers need to pay the annual membership fee to GBA only. Currently, the annual membership fee is approximately 57 Euros (200 Georgian Lari) per year. The fee has not been increased by the general assembly since 2006.

### Gender issues/young lawyers

The gender structure of the Georgian legal profession is quite balanced: approximately 48 % of lawyers are female and approximately 52 % are male. The percentage of female partners in law firms is low. There is no committee or other body at the GBA that specifically deals with this concern. There were no issues related to the gender-based discrimination during the procedures of the access to the profession observed.

Like in many other countries, female lawyers in Georgia face difficulties to reconcile family and career since they are expected to work the same hours and do the same amount of work as their male colleagues and – at the same time – bear the main responsibility for children and family. Lawyers' profession is considered to be attractive among young people, even though the unemployment among young professionals is high.

### Foreign lawyers

Foreign lawyers are not allowed to practice in Georgia.

### Training of lawyers

According to Art. 5 f) of the Law on Lawyers, a Georgian lawyer shall participate in the mandatory continuous education programme approved by Executive Board of the GBA. The Executive board gets consulted by the Educational Council that consists of 7 members elected for a period of 2 years to develop the educational strategy, the rules on the professional adaptation programme and the rules and recommendations on continuous legal education.<sup>85</sup> Every Georgian lawyer must collect 12 credits of continuous legal education, 2 go to professional ethics. Based on a recommendation of the Educational Council, the Executive Board determines the number of mandatory credit hours by the end of the current year and approve the list of mandatory educational activities for the following year, which also includes professional ethics.

Publishing of professional articles and teaching courses can be accepted as continuous training. For this purpose, an application must be made to the board of the GBA to be recognised. Working at the committees of the GBA also gets considered towards obligation. Other institutions can get accredited by the GBA. In 2020 the GBA created platform for online trainings. More than 400 of trainings were offered to lawyers in 2020.

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<sup>83</sup> Art. 21 sec. 1 of the Law on Lawyers.

<sup>84</sup> Art. 21 sec. 4 of the Law on Lawyers.

<sup>85</sup> <https://gba.ge/en/training-center/Educational-Council/About-the-Council>

The largest provider of continuous legal training is the Training Centre of the GBA. All training provided by the Training Centre are free of charge for lawyers and are financed by the annual contributions of lawyers to the Bar.

In addition to the training activities provided by the Continuous Legal Education Programme implemented by the Training Centre, the GBA has an accreditation system for external trainings and courses. This serves to provide Georgian lawyers with more quality and tailor-made training activities. The decision on accreditation, based on the recommendation of the GBA's Educational Council, is made by the Executive Board of the GBA. Accreditation can be granted to both the course and the institution.

The Executive Board is authorised to provide accreditation for a specific educational event developed by an organisation, educational institution or company (including a law firm) as part of a continuous legal education system and complies with the training standards established by the Executive Council. Accreditation of an educational event can only be obtained through pre-planned events.<sup>86</sup> Criteria for accreditation are the background of the institution, the curriculum of specific course, the experience of the trainers, etc. Until now only a few applications were refused by the Board, in the majority of cases the accreditation was granted. The fee for the institutional accreditation is 85.2 Euros (300 Georgian Lari), the course accreditation is approximately 28.5 Euros (100 Georgian Lari).

The attendance is supervised, but there is no efficiency control over the courses. Face to face trainings are the most popular trainings. Trainers are lawyers, judges, former prosecutors, law professors. The participation of lawyers in courses is supervised by the web portal registration to the course. The report is prepared by the end of the year by the system of lawyer's web portal.

In case of non-compliance with the obligation of continuous education a lawyer may face disciplinary proceeding.<sup>87</sup> Disciplinary proceedings against a lawyer is initiated by the Ethics Commission of the GBA, and within two months after receiving the information about misconduct, must decide to initiate disciplinary proceedings or to refuse to initiate proceeding against the lawyer.<sup>88</sup> The disciplinary sanctions that can be imposed by the Ethics Commission are:

- warning,
- deprivation of the right to practice the profession for a period of six month up to three years,
- termination of the membership in the bar.<sup>89</sup>

According to the Executive Board of GBA imposed no sanctions so far since the oversight over the fulfilment of this obligation by lawyers is administratively difficult for the GBA.

## Recommendations

1. The bar exam failure rates and the high unemployment of the young professionals are worrying and need to be addressed in a speedy manner. According to respondents of

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<sup>86</sup> <https://gba.ge/en/training-center/Educational-Programs/Accreditation-of-Trainings/Courses-accreditation>

<sup>87</sup> Art. 32 sec.1a) of the Law on Lawyers.

<sup>88</sup> Art. 33 of the Law on Lawyers.

<sup>89</sup> Art. 34 of the Law on Lawyers.

the conducted interviews many universities in Georgia do not adequately prepare for the practice of the legal profession. The education is mostly theoretical, the students spend much of their time memorising legal acts. GBA started a dialogue with the representatives of universities to discuss the curriculums of law faculties to improve the situation. Some universities respond to this initiative and try to change their curriculums to meet the demands of the practice. However, a systematic and comprehensive approach is missing. Students spend a lot of time memorising legal text by heart and not enough time is allocated to teach them analytical, critical thinking, practical application of law, legal drafting, oratorical skills, etc. The preparatory course of the GBA to the bar exam and the theoretical course within the adaptation programme cannot make up for a poor university preparation for the practice. The legal education in the country is in an urgent need of a reform.

The high unemployment rate is directly connected to the educational problem. Young professionals are not considered a good labour resource by law firms and experienced lawyers, because they cannot immediately contribute to the firm or help with the workload. Law firms must invest in their education first. Therefore, young lawyers often must agree to a very low starting salary.

2. The adaptation programme is an important step in the preparation of young lawyers for the practice. In order to improve the efficiency of the adaptation programme the GBA should supervise the adherence to the adaptation programme plan by mentor lawyers and trainees. For this purpose, more personnel could be needed at the GBA.
3. The failure rates of 74 % of the entry exams are too high in the international comparison (in Germany, for example, approximately 30 % failure rate). This could be an indicator that either the preparation to the exam is inadequate or the exam is too complicated. The GBA is recommended to take a closer look at it.
4. The Training Centre of the GBA provides Georgian lawyers with free continuous education. Historically, Georgian lawyers always enjoyed free training that has been financed by the annual contributions to the bar. The annual contributions, however, remained the same since 2006 regardless of the operational cost's changes and of the increasing number of tasks the GBA is performing for their members. To uphold and increase to quality of the training and the functioning of the self-regulation of the legal profession in Georgia an increase of annual fee and an introduction of an (affordable) fee for continuous education programme are inevitable.
5. An introduction of more opportunities for continuous professional training, such as teaching in professional advanced training programme for lawyers at higher education institutions; participation in international, national and regional scientific, scientific-practical and scientific-methodological conferences, workshops, round tables, etc.; writing scientific or scholarly articles, participation in the work GBA's committees and other, shall be considered.

