ANALYSIS
OF THE DRAFT LAWS OF UKRAINE
ON THE BAR

Legal Assessment Series
September 2007
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Analysis of the Draft Laws of Ukraine On the Bar*

I. Introduction

This assessment is an analysis of the three draft laws on the bar of Ukraine. The draft laws are: the Miroshnichenko draft (Draft Law No. 2677 of December 6, 2006) [hereinafter “Miroshnichenko draft”]; the Shentsev draft (Draft Law No. 2421 of October 26, 2006) [hereinafter “Shentsev draft”]; and the Onischuk draft (Draft Law No. 2421 of November 8, 2006) [hereinafter “Onischuk draft”]. The Shentsev draft and the Onischuk draft are virtually identical in most major respects.

The assessment attempts to identify positive attributes of the proposed draft laws as well as to draw attention to aspects that are contrary to international principles or that could undermine the independence and effectiveness of the legal profession in Ukraine. Where appropriate, this report offers general commentary and specific recommendations for modification of the draft laws based on international standards as well as American experience. Particular emphasis has been placed on assessing draft laws against international standards for the organization and functioning of the legal profession. These standards are embodied in the United Nations Basic Principles on the Role of Lawyers and the Council of Europe’s (CoE) Recommendation on the Freedom of Exercise of the Profession of Lawyer. In addition, the assessment also draws on standards identified in the Code of Conduct for Lawyers in the European Union promulgated by the Council of the Bars and Law Societies of the European Union (CCBE).

The recommendations contained in the assessment are offered in the spirit of cooperation and collaboration towards supporting the rule of law in Ukraine.

II. International Standards

The United Nations General Assembly adopted the Basic Principles on the Role of Lawyers1 (“UN Basic Principles”) in September, 1990, which sets forth minimum standards that countries should take into account when developing national legislation for the establishment, organization, and operation of the legal profession. The document was drafted to acknowledge the “vital role”2 of professional associations of lawyers and to assist states promote and ensure the role for lawyers in a democratic society. In doing so, the UN Basic Principles reaffirms various rights and principles enshrined in the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Standard Minimum Rules for the Treatment of Prisoners, and Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

*Compiled by Irina Lortkipanidze, ABA ROL Initiative Legal Analyst.
1 See appendix B
2 UN Basic Principles on the Role of Lawyers; Preamble
The UN Basic Principles provides international standards in the following areas related to the legal profession: access to lawyers and legal services; specific safeguards in criminal justice matters, lawyer qualification and training, duties and responsibilities of lawyers, guarantees for the functioning of lawyers, freedom of expression and association, professional associations, and disciplinary proceedings.

The Council of Europe took account of the UN Basic Principles when it developed similar standards for the legal profession in its Recommendation on the Freedom of Exercise of the Profession of Lawyer (Rec (200)21). This document was adopted by the CoE Committee of Ministers in 2000. This document is the demonstration of the need of European-wide consensus around the notion that lawyers play an essential role in a democratic society based on the rule of law. Within the Council of Europe, it is agreed that one of the fundamental elements in the rule of law is a well trained and independent legal profession that is accessible to society as a whole.

Recommendation Rec (2000)21 sets standards in the following areas: freedom of exercise of the profession, legal education, training and entry into the profession, role and duty of lawyers, access to lawyers, establishment and function of professional association of lawyers, and disciplinary proceedings.

Although they are not legally binding, recommendations of this sort nevertheless articulate and emphasize standards for the legal profession, which all Member States should “respect and take into account . . . within the framework of their national legislation and practice”.

The CCBE Code of Conduct for Lawyers in the European Union ("Code of Conduct") is another source of standards that should be consulted when developing frameworks for regulating the legal profession. The CCBE represents European Bar Associations and Law Societies in the European Union, European Economic Area, and other international organizations. It is comprised of delegations from bar associations of 18 countries, including both EU and EU-accession states. Many emerging democracies in central Europe have observer status within the CCBE as well. One of the CCBE’s primary objectives is to harmonize, coordinate, and develop the legal profession in Europe. It has pursued this objective by adopting the Code of Conduct. The code is intended to be binding on all lawyers in CCBE Member States, including those from both the EU and other European countries that have CCBE observer status.

