

CERTAIN ASPECTS OF THE INTERNATIONAL LEGAL OBLIGATIONS OF UKRAINE ON THE BAR'S ORGANIZATION AND ACTIVITY

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When joining the Council of Europe, Ukraine has undertaken international legal obligations to ensure the proper protection of the status of the legal profession (lawyers) and to establish a professional bar association on an independent basis at the legislative level (see paragraph ix of the article 11 of the Opinion No. 190 (1995) of the Parliamentary Assembly of the Council of Europe on the joining of Ukraine to the Council of Europe dated September 26, 1995 [1]; paragraph 10 of Resolution of the Parliamentary Assembly of the Council of Europe 1346 (2003) «Honouring of Obligations and Commitments of Ukraine» dated September 29, 2003 [2] paragraph 7.3.6 of the Article 7.3 of Resolution of the Parliamentary Assembly of the Council of Europe 1755 (2010) «The Functioning of Democratic Institutions in Ukraine» dated November 04, 2010 [3]).

In this context, in view of the current situation, the Ukrainian Bar (Art. 2 of the Law of Ukraine «On the Bar and Practice of Law» dated July 05, 2012 No. 5076-VI [4]) was defined at the legislative level as a non-governmental self-governing institute providing protection, representation in court and other types of professional juridical (legal) assistance (on an independent basis), as well as independently resolving all key issues of its organization and activity [4; 5].

All attorneys of Ukraine, regardless of their will, were united in the Non-governmental Non-commercial Professional Organization «Ukrainian National Bar Association» (UNBA), which, according to the Law of Ukraine «On the Bar and Practice of Law» (dated July 05, 2012 No. 5076–VI) [4], was created with the purpose of ensuring the implementation of the tasks of advocate self-government, enhancing the level of juridical (legal) assistance provided by attorneys, the role and authority of the bar in society [6; 7]. The historical background is presented in Table 1.

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Table 1

Historical background [7, p. 11–12]

DATE	EVENT	SIGNIFICANCE
September 26, 1995	Joining of Ukraine to the Council of Europe	1. Ukraine assumes obligations on ensuring the proper protection of the legal profession status and establishing a professional bar at the legislative level
June 28, 1996	Adoption of the Constitution of Ukraine [8]	2. The Bar in Ukraine acts to secure the right to defense against prosecution and to provide legal assistance in courts and other state bodies (Part 2 of Art. 59 of the Constitution of Ukraine)
July 05, 2012	Adoption of the Law of Ukraine «On the Bar and Practice of Law» [4]	3. The Bar in Ukraine is constituted as a non-governmental self-governing institute
August 15, 2012	Coming into force of the Law of Ukraine «On the Bar and Practice of Law» [4]	
November 20, 2012	Coming into force of the new Criminal Procedure Code of Ukraine [9]	4. Only attorneys can be defenders in criminal investigations
November 19, 2012	Registration of the «Ukrainian National Bar Association» (UNBA) [6] (https://unba.org.ua/)	5. The non-commercial Professional Organization «Ukrainian National Bar Association» (UNBA), which consolidates all the attorneys if Ukraine, started to operate
June 02, 2016	Introduction of amendments to the Constitution of Ukraine (on justice) [10]	6. The attorney's monopoly on the standing in the law proceedings of Ukraine
September 30, 2016	Coming into force of the amendments to the Constitution of Ukraine (on justice) [8; 10]	
December 15, 2017	Coming into force the amendments to the Commercial and Procedural Code of Ukraine, the Civil Procedural Code of Ukraine, the Code of Administrative Proceedings of Ukraine and other legislative acts [11]	7. The attorneys only can stand for the other persons in court, except the events, regulated by the court

Thus, with the adoption and coming into force of the Law of Ukraine «On the Bar and Practice of Law» (dated July 5, 2012, No. 5076-VI) [4], which needs improvement, the registration of the National Bar Association of Ukraine and the beginning of its activity [6], Ukraine formally fulfilled its international legal obligations to the Council of Europe to ensure the protection of the status of the legal profession (lawyers) and the establishment of a professional bar association at the legislative level [7]. At the same time, it is also worth noting that today the professional bar community emphasizes the problems of violation of the lawyers' rights and the guarantees of advocacy in Ukraine (when providing professional juridical (legal) assistance to a client on an independent basis). Independent bar is a necessary and important prerequisite for securing the rule of law and democracy in society [7; 12].

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