# THE REPUBLIC OF MOLDOVA

## Access to legal profession

The access to the profession in the Republic of Moldova is regulated by the Law on Advocacy (“Law on Advocacy of the Republic of Moldova”) dated 19 July 2002. Other important legal acts regulated the legal profession in the Republic of Moldova are “Regulation on the Organisation and Functioning of the Moldovan Union of Lawyers” (“the Regulation”), the Statute of the Profession of Lawyer (“the Statute”), the Advocacy Charter (“the Advocacy Charter”) and the Code of Ethics of Lawyers of the Republic of Moldova (“the Code of Ethics”)<sup>90</sup>.

It is mandatory for lawyers to be members of one of the four regional bars (Chisinau, Balti, Cahul, and Comrat). All bars in the Republic of Moldova, established under the Law on Advocacy of the Republic of Moldova, are full members of the Moldovan Union of Lawyers that lawyer’s self-government organisation in the Republic of Moldova.

The admission to the profession is conducted by the Council of the Moldovan Union of Lawyers<sup>91</sup>. However, the registry of the advocates of the Republic of Moldova is held by the Ministry of Justice.

To become an advocate, one needs to fulfil the following requirements<sup>92</sup>:

- to be a citizen of the Republic of Moldova;
- to have a full legal capacity;
- to have a diploma of a licentiate of law or an equal document of education;
- to have an impeccable reputation;
- to have passed the qualification exam.

Holders of the doctor’s degree, as well as persons who have at least 10-year experience as a judge are exempted from the professional internship and the qualification exam if applied for the advocate’s license within 6 months after their resignation from the office.

A person who applied for the advocate’s license cannot be considered as a person with impeccable reputation and his/her application shall be dismissed if such a person:

- was previously convicted for intentional serious, especially serious or extraordinary serious crime regardless of whether his/her criminal record was expunged or not;
- has non-expunged conviction for other crime;
- was previously excluded from the Bar or was deprived of the license for providing legal assistance on compromising ground;
- was fired from law enforcement bodies on compromising grounds or was dismissed from the position of a judge, notary, jurist or civil servant on compromising grounds;
- pursue activities which are incompatible with requirements of the Code of Advocate’s Ethics or his/her behaviour does not meet these requirements;

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<sup>90</sup> We need to mention it when sending the final draft

<sup>91</sup> Art. 17 of the Law on Advocacy of Republic of Moldova.

<sup>92</sup> Art. 10 of the Law on Advocacy of Republic of Moldova.

- violated basic human rights and freedoms which was established by a court decision.<sup>93</sup>

In order to be admitted to practise as an advocate, a person who passed the qualification exam shall apply in writing to the Minister of Justice for the license to advocacy. Having received the license, an advocate shall be admitted to practise after he/she:

- vows the oath;
- registers an organizational form of the advocate's practice.<sup>94</sup>

## Internship

The admission to the professional internship is based on results of the qualification exam. The organisation of the exam for admission to the internship is regulated by the Charter of Advocacy of the Republic of Moldova. An application for the admission to take the qualification exam for the professional internship shall be submitted to the Commission for Licensing of Advocacy of the Moldovan Union of Lawyers.

Following documents are to be enclosed<sup>95</sup>:

- a copy of an identity document;
- a copy of a diploma of a licentiate of law;
- a copy of a job record book if there is such;
- a certificate confirming the absence of criminal record;
- a medical certificate;
- a declaration that an applicant undertakes to refrain as of the moment of the admission to the professional internship from pursuing activities which are prohibited by the Law for being incompatible with the advocate's practice;
- a receipt confirming the payment for the admission to sit the internship examination;
- a statement of an advocate willing to be a mentor.

The exam takes place twice a year. The Commission for Licensing of Advocacy organises the exam for the admission to the professional internship in the periods from March to May (spring session) and from September to November (autumn session). If there is a need the Commission for Licensing may organise the exam in other periods.

The exam for admission<sup>96</sup> to the professional internship consists of a 3-hours long multiple-choice test of consisting 400 questions taken out of 1,000 questions published on the official web site of the Moldovan Union of Lawyers. The test is the same for all candidates sitting the examination. The test can be done either in writing or in an electronic form.

A candidate who answered correctly on 350 out of 400 questions of the test shall be admitted to the professional internship. Within 10 days from the date of the exam, the Commission for Licensing shall adopt a decision on admission to the professional internship and notify a candidate. In average, the success ratio at the entrance exam is from 65 % to 70 % of all candidates taking the exam. After having passed the exam for admission to the professional internship a candidate shall obtain the status of an advocate-intern and shall be issued with

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<sup>93</sup> Art 10 of the Law on Advocacy of the Republic of Moldova.

<sup>94</sup> Art. 12 of the of the Law on Advocacy of the Republic of Moldova.

<sup>95</sup> Art. 21 of the Law on Advocacy of the Republic of Moldova.

<sup>96</sup> Art 22 of the Law on Advocacy of the Republic of Moldova.

the relevant permit. A decision by which Commission for Licensing refuses to admit to the professional internship may be appealed against to the administrative court.<sup>97</sup>

An advocate-intern shall present to the Council of the Moldovan Union of Lawyers a contract concluded between him/her and an advocate-mentor for its registration, as well as receipt confirming a payment for the internship. The price of the 80 hours curricula is approximately 146 Euro (3,000 Moldovan Leus).

The duration of the professional internship is between from 12 to 24 months. The Statute of the profession of lawyer is providing that the internship shall last 18 months and shall be mandatory in the cases provided for by law. If the mentor is of the opinion, that the intern is prepared for his/her work as an advocate, he/she could propose early exam and that the internship is shortened. The interns could be employed by the mentors with a salary of approximately 293 Euros (6,000 Moldovan Leus) or they could be self-employed.

The internship shall be suspended if an advocate-intern undertakes activities incompatible with the advocate's practice. The suspension of the professional internship shall be approved by the Council of the Moldovan Union of Lawyers. The internship may be terminated earlier on request of an advocate-intern or on motion of the Council of the Moldovan Union of Lawyers in cases set out in the Law and pursuant a decision of the Commission on Ethics and Discipline of the Moldovan Union of Lawyers.

The professional training of an advocate-intern shall be carried out by an advocate-mentor on the basis of an agreement. An advocate may not be a mentor for more than 2 advocates-internes simultaneously. In the end of the professional internship an advocate-mentor shall make an objective appraisal and either recommend or to refuse to recommend for the sitting of the qualification exam<sup>98</sup>.

An advocate-intern shall practise under the supervision of an advocate-mentor and may provide paid legal assistance to clients in courts, appeal chambers and before public authorities. An advocate-intern shall be personally liable for the quality of provided legal assistance and is subject to the disciplinary liability as established by the Law on Advocates of the Republic of Moldova

Personal files of advocates-internes are kept with the Council of Moldovan Union of Lawyers. The Council of the Moldovan Union of Lawyers ensures uniform standards for the internship and the qualification exam, registers contracts of the completion of professional internships and consider disputes and conflicts concerning the professional internship and provide conditions for the completion of the initial training.

The initial training of the lawyer shall be carried out during the internship by organising internship conferences and seminars to be held by the Council and the bars. The Moldovan Union of the Lawyers Council approves the Framework Programme for Initial Training, based on the proposals of the Council members responsible for the sector/department for the initial training of lawyers. The Framework Programme may include themes and professional

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<sup>97</sup> Art. 23 of the Law on Advocacy of the Republic of Moldova.