Ukraine has observer status in CCBE and is represented by the Union of Advocates of Ukraine. As a Member State of the Council of Europe, Ukrainian authorities should be cognizant of these standards when considering the draft laws on the legal profession.

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3 See Appendix D
4 See the Preamble to the UN Basic Principles on the Role of Lawyers
5 See Appendix C
6 http://www.ccbe.org/en/pays/ua.htm
7 Ukraine became the 37th member State of the Council of Europe on 9 November 1995.
http://www.coe.int/T/E/Com/About_Coe/Member_states/e_ukr.asp#TopOfPage
III. Background Information and General Overview

Article 59 of the Constitution of Ukraine provides that the Bar (“Advokatura”) acts to ensure the right of defense against accusation and provide legal assistance in deciding cases in courts and other state bodies. At present, the legal profession in Ukraine is neither independent of the state nor is it self-governing. Under a 1992 Law on the Bar, and subsequent Presidential Decrees, certain qualification and disciplinary functions regarding advocates are vested in a commission - the High Qualification Commission of Advocates (HQCA). The HQCA includes not only advocates, but representatives from both the Supreme Court and the government, specifically the Ministry of Justice. Further, the status of all 27 regional bar commissions was implemented pursuant to Presidential decree and the registry of bar associations and law firms is overseen by the Ministry of Justice. Professional ethics rules for advocates were passed by the HQCA and were similarly adopted by Presidential Decree. The main task of the HQCA is to consider appeals from decisions of the regional qualification and disciplinary commissions concerning admission to the bar and disciplinary actions. It also develops the bar examination as well as standardized procedures for issuance and termination of licenses.

The assessment of the benefits and drawbacks of any proposed organization of the legal profession cannot be undertaken in a vacuum. The solutions suggested in the drafts must be viewed in light of the current laws and decrees governing the bar and how those laws and decrees have been implemented. The degree to which implementation has been positively or negatively affected by political, economic, social, and cultural factors must be considered so that any proposed solution builds on past success and does not repeat past mistakes.

The purpose of all three draft laws on the bar is to establish a professional bar association as contemplated by the Council of Europe. Each of the draft laws seeks to lay out a legal framework for an independent, non-discriminatory, and self-governing legal profession. The draft laws make significant progress toward strengthening the legal profession in Ukraine. They also set criteria for entry into the profession.

Nevertheless, certain shortcomings do exist, ones that may undermine some of the drafts more positive approaches. The authors of the draft laws should consider revisions in the areas of professional ethics and discipline, continuing legal education, relationship between the professional self-governing organization and government, role of the Ministry of Justice in registration of advocate’s associations, establishment of more effective and active self-governance, right to judicial review in case of denial of the right to practice law, client lawyer relationship, and etc. All of these issues, in addition to others, are reviewed below.

Addressing these areas will result in the creation of more effective law for regulation of the legal profession in Ukraine.

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8 The information on current Ukrainian law and major issues facing the legal profession was obtained from the “Memo on Bar Development in Ukraine” submitted by Galyna Polishchuk, ABA/ROLI Ukraine; April 13, 2007
9 Ibid.
IV. Bar Self-Governance

In a democratic society based on the rule of law, the legal profession should be self-regulating and independent from the state and lawyers should be able to engage in the practice of law freely and without improper interference. In post-Communist countries, for instance, bar associations have little or no tradition of self-governance, democratic practices, and independence, because the legal profession was made to serve the interests of the socialist state.

The notion of self-governing, democratically led, and independent bar associations and other associations of legal professionals is determined in Principle V (2) of the Council of Europe’s Recommendation Rec (2000)21 and in Principle 24 of the UN Basic Principles. Specifically, COE Principle V (2) states that “bar associations or other professional lawyers’ associations should be self-governing bodies, independent of the authorities and the public.” In addition, UN Principle 24 specifically states that “the executive body of the professional associations shall be elected by its members and shall exercise its functions without external interference.”

These norms are reflected in all three draft laws on regulating bar in Ukraine. Each of the draft laws seek to lay out a legal framework for an independent, non-discriminatory, self-governing legal profession.

In the Miroshnichenko draft, Article 1, the bar of Ukraine is determined to be a “non-governmental, professional, independent, self-governing institution specially authorized by the Constitution of Ukraine, comprising all advocates”. The draft laws of Shentsev and Onischuk are identical with regard to the definition of the Bar of Ukraine. According to these drafts, “The bar of Ukraine is non-governmental, self-governing, professional remedial institution, which includes all of the advocates”. All three draft laws determine bar self-governance similarly and stipulate that it is the state guaranteed right of advocates to resolve problems of organization and activities of the bar independently.