<sup>98</sup> Art 25 of the Law on Advocacy of the Republic of Moldova.

activities organised by the Union of the Lawyers Council, directly or with the support of the bars.<sup>99</sup>

### Qualification exam– Bar exam

The qualification exam is performed in front of the Licencing commission of the Moldovan Union of Lawyers. The Commission for Licensing of Advocacy comprises 11 members elected on the basis of a competition. 8 members are advocates who have at least 5-year professional experience and 3 members are academics who have at least 5-year professional experience.

In order to be admitted to the qualification exam<sup>100</sup> an advocate-intern shall submit to the Commission for Licensing of Advocacy following documents:

- an application for admission to the qualification exam;
- a declaration on refraining from incompatible activities prohibited by Law during the professional internship;
- a statement given under oath with an enclosed reputation questionnaire filled in by the Commission on Licensing;
- an opinion on personal qualities given by an advocate-mentor;
- the permit of an advocate-intern.

The Commission considers an application for admission only if all the documents required by the Law on Advocates are submitted. The date and time of the qualification exam is set by the Commission for Licensing, published on the official web site of the Council of the Moldovan Union of Lawyers and communicated to candidates no later than 10 days before the exam.

The list of subjects which will form the basis of examination questions is drawn up and selected by members of the Commission and published on the official web site of the Moldovan Union of Lawyers. Changes to the list of the subjects for the qualification exam may be done no later than 30 days before holding the exam.

The qualification exam consists of a written and an oral part. The admission of candidates to each round of the qualification exam is made based on decisions of the Commission for Licensing which can be appealed against to the Commission for Licensing within 72 hours from the moment of the announcement of results. In case of establishing of a violation of the examination procedure, the Commission for Licensing takes measures in order to remedy rights of a candidate. Grades for the qualification examination may not be appealed against. Minutes of meetings, decisions of the Commission for Licensing, candidates' papers and documents shall be kept at the Moldovan Union of Lawyers.

The purpose of the written test is to determine the level of knowledge and practical skills in the presentation of theoretical knowledge in the field of law; the test shall include practical exercises from the judicial practice selected by the Commission. The test shall include an analysis of 3 practical exercises made in writing.

After the completion of the written phase of the qualification exam and collecting papers of all candidates, the Secretary of the Commission encodes the papers according to the

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<sup>99</sup> Art. 63. and 64. of the Regulation on the organization and functioning of the Moldovan Union of Lawyers.

<sup>100</sup> Art. 27-29 of the Law on Advocates of the Republic of Moldova.



examination cards. A code is indicated both on the paper and the examination card. Later, the examination cards are separated from the papers and kept by the Secretary of the Commission until the moment of evaluation of papers by the members of the Commission.

The members of the Commission begin the evaluation of the papers only after they were encoded by the Secretary of the Commission. Each of three questions are evaluated based on the 10-point system from 1 to 10. Each member of the Commission writes marks for a paper in an examination card. Based on the evaluations of each member of the Commission who checked a paper, the average score of each candidate is calculated.

The average score for a paper is calculated on the basis of marks given by every member of the Commission to each answer in the paper. A candidate who scored at least 8 points which is recognised by the Congress of Advocates as a mark confirming the compliance with minimum eligibility criteria is considered passed the qualification exam.

The candidate who passed the written exam is admitted to the oral test, which takes place no later than 15 days after the written exam. The purpose of the oral exam is to determine skills of the presentation, argumentation, as well as the determination of the level of analysis, identification, commenting and interpretation of personal views on the provisions of the Law on the profession of lawyer, Statute, the Code of Ethics, as well as the rights and obligations of lawyer in criminal and civil proceedings and in respect of three case studies from the judicial practice selected by lot. The task of each candidate consists of the oral presentation of opinion on two subjects drawn by lot by the candidate before the Licensing Committee.<sup>101</sup>

Each candidate is given 60 minutes for the preparation of the answer. A verbal answer is recorded by audio or video equipment. The records shall be kept for 6 months at the Union of Advocates of the Republic of Moldova.

Each of practical exercises is evaluated based on the 10-point system. The average score for the oral test is calculated based on the average mark for each of 3 practical exercises given by each member of the Commission. A candidate is considered successful if he/she scored at least 8 points.

A candidate who failed to pass the exam may be admitted sitting it again no earlier than 6 months after the previous examination. There are no provisions as to the challenge of the decision on refusal either the request for removal of a member of the commission due to the prejudice or potential conflict of interest.

Based on results of the exam, the Commission for Licensing takes a decision on admission to the advocate's practice. The Chairman of the Commission announces results of the exam and a list of candidates admitted to the advocate's practice. All cases of admission to the practice without having sat the examination shall be considered by the Commission for Licensing on an individual basis<sup>102</sup>. Within 10 days from the date of the exam, a decision to admit to the advocate's practice is published on the website of the Moldovan Union of Advocates and communicated to a person who passed the qualification exam. The

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<sup>101</sup> Art. 27 of the Statute of the profession of Lawyers.

<sup>102</sup> Art 28.3 of the Statute of the profession of Lawyers.

submission of documents containing incorrect information may be a ground for the refusal to admit to the advocate's practice.

The final decision of the Commission for Licensing of Advocacy is forwarded within 10 days from the date of its adoption to the Ministry of Justice for the issuing of a license. The license to practice as an advocate is issued by the Ministry of Justice in accordance with the Law on Advocates of the Republic of Moldova within 10 days from the date of the submission of an application.

The licence is the only document which confirms the admission to the advocate's practice and the advocate's status. The license is issued for an unlimited duration and is valid on the entire territory of the Republic of Moldova. A refusal to issue the license to practice as an advocate may be appealed against to the administrative court. Issuing of the license to practice as an advocate shall cost approximately 22 Euros (450 Moldovan Leus) which should be paid on a bank account of the Ministry of Justice in one of banks of the Republic of Moldova.

### Bar membership

The admission to the profession is granted by giving a license to a person who passed the qualification exam, registered an organisational form of advocacy and took an oath<sup>103</sup>.

The application for admission to the bar can be denied if the candidate:

- was previously convicted for intentional serious, especially serious or extraordinary serious crime regardless of whether his/her criminal record was expunged or not;
- has non-expunged conviction for other crime;
- was previously excluded from the Bar or was deprived of the license for compromising the professional reputation of lawyers;
- was fired from law enforcement bodies on compromising grounds or was dismissed from the position of a judge, notary, jurist or civil servant on compromising grounds;
- pursue activities which are incompatible with requirements of the Code of Advocate's Ethics or his/her behaviour does not meet these requirements;
- violated basic human rights and freedoms which was established by a court decision.

Every year no later than 25 December, the Council of the Moldovan Union of Lawyers shall publish in the Official Monitor of the Republic of Moldova the List of Advocates entitled to practice as advocates. The List should also be published on the official web site of the Moldovan Union of Lawyers. A copy of the List should simultaneously be forwarded to the Ministry of Justice. Within 10 days after admission to the advocate's practice the Council of the Moldovan Union of Lawyers shall include an advocate in the List of Advocates entitled to practice<sup>104</sup>.

There is no admittance fee. There is no fee for the interns. Lawyers are required to pay annual fees established by the Congress of the Moldovan lawyers. Currently the annual fees constitute approximately 59 Euros (1,200 Moldovan Leus). If a member of the Union does not pay the fees for a period of more than 6 months, his/her licence can be suspended. The fee has not been changed for the past 5 years.

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<sup>103</sup> Art 14 of the Law on Advocacy of the Republic of Moldova.

<sup>104</sup> Art. 33 of the Law on Advocacy of the Republic of Moldova.

## Gender issues/young lawyers

The profession of advocate is quite popular in the Republic of Moldova. The women and young lawyers are very attracted by the profession. The gender structure of the Moldovan legal profession: approximately 40 % of lawyers are female and approximately 60 % are male. The percentage of female partners in law firms is low. Like in many other countries, female lawyers in the Republic of Moldova face difficulties to reconcile family and career since they are expected to work the same hours and do the same amount of work as their male colleagues and – at the same time – bear the main responsibility for children and family. There is a committee with the Moldovan Union of Lawyers dealing with the youth issues. However, it is not very active. The Moldovan Young Lawyers Association prominently deals with the issues of young lawyers in the Republic of Moldova and is active also internationally.

Nevertheless, there were no issues related to the gender-based discrimination during the procedures of the access to the profession observed. Additionally, the issues of gender equality in the lawyer's profession in the Republic of Moldova are prominently addressed by the Moldovan Women Lawyers' Association.

## Work of foreign advocates/lawyers

Foreign lawyers can practice on the territory of the Republic of Moldova if their advocate's status is confirmed by a home state, and they are registered in a special Register of the Moldovan Union of Lawyers. Foreign advocates may not represent individuals and entities before courts and public authorities in the Republic of Moldova but in the international commercial arbitration. When interests of a client require, as well as on request of the client, a foreign advocate may assist to a Moldovan advocate. A foreign advocate may pursue professional activities based on an agreement being a member of an advocate's office or a united bureau of advocates. The Register of foreign advocates authorised to practice in the territory of the Republic of Moldova is published in the official web site of the Moldovan Union of Lawyers.<sup>105</sup>

The rules of ethics shall apply to lawyers and trainee lawyers, both on the territory of the Republic of Moldova, as well as abroad regarding any professional relation of a lawyer or trainee lawyer from the Republic of Moldova with a lawyer from a foreign state.<sup>106</sup>

## Training of lawyers

Advocates in the Republic of Moldova shall constantly enhance their knowledge and improve their professional training<sup>107</sup>. This obligation shall concern, in particular, the development and application of professional ethics and professional standards in this area. For the purpose of meeting the requirement of ensuring the continuous training based on high legal culture and thorough preparation for the exercise of activities which fall within public interest, the continuous training is organised by the Moldovan Union of Lawyers (Training Centre of the

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<sup>105</sup> Art. 6 of the Law on Advocacy of the Republic of Moldova and Art 5 of the Statute of the profession of Lawyer.

<sup>106</sup> Rule 2 of the Code of Ethics of Lawyer of the Republic of Moldova.

<sup>107</sup> Art. 11 of the Law on Advocacy of the Republic of Moldova.

Union), collegiums of advocates and organisational forms of advocate's practice. One of the competences<sup>108</sup> of the Ministry of Justice is to assist to advocates and organs of their self-governance in the process of exercising of their activities and assist in improving the qualification of advocates.

General plan of Continuous Training of Lawyers and the Initial Training Plan for Trainee Lawyers for the period of a 4-year training cycle is adopted by the Conference of the Union of the Lawyer. The Council of the Union of Lawyers also develops the criteria for selection of trainers for the training of lawyers and trainee lawyers, as well as those for the selection of trainers engaged in the training of lawyers and trainee lawyers and approves the selection criteria and the list of organisations/institutions that organise training courses for lawyers and trainee lawyers.<sup>109</sup>

The training of lawyers shall be carried out through initial training, at the beginning of practicing the profession -interns and continuous training of each licenced lawyer.

The initial training of the lawyer shall be carried out during the internship by organising internship conferences and seminars to be held by the Moldovan Union of Lawyers Council and the bars. Whereas Moldovan Union of Lawyers decides on the Annual Programme for Continuous Training, which shall include forms of training organised by the Moldovan Union of Lawyers, directly or in collaboration with the bars. The Annual Continuous Training Programme shall be decided based on the Training Programme proposed by the members of the Council responsible for the sector/department for continuous training of lawyers for a period of at least 2 years.

According to the Moldovan Union of Lawyers<sup>110</sup> are obliged to undergo at least 40 hours of continuous legal education every year and the trainee lawyers (interns) must undergo at least 80 hours of the initial training programme during their training period<sup>111</sup>. The records shall be kept by the bar and communicated to the Moldovan Union of Lawyers. The procedure for issuing and maintaining the Certificates of professional title of lawyer shall be decided by the Moldovan Union of Lawyers. Expenses necessary to participate in the continuous training actions and mandatory training and improvement are expenses of the profession of lawyer and are borne by the Bar.

The continuous training is organised in following forms:

- activities coordinated and carried out under the auspice of the Moldovan Union of Lawyers;
- participation in programmes, seminars, meetings, conferences, congresses and other events of such kind organised with the purpose of enhancing knowledge and development of methods of carrying out of advocate's activities;
- training on-line;
- preparation and publication of notes, articles, essays, studies devoted to legal matters;
- special events organised by the Moldovan Union of Lawyers and collegiums of advocates in educational institutions;

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<sup>108</sup> Art. 65 of the Law on Advocacy of the Republic of Moldova.

<sup>109</sup> Art. 43 of the Statute of the profession of lawyer.

<sup>110</sup> Art 54 of the Law on Advocacy of the Republic of Moldova.

<sup>111</sup> Art 15 of the Law on Advocacy of the Republic of Moldova.

- activities organised together with educational institutions or institutions of professional training in fields relating to the advocacy;
- any other actions recognised by bodies of the advocate's profession.

The exercise of control of the continuous training falls within the responsibility of the Moldovan Union of Lawyers and is carried out in accordance with regulations adopted by the Congress of Advocates and the Council of the Moldovan Union of Lawyers. For the purpose of ensuring a consistent and uniform implementation of the continuous training at the national level, the Council of the Moldovan Union of Lawyers, on the basis of Congress of Advocates' resolutions, prepares an annual programme of the evaluation and systematic monitoring of the continuous training of advocates, paying attention to the cooperation between collegiums of advocates. Bodies of the advocate's profession regularly check the level of the continuous training of each advocate.

The Statute of the Legal Profession provides for various forms of continuous professional training of lawyers, such as online-trainings, preparing various articles, reviews, information notes, studies on legal issues, participation in special events at educational institutions, participation in other events recognised by the governing bodies of lawyers, etc. It is necessary to mention that despite the existence of the minimum obligatory number of hours of continuous education for lawyers, this rule is not strictly observed and monitored. However, with the development of the Lawyers Training Centre (see below) this may change in the near future.