All three draft laws dedicate separate sections to bar self-governance. They all establish a similar structure: the bar would be governed by a Congress of Advocates as the highest body of bar self-governance, with a Council of Advocates of Ukraine, meeting (assemblies) of advocates in regions, and regional councils of advocates. The regional councils of advocates would include a disciplinary commission, a qualification commission, and an audit commission. As such, the three draft laws would create an independent and self-governing organization of advocates. Although not specifically stated, the new organizational regime would, inter alia, abolish and replace the HQCA.

The important requirement according to all three draft laws is that only advocates have the right to elect and be elected in the self-governing bodies of the bar in Ukraine. The decisions of the

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10 Draft laws of D. Shentsev and M.V. Onischuk - Article 1. Definition of Key terms
11 Miroshnichenko draft; Shentsev draft and Onischuk draft - Article 1, Definition of Key terms
12 Miroshnichenko draft - Section VIII; Shentsev draft – Part VII and Onischuk draft – Part VII
13 Miroshnichenko draft - Article 49.1, Shentsev draft – Article 51 and Onischuk draft – Article 46
14 Miroshnichenko draft - Article 44.1, Shentsev draft – Article 47 and Onischuk draft – Article 42
Congress of Advocates of Ukraine and the Council of Advocates are binding for all advocates and associations of advocates in Ukraine.\(^{15}\)

The draft laws of Onischuk and Shentstev include separate articles named “The Bar and the State”. According to this article bar is separate from the governmental or local self-governance system and state is obliged to create appropriate condition for the functioning of the bar. The same article sets requirement towards the governmental entities to seek consent from the bar self-governing institutions on the laws related to the organization and functioning of the bar of Ukraine.\(^{16}\)

Each draft presents an ambitious system of bar self-governance. All of the functions of these organizations would be largely free of government involvement or interference. One exception relates to registration of advocate associations. Article 18.3 of the Miroshnichenko draft provides that associations of advocates are to be registered with the Ministry of Justice in accordance with regulations approved by the Cabinet of Ministers. The Shentstev (Article 36) and Onischuk (Article 31) drafts establish an authorized executive institution of the Unified Register of Organizational Forms of Advocate’s Practice that would register associations of advocates in accordance with requirements set out by the Cabinet of Ministers. While the purpose of such a register is unclear (as opposed to the clear purpose of the Unified Register of Advocates as the central listing of all licensed advocates), there can be no apparent benefit to having the Cabinet of Ministers or an executive authority control a list that purports to show how law offices are organized. This would jeopardize the independence of the bar by injecting the government into the process of collecting information about how advocates are organizing their offices. These provisions are exceptions to the otherwise independent operation of the bar contemplated in the drafts, and if such a registry is actually necessary to the functioning of an independent, self-governing legal profession, the drafters may want to consider placing responsibility for the content and maintenance of these registers exclusively with the bar instead of the government.

The drafts provide for the regional assemblies and the Congress to meet a minimum of once every three years.\(^{17}\) For self-governance to be sustained, there must be participation, and so such infrequent meetings are ill-advised. With so few meetings, delegates to the Congress could meet only once during their elected terms. Unless they meet more often, there will be no ongoing energy, sense of purpose, or cohesion that is developed by working together. It is advised to have regional assemblies and Congress meet regularly on an annual basis.

Any effective reform of the system of self-governance must also ensure the independence of those empowered to impose disciplinary sanctions on advocates. All three drafts grant the authorities of the self-governing body, particularly, regional assembly (meeting) of advocates, with the power to dismiss disciplinary commission members.\(^{18}\) These provisions have the potential to jeopardize independence by removing disciplinary commission members without clear standards.