In 2018 the Lawyers Training Centre was established within the Moldovan Union of Lawyers. Its major tasks are as follows:

- developing the general plan of training activities for the continuous education of lawyers and initial training of trainee lawyers;
- developing measures for implementing the training plans;
- developing yearly plans for evaluation of knowledge and supervising the process of continuous training of lawyers;
- monitoring the number of hours of trainings passed by lawyers and presenting the respective information to the Council of the Moldovan Union of Lawyers.

The Lawyers Training Centre actually develops and delivers the trainings for lawyers and for trainees. Currently most of them are delivered free of charge. The majority of trainers are practicing lawyers, though non-lawyer trainers from other institutions can be invited to deliver trainings on specific topics.

Also, the Local Bars have certain powers in the field of training. They are entitled to:

- submit proposals to the Lawyer Training Centre and participates in the development of the General Plan of Continuous Training of Lawyers and of the Initial Training Plan for Trainee Lawyers for a period of 4 years;
- in cooperation with the Lawyers Training Centre, to participate in the development of the annual programme with reference to the evaluation and regular control of the continuous training of lawyers and initial training of trainee lawyers coherently and consistently;
- coordinate and monitor within the bars the fulfilment of the obligation of the lawyers to pass the initial and continuous training;

- perform the control of the observance by the guiding lawyers and the trainee lawyers of the Methodology of Internship according to the Regulation of Internship;
- organise regional courses for continuous training of lawyers.

## **Recommendations**

As regards the recommendations for the access to the lawyer's profession and system of training lawyers in Republic of Moldova the expert proposes:

1. As regards the admittance exam (bar exam) for interns the oral exam shall be more objective as regards the answer keys which shall exist for every question beforehand and ambiguity shall be avoided.
2. Training programme for interns shall be more orientated on the legal issues important for the legal profession and the obligatory hours need to be extended in favour of the quality of the service. The future lawyers should obtain substantive knowledge concerning deontology, the professional status and develop skills concerning the work of an advocate. The future lawyers shall be trained and should obtain also practical knowledge and skills and abilities in legal research, skills in updating knowledge, analytical ability, and ability to consider the client's needs, customer focus and ability to communicate.
3. Occasional combination of training for interns and advocates at the centre for education of judiciary is desired (on topics which are common to all professions within the judicial branch of power). This way interns and advocates would also obtain knowledge the judges and prosecutors possess and would easier understand the work of the judicial system as a whole and would be better equipped for future work what could add to the quality of legal service and rule of law.
4. The admittance exam shall be the same for all interns as regards the specific topics concerning legal profession, since all candidates shall have the lawyer's skillset and the understanding of the core values of the legal profession, and even former legal professionals, such as judges and prosecutors entering the lawyer's profession need to show the same level of preparation as other candidates. There can be some exceptions for members of other judicial professions (judges, prosecutors) entering the profession of advocate such as legal correspondence, legal literacy, national procedural and material codes such civil, criminal, administrative or some modules which are common for all legal professionals.

For lawyers coming from other profession with the previous practical experience the internship could be shortened to minimum period, but they could not be exempted from the minimum training hours of the initial training as regards the topic specific for the profession of advocate.

5. The mentors need to be checked by Bar association more often as regards the transfer of the knowledge to interns and as regard the programme of internship. The need to take more supervision under the work of the interns, since this is the guarantee to the better quality of service and better protection of the rights of citizen. The claimed payment arrangement interns supposedly stipulate with the mentors need to be checked as well.

6. The continuous education shall include more topics reflecting the change of legislation, specifically issues relevant for lawyers. Lawyers should undergo continuous training in their chosen area of practice, including the applicable laws (domestic and international) and deontology.
7. Control over fulfilment of continuous training obligations (including the consequences of non-completion) could include a system of self-certification by lawyer's subject to checks and should be administered by the competent Bar on the basis of domestic law or other rules or regulations where appropriate.
8. The Advocacy Law shall be amended as regards the provision of challenging the decision on refusal to the exam and requests for change of the member of the commission for licencing or examination due to the potential conflict of interest or prejudice.
9. The opening of the market of the continuous professional training to more external providers to improve the quality and accessibility of training through more competition is advisable.
10. If there are no grounds for the bar to believe, that the candidate is incapable of properly practicing the profession of a lawyer for longer than merely a temporary period, no medical certificate should be required for the access to the profession.

## UKRAINE

### Access to lawyer's profession

Access to lawyer's profession in Ukraine is regulated by the Law of Ukraine "On the Bar and Practice of Law" No.5067-VI dated 5 July 2012. It is supplemented by the "Procedure of the admission to the qualification exam, the programme of the qualification exam and the assessment method" ("Bar Exam Procedure")<sup>112</sup> and the "Procedure of the traineeship and of the obtaining of the licence to practice advocate's profession" ("Traineeship Procedure")<sup>113</sup>. Both "Procedures" were passed by the Bar Council of Ukraine, a body of the self-regulation of the legal profession in Ukraine.

At the moment, there is no draft legislation pending that might change the framework of the legal profession in Ukraine, except for the draft proposal No. 5095 dated 18.02.2021 to allow former judges and assistants of judges to enter the advocates profession without the traineeship.<sup>114</sup>

The admission to the profession is conducted by independent bodies of the self-government of the legal profession in Ukraine. Neither Ministry of Justice, nor any other state authority has any influence on the process of admission to the profession in Ukraine.

According to Art. 6 of the Law "On the Bar and Practice of Law", any individual is eligible to be an advocate who has:

- obtained complete higher legal education;
- a command of the official language;
- at least two-year experience in the field of law;
- passed the bar exam;
- successfully completed traineeship (except in the cases established by the Law);
- taken the oath of advocate of Ukraine;
- obtained the certificate of right to practice law.

In Ukraine, a candidate must take the bar exam *before* entering the practical training (traineeship). The candidate can obtain his/her higher legal education either in Ukraine or abroad, if such foreign education is recognised in Ukraine per procedure established by law.<sup>115</sup>

### Bar exam

After having worked in the legal field (for example, as an assistant of a lawyer or a judge, an in-house lawyer in a legal department of a company, etc.) for at least 2 years, the candidate can apply to the qualification and disciplinary commission to be admitted to the bar exam.

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<sup>112</sup> [https://unba.org.ua/assets/uploads/legislation/poryadki/2020-02-14-poryadki-28\\_5e5d2a24c9799.pdf](https://unba.org.ua/assets/uploads/legislation/poryadki/2020-02-14-poryadki-28_5e5d2a24c9799.pdf)

<sup>113</sup> [https://unba.org.ua/assets/uploads/files/Rishennya/Polojennya\\_stajuvannya\\_14032019.pdf](https://unba.org.ua/assets/uploads/files/Rishennya/Polojennya_stajuvannya_14032019.pdf)

<sup>114</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?id=&pf3511=71134](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=71134)

<sup>115</sup> Art. 6, Sec. 3, sentence 1 of the Law of Ukraine "On the Bar and Practice of Law".