\(^{15}\) Miroshnichenko draft - Article 57, Shentsev draft – Article 58 and Onischuk draft – Article 53
\(^{16}\) Shentsev draft – Article 5 and Onischuk draft – Article 5
\(^{17}\) Miroshnichenko draft – Articles 45 & 49; Shentsev draft – Articles 48 & 51; Onischuk draft – Articles 43 & 46
\(^{18}\) Miroshnichenko draft – Article 47; Shentsev draft – Article 49; Onischuk draft – Article 44
While it is important that those who are elected be accountable, it is also important not to make it too easy to terminate disciplinary authorities. It is recommended that removal of disciplinary commission members only occur for specified reasons and only after adequate opportunity for the member to challenge the attempted action in an open proceeding. If any elected person is to be removed, or if authority is to be taken away, there should be a very high standard for doing so and a very transparent process by which it occurs.

To make the work of these elected bodies more transparent, it may be helpful to provide that certain meetings be held in public, that minutes and budgets be published, that notice of all meetings be given well in advance through means that are accessible for all advocates, and that advocates be able to raise issues at the meeting.

Although committees are not mentioned in any draft, certainly they should be used to accomplish much of the work of the governing bodies. This will greatly improve the effectiveness of such bodies. The standing committees for certain subjects, such as CLE, internships, legislative monitoring, etc can be established, as well as ad hoc committees for short term needs (e.g. for preparing special reports or conference planning). It would be beneficial to add language allowing self-governing bodies to create committees and working groups. One could say that the success of a self-governing bar will turn on the quality and size of its administrative support. This is expensive, but it is unrealistic to expect advocates on the regional and national councils to handle administrative work. In addition, a system of financing the activities of these bodies must be established that is realistic in terms of the advocates’ ability to pay membership dues and the sufficiency of the funds for the work to be accomplished.

All drafts would be improved by stronger and more inspiring language defining and describing the bar of Ukraine. It is important to convey the public importance of an independent bar that honors international standards. In all three drafts the functions of the bar are presented in language that suggests only routine and passive work (“elect”, “approve” and “appoint”). Unless the bar sees itself as one of growth, support, creation and higher purpose, it will be quickly reduced to performing ministerial functions.

V. Admission to the Bar and the Right to Practice Law

A well-trained and competent legal profession is an essential element in establishing and sustaining the rule of law. All legal professionals should have a formal, university-level legal education from an accredited academic institution. UN Principle 9 provides that lawyers should have appropriate education and training, should know their ethical duties, and understand human rights and fundamental freedoms in international law.

The three drafts provide that the right to practice advocacy is vested exclusively with advocates. Thus, the three drafts would not recognize “specialists in law” — unlicensed lawyers who may represent clients in criminal cases under present law. This would be a desired result

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19 Miroshnichenko draft Article 2.4; Shentsev draft Article 17; Onischuk draft Article 16.
20 The notion of “specialist in law” has been introduced by the decision of the Constitutional Court of Ukraine, so-called “Soldatov Case”. Through this case, the Constitutional Court of Ukraine enforced the right of lawyers, who did not receive the license of advocate to represent their clients in criminal cases.
inasmuch as “specialists in law” are not subject to qualification requirements or advocate's ethics rules and discipline.

In comparison, in the United States, no one but an advocate can represent a client in court, charge a fee for legal services, or sign official papers filed with the court. In essence, while others can help an advocate, only the advocate can act in the place of the client.

The three drafts also exclude certain categories of professionals (e.g., prosecutors and “legal counsel”) from engaging in occupations that are deemed “incompatible” (i.e., in conflict) with the practice of advocacy. Such provisions are common in European legislation on the bar and the exclusion of persons engaged in “incompatible” occupations is acknowledged in the CCBE Code of Conduct (Section 2.5).

All drafts address the process by which one becomes a licensed advocate. In the Shentsev and Onischuk drafts, a person must complete higher legal education, have at least 3 years of legal experience, and complete a six month internship before taking the qualifying examination. The Miroshnichenko draft calls for a complete higher legal education, passage of an exam, and 2 years experience as an intern or lawyer.

In addition to a bar examination, the drafts require that an advocate have served as an “intern” in a law office for a designated period of time before qualifying for a license. Under the Shentsev and Onischuk drafts, the internship requirement is waived for those who have served as an advocate’s assistant for at least a year. These internship requirements appear to lack a systematic way to determine the level of training that an “intern” is expected to receive, and force prospective candidates for admission to find an advocate willing to act as the “supervisor” in order to meet this requirement. Even if an intern position is obtained, the Shentsev and Onischuk drafts require the advocate to “issue…a report on the achievement of practical experience necessary for the practice of advocacy” and the Miroshnichenko draft provides that the advocate shall “provide for training of the intern to prepare him/her for legal practice.” Even if the drafts provide for a bar organization to develop basic standards of training, the individual nature of the skill level and areas of expertise of as many as 30,000 existing advocates would make the establishment and implementation of such standards problematic.