Qualification and disciplinary commissions are formed at the Regional Bar Councils with the purpose to determine the level of professionalism of the persons who intend to obtain the right to practice law and to resolving issues related to the disciplinary liability of advocates.<sup>116</sup> The chairman and the members of the qualification and disciplinary commission of the bar are elected for a five-year term by the conference of advocates of the region from among the advocates who have been practicing law for at least five years.<sup>117</sup> The qualification chamber of the commission consists of maximum 9 members.

First, the candidate has to obtain permission to take the bar exam. Procedure for obtaining permission to take the bar exam and the list of documents to be attached to the application are prescribed by the Bar Exam Procedure. The commission runs the submitted documents through the verification and completeness process. For this purpose, the candidate must provide a written consent for the commission to make enquires to organisations, companies, etc., to verify the documents of the candidate.<sup>118</sup>

The Law "On the Bar and the Practice of Law" stipulates certain grounds for the refusal of the access to the profession. No person may be an advocate if he/she:

- has unspent or unexpunged per the legally established procedure conviction for the grave, particularly grave crimes as well as medium-gravity crimes for which he/she has been sentenced to the punishment of imprisonment;
- was found by court partially or fully incapable;
- was disbarred from practicing law- in the subsequent two years as of the date of the decision on disbarment;
- was dismissed from the position of a judge, prosecutor, investigator, notary, public service officer or local self- government public officer for violation of the oath or for a corruption offence- in the subsequent three years as of the date of such dismissal.<sup>119</sup>

The Bar Exam Procedure stipulates that the above-mentioned person cannot even be admitted to the bar exam.<sup>120</sup>

The Bar Exam Procedure also introduces an additional ground to refuse admission to the profession and to the bar exam: the suffering from a mental disease.<sup>121</sup> This ground to refuse admission is not envisaged by the Law of Ukraine "On the Bar and Practice of Law". It was introduced by the Bar Council of Ukraine. The candidate must provide the commission with a medical certificate of mandatory preliminary and periodic psychiatric examinations according to the form No. 122-2/o approved by Order of the Ministry of Health of Ukraine No. 12 dated 17.01.2002.<sup>122</sup>

The Law of Ukraine "On the Bar and Practice of Law" prescribes certain deadlines to accelerate the bar exam procedure: the Commission has to take the admission decision within thirty days of the date of receipt of the application and to provide the candidate with the

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<sup>116</sup> Art. 50 of the Law of Ukraine "On the Bar and Practice of Law".

<sup>117</sup> Art. 50 sec. 2 of the Law of Ukraine "On the Bar and Practice of Law".

<sup>118</sup> Art. 8 sec.2 of the Law of Ukraine "On the Bar and Practice of Law".

<sup>119</sup> Art. 6 sec. 2 of the Law of Ukraine "On the Bar and Practice of Law".

<sup>120</sup> Part 2 sec. 7 of the Bar Exam Procedure.

<sup>121</sup> Part 2 sec. 7 of the Bar Exam Procedure: "...траждає психічним захворюванням."

<sup>122</sup> Section 2 Part 2, 4) of the Bar Exam Procedure.

decision within three days of the date of adoption of the decision. The decision on denial of permission to take the bar exam may be appealed to the Higher Qualification and Disciplinary Commission at the Ukrainian National Bar Association or to the court within thirty days of the receipt thereof.<sup>123</sup>

There are several preparatory courses for the exam, that are organised either by the regional bar council or by private providers. The candidate can choose to go to the preparatory course or to study on his/her own for the exam.

The law prescribes the bar exams to be conducted at least once in three-months.<sup>124</sup> According to the statistics for the second quartal of 2021 published on the website of the Ukrainian National Bar Association, the regional bar councils organised from one to 13 bar exams in these three months.<sup>125</sup> Due to the introduction of the advocates monopoly in Ukraine, thousands of jurists have decided to join the bar and to become advocates. The bars had to deal with an enormous number of candidates. In order to meet the demand large number of entry exams had to be organised thorough Ukraine to give the future colleagues the opportunity to join the bar as quick as possible.

The bar exam consists of written and oral parts.<sup>126</sup> The written part is passed if the candidate can make at least 80 out of 120 points. During the exam the candidate can use the legal texts in paper form. No other sources are allowed.<sup>127</sup> In the oral exam, that consists of 16 questions, the candidate must obtain minimum of 48 out of 64 points.

A candidate has a right to have a commission member removed if he/she fears prejudice. The candidate must file the motion before the beginning of the exam and provide sufficient justification of the motion.

Neither written, nor oral exam is anonymised. The methodology of the assessment of the exam results could be more specific to leave as less room as possible for interpretation and discretion for the commission.

A person who failed to pass the bar exam may be admitted taking another exam no earlier than six months thereafter. A person who failed to pass a second bar exam may be permitted to take the next bar exam no earlier than one year thereafter.<sup>128</sup>

A person who failed to pass the bar exam may, within thirty days from the receipt of the respective decision of the qualification and disciplinary commission of the bar, appeal the decision to the Higher Qualification and Disciplinary Commission of the Bar or to the court, any of which may either affirm the impugned decision or oblige the qualification and disciplinary commission of the bar to hold another bar exam of that person at the nearest time of holding exams.<sup>129</sup>

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<sup>123</sup> Art. 8 sec. 4 of the Law of Ukraine "On the Bar and Practice of Law".

<sup>124</sup> Art. 9 sec. 2 sentence 5 of the Law of Ukraine "On the Bar and Practice of Law".

<sup>125</sup> [https://unba.org.ua/assets/uploads/news/zvity/KDKA\\_II\\_2021.pdf](https://unba.org.ua/assets/uploads/news/zvity/KDKA_II_2021.pdf)

<sup>126</sup> Section 4 subsection 9 of the Bar Exam Procedure.

<sup>127</sup> Section 13.7 of the Bar Exam Procedure.

<sup>128</sup> Art. 9 sec. 4 of the Law of Ukraine "On the Bar and Practice of Law".

<sup>129</sup> Art. 9 sec. 5 of the Law of Ukraine "On the Bar and Practice of Law".

According to the recent statistics from the second quarter of 2021, from 865 admitted candidates only 59 candidates failed the exam (less than 7 %). 846 candidates passed the exam.<sup>130</sup> The candidate has to pay the exam fee, which is currently (as of 15.08.2021) is 7,137 Ukrainian Hryvnias (approximately 215 Euro).

## Traineeship

A candidate is required to go through a (full- or part-time) traineeship with a mentor-lawyer.<sup>131</sup> The traineeship takes place over a period of six months and shall be calculated by adding up the total working time of a trainee for the performance of the traineeship programme and plan.<sup>132</sup> A candidate can choose his/her mentor freely out of the registers of the traineeship supervisors available at the regional Bar Councils. The Bar Council appoints then the mentor and supervises the traineeship. The regional bar council may designate a mentor for the candidate upon his/her request.

The main objectives of the traineeship are:<sup>133</sup>

- to study the deontological basis of lawyer's activities, principles and methods of organising the work of bar associations and legal firms, the features of a lawyer who practises law independently;
- to gain new and to improve the existing professional skills and abilities, to practise the professional knowledge gained as a result of theoretical training required to practice law independently;
- to develop professional, personal, moral and ethical qualities necessary for defending the interests of individual clients and the interests of society as a whole;
- to deepen professional specialisation and to gain practical experience for the qualitative provision of legal assistance.