The requirements of an internship and the process for approval are not clear in any draft. Both advocates and interns need guidelines for the purpose, requirements, and expectations for the intern experience. The qualifying commissions must have common criteria for evaluating the final report from the intern’s advocate. The creation of the details for such a system could be the collaborative work of the self-governing bar rather than part of the legislation creating it; however, the law should state that such a system will be developed. Among the requirements of any internship should be exposure to ethics and international human rights and fundamental freedoms.

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21 Shentsev and Onischuk drafts – Article 6 paragraph 3 and Article 9
22 Miroshnichenko draft Article 9 paragraph 1
23 Shentsev and Onischuk drafts – Article 9
24 This is approximate data provided by the disciplinary and qualification commissions of oblasts,
According to the draft laws, a person may not take the bar examination unless he/she has met the requirements above and, in addition, speaks the national language, does not have a criminal record, and does not work in an incompatible field.\textsuperscript{25}

All drafts provide, more or less, that one can not be an advocate if one has committed a crime. Further, all three provide that, if an advocate commits a crime, their advocacy license will be terminated.\textsuperscript{26} Miroshnichenko draft, Article 31.2, determines that the “right to practice law shall be suspended by the qualification commission in case of criminal negligence perpetrated by the advocate until liquidation or expunction of conviction”. The Shentsev and Onischuk drafts do not determine which institution of the bar self-governance is authorized for the suspension or termination of license in case “a court case is closed where the advocate was accused of premeditated grave or especially grave crime”\textsuperscript{27}. None of the draft laws determine any procedures for the termination of an advocate’s license and they do not define “crime” in the same way.

There is one broad issue regarding the above-mentioned provisions in the draft laws. Should all crimes prevent one from being licensed as an advocate? If not all, than which crimes? Once one has been licensed, should the commission of any crime whatsoever lead to disbarment? Should the crimes that prevent one from being licensed in the first place be the same as the crimes that lead to automatic disbarment, or should they be different? Presumably, a minor traffic violation – what we might call a misdemeanor – would not lead to a denial of admission to the bar, or to disbarment of a licensed advocate. Presumably, for the drafters are concerned with serious offenses, captured by the words “premeditated” in all drafts, “intentional” in Miroshnichenko draft, and “grave or especially grave” in Onischuk and Shentsev drafts.

One suggestion is to consider Rule 8.4 (b) of the ABA Model Rule of Professional Conduct: “It is professional misconduct for a lawyer to; . . . commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects” (See Appendix F). The drafters may wish to use similar language to delineate which crimes should lead either to denial of admission, or disbarment.

The Miroshnichenko draft provides that decisions of the regional qualification commissions, including a denial of the right to practice law, may only be appealed to the Appeal Commission of Advocates. (See Articles 12.2 and 54.6) The drafters may also wish to include the right to court review. Even though the Constitution of Ukraine, Article 55, guarantees “the right to challenge in court the decisions, actions or omission of bodies of state power, bodies of local self-government, officials and officers”, which means that the right to address all claims to the court directly is secured by the Constitution, it is recommended to add provisions guaranteeing the ability to appeal decisions affecting the right to legal practice. Principle 1.2 of the Council of Europe’s Recommendation 21 on the Freedom of Exercise of the Profession of Lawyer specifies that decisions concerning authorization to practice law “should be subject to a review by an independent and impartial judicial authority.” To the extent that there are concerns that admission decisions are made on the basis of political or other impermissible factors, judicial review would act as an important safeguard.

\textsuperscript{25} Shentsev and Onischuk drafts – Article 6; Miroshnichenko draft – Article 9
\textsuperscript{26} Miroshnichenko draft – Article 31; Shentsev draft – Article 16 and Onischuk draft – Article 15
\textsuperscript{27} Shentsev draft – Article 16 and Onischuk draft – Article 15
Both the Shentsev and the Onischuk drafts appear to allow for the appeal of admission decisions to either the Appeal Commission of Advocates or the court. For example, Article 55 of the Shentsev draft and Article 50 of the Onischuk draft state that “the decision of the qualification commission of advocates can be appealed at the Appeals Commission of Advocates of Ukraine following the moment of the decision being made or at the court.” [Emphasis supplied] This is compatible with Council of Europe Recommendation 21.