The total working time of a trainee shall be at least 550 hours, of which at least 50 hours (only 10 %, or appr.1 working week and 1 day) shall be devoted to the legal practice by a trainee.<sup>134</sup> The term "legal practice" refers to the independent professional activity of a trainee or the joint professional activity of the trainee and the traineeship supervisor in defending, representing and providing other types of legal assistance to natural and legal persons.<sup>135</sup> What other work a trainee should be doing during the other 450 hours of traineeship is not stipulated by the Traineeship Regulation.

Persons who have at least one year of work experience as a lawyer's assistant in the past two years shall be exempted from the traineeship.<sup>136</sup>

The trainee does not get paid by the mentor, he/she has rather to pay to the mentor and to the bar a fee for the traineeship in the amount of 3 currently applicable minimum wages in

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<sup>130</sup> [https://unba.org.ua/assets/uploads/news/zvity/KDKA\\_II\\_2021.pdf](https://unba.org.ua/assets/uploads/news/zvity/KDKA_II_2021.pdf)

<sup>131</sup> Art. 10 of the Law of Ukraine "On the Bar and Practice of Law".

<sup>132</sup> Part 1, para. 1.6 of the Traineeship Procedure.

<sup>133</sup> Part 1, para. 1.5. of the Traineeship Procedure.

<sup>134</sup> See above.

<sup>135</sup> Part 1, para. 1.11. of the Traineeship Procedure.

<sup>136</sup> Art. 10 para. 5 of the Law of Ukraine "On the Bar and Practice of Law".

Ukraine.<sup>137</sup> The minimal wage in Ukraine in 2021 is approximately 180 Euros (6,000 Ukrainian Hryvnias)<sup>138</sup>. Therefore, the traineeship fee is approximately 540 Euros (18,000 Ukrainian Hryvnias). The 70 % of the fee go to the mentor, 30 % of the fee go to the bar.<sup>139</sup> Another fee of 50 % of the minimal wage is to be paid to the bar for the entrance of the data of the traineeship to the Unified Register of Lawyers of Ukraine.<sup>140</sup> The trainee has to earn his/her livelihood otherwise and may do the traineeship part-time alongside another occupation.

## Bar membership

The requirements to becoming a lawyer were described above. There are several grounds for the refusal of the bar membership. No person may be a lawyer if he/she:

- has unspent or unexpunged per the legally established procedure conviction for the grave, particularly grave crimes as well as medium-gravity crimes for which he/she has been sentenced to the punishment of imprisonment;
- was found by court partially or fully incapable;
- was disbarred from practicing law- in the subsequent two years as of the date of the decision on disbarment;
- was dismissed from the position of a judge, prosecutor, investigator, notary, public service officer or local self- government public officer for violation of the oath or for a corruption offence- in the subsequent three years as of the date of such dismissal.<sup>141</sup>

The following activities are incompatible with the practice of law<sup>142</sup>:

- work on the positions of persons referred to in paragraph 1 part one Article 3 of the Law of Ukraine "On Preventing Corruption";
- military or alternative (non-military) service;
- notary activities;
- forensic expert activities.

Requirements, as regards the incompatibility with the practice of law provided for in paragraph above, shall not apply to deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, deputies of local councils (except for those who perform their powers in the respective council on a regular basis), members of the High Council of Justice (except for those who work in the High Council of Justice on a regular basis).

To become a member of the bar, the lawyer must pay the membership fee decided by the Bar Council of Ukraine. However, the maximum amount of the fee is prescribed by law. According to paragraph 2 of part 2 of Art. 58, the maximum fee cannot exceed the rate of minimum subsistence level of employable persons in Ukraine (as of 1 January of relevant calendar year). The rate is currently (as of 16.08.2021) approximately 68 Euros (2,270 Ukrainian Hryvnias). The annual membership fee set up by the Bar Council is currently (as of 15.08.2021) approximately 68 Euros (2,270 Ukrainian Hryvnias).

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<sup>137</sup> Part 6, para. 6.1. of the Traineeship Procedure.

<sup>138</sup> <https://index.minfin.com.ua/labour/salary/min/>

<sup>139</sup> Part 6, para. 6.2 of the Traineeship Procedure.

<sup>140</sup> See above.

<sup>141</sup> Art. 6 sec. 2 of the Law of Ukraine "On the Bar and Practice of Law".

<sup>142</sup> Art. 7 of the Law of Ukraine "On the Bar and Practice of Law".

## Gender issues/young lawyers

The gender distribution of the Ukrainian legal profession as of December 2020 is 62.3% male and 37.7% female advocates out of 58,999 licensed advocates.

The issues of gender equality in the lawyer's profession are prominently addressed by the Ukrainian Women Lawyers Association "JurFem"<sup>143</sup> and the Gender Committee of the Ukrainian National Bar Association.

"JurFem" is one of the first Ukrainian associations of women lawyers and was established in 2017. The aim of the organisation is among others to promote the professional capacity of women lawyers and their representation, to strengthen the leadership of women lawyers in professional associations and in other organisations; to improve the understanding of national and international legislation on equal rights and opportunities for women and men among the legal community to effectively protect women's rights and opportunities in all spheres of public and political life in Ukraine; to uphold the rights and interests of women lawyers, etc. JurFem has an active mentorship programme, it organises an All-Ukrainian Forum of Women-Lawyers and a summer school.<sup>144</sup>

The committee on questions of gender politics of the UNBA<sup>145</sup> was established in 2019 and aims to promote female leadership in the legal profession and gender equality in all spheres of life, to increase sensitivity to gender issues, to participate in the legislation of Ukraine establishing gender equality, etc. The committee of UNBA is very active, it conducts motivational meetings, round tables, podium discussions on the question of gender equality, such as, for example, "Access to the profession: are the opportunities equal?", "Gender equality in the legal profession: mythos or reality?" and others.

There were no issues related to the gender-based discrimination during the procedures of the access to the profession observed.

In 2020, the committee on gender politics of the UNBA and JurFem signed a memorandum of cooperation.<sup>146</sup>

UNBA established the committee "UNBA NextGen" that is dedicated to working with young lawyers. NextGen aims to raise the new generation of lawyers who are highly qualified, dedicated to the core values of the profession, best equipped for the market, engage in the self-regulation of the profession, etc. NextGen conducts conferences, round tables, meetings with experienced lawyers, etc.

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<sup>143</sup> <http://jurfem.com.ua/en/home-page-2/>

<sup>144</sup> <http://jurfem.com.ua/en/ii-summer-school-eng/>

<sup>145</sup> <https://unba.org.ua/komitety>

<sup>146</sup> <https://unba.org.ua/news/6661-komitety-z-pitan-gendernoi-politiki-sho-die-u-skladi-naau-ocholila-advokat-tetyana-andrianova.html>

## Foreign lawyers

The advocate of a foreign state can practice law in Ukraine by becoming a member of the bar.<sup>147</sup> The foreign lawyers must submit the membership application to the qualification and disciplinary commission of the bar at the place of his/her residence in Ukraine. The list of required documents is stated by the decision of the Bar Council of Ukraine no. 155.<sup>148</sup> The commission has to decide within 10 days after the submission of the application. The application can be refused if the advocate was excluded from the bar in last 2 years as a foreign or Ukrainian lawyer by the decision of the qualification and disciplinary commission.

After becoming a member of the bar in Ukraine, a foreign lawyer becomes subject to professional rights and duties and enjoys guarantees of practice of law of a Ukrainian lawyer. Foreign lawyers can become partners in Ukrainian law firms.<sup>149</sup> Foreign lawyers pay the same annual fee to the bar as Ukrainian lawyers.

## Training of lawyers

The obligation of continuous professional development is prescribed by the Law on Lawyers: "...the advocate shall be obliged to improve his/her professional level."<sup>150</sup> This obligation is specified by the Procedure of advanced training for lawyers of Ukraine ("Advanced Training Procedure").<sup>151</sup> Continuous education for lawyers in Ukraine is very strictly regulated area.

Newly admitted lawyers are required to complete the Young Advocate module programme and undertake 48 hours (collect 48 credit points) of training within three years after their admission to the bar.<sup>152</sup> All other lawyers are required to undertake 10 hours of advanced training per year (collect 10 credit points) of which 2 credit points must be done in the area of professional laws and ethics.<sup>153</sup>

Advanced Training Procedure contains an extensive list of activities, that are accepted under the obligation of continuous training, such as training or teaching in professional advanced training programme for lawyers at higher education institutions; participation in international, all-Ukrainian and regional scientific, scientific-practical and scientific-methodological conferences, workshops, round tables, etc.; writing scientific or scholarly articles that have been peer-reviewed by the Academic Council of the Higher School of Advocacy; participation in the work of UNBA committees and other.<sup>154</sup>

The organisation and implementation of the advanced training of lawyers in Ukraine is carried out by the Higher School of Advocacy of the Ukrainian National Bar Association with the

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<sup>147</sup> Art. 59 of the Law of Ukraine "On the Bar and Practice of Law".

<sup>148</sup> <https://en.unba.org.ua/assets/uploads/legislations/pologennya/3-regulation-on-the-list-of-documents.pdf>

<sup>149</sup> Art. 59 sec. 6 of the Law of Ukraine "On the Bar and Practice of Law".

<sup>150</sup> Art. 21 sec. 1.4) of the Law of Ukraine "On the Bar and Practice of Law".

<sup>151</sup> [https://unba.org.ua/assets/uploads/legislation/poryadki/2021-07-03-poryadki-63\\_60f53b3b70d63.pdf](https://unba.org.ua/assets/uploads/legislation/poryadki/2021-07-03-poryadki-63_60f53b3b70d63.pdf)

<sup>152</sup> Art. 18 of the Advanced Training Procedure.

<sup>153</sup> Art. 20 and 21 of the Advanced Training Procedure.

<sup>154</sup> Art. 14 of the Advanced Training Procedure.

assistance of regional Bar Councils and external operators of advanced training for lawyers, which are accredited in accordance with the Advanced Training Procedure.<sup>155</sup>

The external operators of continuous professional education are required to obtain accreditation. The accreditation is carried out by the Board of the Higher School of Advocacy and is granted for a period of one year. The annual fee for the accreditation of external advanced training operators is 50 minimum wages as of 01 January of each year in which the fee is paid (currently 300,000 Ukrainian Hryvnias (50x6,000), which is equal to 9,000 Euros). The external operators also have to pay a certain fee per every training they are offering to the Higher School of Advocacy. The criteria for accreditation are set up in the Procedure for Accreditation and Certification.

According to the UNBA, currently, there are approximately 30 external operators of the continuous professional training accredited in Ukraine.

For the purposes of quality control of the organisation of the continuous professional training by third-party operators, the Higher School of Advocacy organises the work of auditors.<sup>156</sup> Auditors are granted permission to all accredited training activities without any restrictions. The face-to-face and online training sessions (webinars, conferences, courses, etc.) are the most popular methods among Ukrainian lawyers.

Non-compliance with the obligation of the continuous professional training might result in the disciplinary procedure against the lawyer.<sup>157</sup> Possible disciplinary measures in case of violation of advocate's duties are:<sup>158</sup>

- warning;
- suspension of the right to practice law for a period of from one month to one year;
- for Ukrainian lawyers: disbarment with further exclusion from the Unified Register of Advocates in Ukraine;
- for foreign lawyers: exclusion from the Unified Register of Advocates in Ukraine.

## Recommendations

1. The ground to refuse admission to the profession due to "suffering from mental disease", that was introduced by the Bar Council of Ukraine<sup>159</sup> might be considered to be discriminatory. A sheer existence of a mental disease does not necessarily constitute a disability to properly practice the profession and cannot be a stand-alone ground to deny access to the profession. Either a mental or a physical health condition, could only be a ground to refuse the admission or to exclude a lawyer from the profession *if it renders him/her incapable of properly practising the profession for longer than merely a temporary period.*
2. In 2016, the Ukrainian legislator amended the "Law on Lawyers" and introduced maximum amounts for all fees charged by the Bar and linked these fees to the rate of minimum substance level of employable person in Ukraine. For example, according

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<sup>155</sup> Art. 4 of the Advanced Training Procedure.

<sup>156</sup> Art. 35 of the Advanced Training Procedure.

<sup>157</sup> Art. 34, sec. 1.7) of the Law of Ukraine "On the Bar and Practice of Law".

<sup>158</sup> Art. 35 of the Law of Ukraine "On the Bar and Practice of Law".

<sup>159</sup> Part 2 sec. 7, 2) of the Bar Exam Procedure.

to paragraph 2 of part 2 of Art. 58, the maximum annual fee cannot exceed the rate of one minimum subsistence level of employable persons in Ukraine (as of 1 January of relevant calendar year). Or the amount of the bar exam fee cannot exceed three minimum subsistence levels, etc. Such limitations of the fees constitute an undue interference with the self-regulation of the legal profession in Ukraine and must be abolished. It is an established international standard, that only members of the bar can decide on the strategy, the organisational needs, the tasks and the goals of their self-regulation bodies, and, as the result of the above, on their financial needs and the amounts of contributions of lawyers.

3. In order to improve the transparency, the effectiveness, the fairness of the exam and the comparability of the exam results an introduction of a centralised, computer-based, anonymised exam should be considered.
4. The success rates of 93 % of the bar exam is high in the international comparison (approximately 70 % success rate in Germany, for example). There are no international standards regarding the success or failure rates in the bar exam. However, the high success rates could be an indicator that the exam is too easy to pass. It is recommended for the UNBA to take a closer look at the examination requirements.
5. A trainee is obliged to spend 500 hours with an experienced mentor-lawyer, but only a minimum of 50 hours is required to be spent doing actual legal work. In order to prepare for the profession 50 hours of actual legal practice (that is 1 working week and 1 day) seems not to be sufficient. Taking into consideration the high cost and the complexity of the task of organising the training of lawyers and the tremendous work that was already done by the self-regulation of the profession in Ukraine in this regard, it is advised to gradually increase the time dedicated to legal practice of trainees.