There is no provision in any draft that addresses admission of advocates who are already practicing in Ukraine. This is a serious issue for the public and the bar. A solution must be drafted carefully because it will have great influence on what level of support is given by the present advocate community to the entire law on legal profession. Establishing a self-governing bar that meets the highest standards cannot occur overnight. While the draft laws do provide for transitional provisions that allow those holding advocate’s licenses to continue acting in that capacity, they do not require existing advocates to take an examination. One possible way to address this issue is to require that anyone who has not completed the mandatory higher education by the time the law goes into effect must meet all requirements of the new law, but those who can prove they have practiced advocacy as a profession in Ukraine for a certain period of time prior to the adoption of the law on bar may continue to practice for a specific period (possible one to two years) after the law is adopted. He/she would then be given an advocate’s license to continue practicing only upon passing a modified examination. Such a modified examination should include not only material on Ukraine law, but also ethics and international human rights and fundamental freedoms. Those working on the CLE function of the bar could develop a special course that such advocates could take to prepare for the modified examination, at no expense. Passing the bar examination by practicing attorneys is a very important and vital aspect for maintaining a high quality legal profession and legal practice in the country. Due to the fact that laws change constantly, and that legal ethics and disciplinary requirements are new, it is recommended that practicing lawyers in Ukraine be required to take the bar examination after a certain period of time.

Georgia’s experiences in addressing the issue of examinations for existing attorneys may be instructive. A transitional provision requiring practicing advocates to continue to practice law for three years after the adoption of law on the bar in Georgia helped provide for effective implementation of the law. All practicing advocates were allowed to continue to practice law until June 1, 2006. Before the expiration of the set deadline government and, later, the Georgian Bar Association organized several bar examinations – twice every year. The law of Georgia does not limit the number of exams a lawyer may sit for. The exam is multiple choice and consists of 100 questions, which are randomly selected by computer from 5000 possible questions. The order of the answers is also randomized. All possible questions with correct answers are published one more prior to the exam. The examinee must correctly answer a minimum of 75 questions out of 100 to be eligible for admission to the bar and the right to practice law. All members of the legal profession should meet certain minimum levels of competency in the practice of law despite the fact they are new graduates or have graduated from Soviet-era educational institution. A legal profession composed of competent and qualified individuals is more likely to be well regarded by society and by the state as well.

In the United States, aspiring lawyers sit for the “bar examination”, which is comprised of several components, including the Multi-State Bar Examination (a 200 multiple choice question
exam on property law, torts, criminal law and criminal procedure, evidence, and constitutional law) and a State Essay Exam (six essay questions on subject areas such as business organizations, commercial transactions, family law, civil procedure, and estate law). A Multistate Performance Test (MPT) tests practical lawyering skills. These exams are organized, conducted, and graded by state bar examiners. For example, the state of Maryland requires that a person who has never practiced law must pass a rigorous, comprehensive examination before being licensed as an advocate in Maryland, but an attorney who has qualified for and practiced in another state may obtain a license in Maryland by passing a modified version of a bar examination.

In Germany, aspiring lawyers take several tests in order to be admitted into the profession. The first State exam is given at the end of university-level legal studies and tests theoretical knowledge in civil, criminal, public, and procedural law through both written and oral exercises. The second State exam tests legal problem-solving skills, such as the drafting of judgments, writs, and pleadings. The state ministries of justice formulate the exam format, which means there are differences in exams given by the different federal states.

In Italy, an examination for entry into the profession is held every December at each Court of Appeal according to law. This exam tests aspiring lawyers in a variety of areas, including civil law and civil procedure, criminal law and criminal procedure, administrative law, and employment law, as well as constitutional law, Roman law, and ecclesiastical law.

The Ukrainian drafters may wish to consider establishing in the law on the bar certain basic areas of common legal knowledge as required parts of the examination. Additionally, certification to practice specialized areas of the law (such as tax law) should be left as options for those seeking the additional qualification to practice law in those fields. Such an approach, enacted together with transitional provisions for current advocates, has the advantage of bringing support for the reforms from those who have been practicing in specific areas of law, and who might otherwise oppose a requirement that they take an examination in order to continue legal practice. It would also help ensure that all those practicing law have at least some basic level of legal knowledge, while those seeking to perform legal services in particular areas could obtain additional qualifications in that body of law. Those working on the CLE function of the bar could develop a course that a “senior advocate” could take to prepare, at minimum or no expense, for the examination.

All three drafts support the idea of creating a unified register of advocates. The National Council of Advocates of Ukraine would administer and maintain the list. 28

According to the Miroshnichenko’s draft, the Council of Advocates is authorized to keep records in the Register, update the information, and make information public.” 29 At the same time Miroshnichenko’s draft gives authority to the qualification commission to enter information regarding the advocate into the Register within 10 days following the date of taking an oath by an advocate. 30 It is recommended to keep one agency of bar self-governance responsible for maintenance of a registry to ensure accuracy and consistency of information. For example, the drafts of Onischuk and Shentsev vest this right to the regional councils of advocates.

28 Miroshnichenko draft – Article 8; Shentsev draft – Article 18 and Onischuk draft – Article 17
29 Miroshnichenko draft -Article 8
30 Miroshnichenko’s draft – Article 14
All three draft laws failed to list the requirement of registration of an advocate with the register of advocates as a pre condition for the right to practice law. This leaves the question about the importance and necessity of maintaining the unified list open. It is unclear why this is not one of the requirements when the license to practice law is issued only after an advocate’s information is entered into the Unified List of Advocates of Ukraine, which is also one of the requirements for issuance of the advocate’s card. It is recommended to add the registration requirement to relevant articles in all three draft laws. (Miroshnichenko – Article 9; Shentsev – Article 6; Onischuk – Article 6). Elimination from the unified list of advocates can be considered to be one of the forms of disciplinary sanctions.

VI. Bar Membership

Lawyers are often required by law to pass the qualification examination and become a member of a bar association to ensure that certain standards of practice are enforced and that consistent ethical and disciplinary rules are applied. Such regulation is essential to ensuring that the public is served only by advocates who are qualified and ethical.

Surprisingly, none of the draft laws specifically determine whether bar association membership is either mandatory or voluntary. It seems from the text that the drafts contemplate a mandatory membership in the bar association, because the bar authorities issue licenses, administer the advocate’s oath, and require the payment of dues to cover the costs of bar management. These provisions would enable the leadership of advocates in Ukraine to better represent the profession and embark on much needed initiatives (e.g., developing a more comprehensive continuing legal education program, as discussed below). The draft laws would be much improved by clearly stating that all advocates are required to be members of the bar association.

**Bar Association Membership: Mandatory vs. Voluntary**

The advantage of integrated or mandatory bar membership is that the larger organization would have more members, and, therefore, more dues money. Accordingly, the organization would have more resources. Also when it took a position, the position would be more powerful, since it would come from a larger group.

The disadvantage of mandatory bar membership is that, generally, it would force some lawyers to join an organization they do not wish to join, and specifically, it might force some lawyers to associate themselves with an organization that takes positions with which they disagree.

Examples of mandatory bar membership can be found in several Eastern European countries with similar or common historic background like Ukraine.

The Constitution of Bulgaria provides in Article 134 (1) that the bar shall be “free, independent and self-governing.” The Attorneys Act puts the necessary structure in place to make this standard a reality. The law requires that attorneys be admitted to and registered by an Attorneys’ College, a group administered and overseen by an elected Bar Council. Members of the Attorneys’

31 Onischuk Draft – Article 18 and Shentsev draft – Article 19.
College are subject to sanctions imposed by an elected Disciplinary Court\textsuperscript{32}. There is a separate Attorneys’ College, and a corresponding Bar Council and Disciplinary Court, for each of the 28 districts in Bulgaria, with the exception of Sofia; the Sofia district and the Sofia city district share a single Attorneys’ College. There is also a comparable supervisory structure at the national level that includes a National General Assembly of Attorneys, a Supreme Bar Council, a Supreme Supervisory Council, and a Supreme Disciplinary Court\textsuperscript{33}. In summary, Bulgarian attorneys are free and independent within the parameters of national legislation, subject to the direction and regulation of mandatory bar associations.

The Croatian Bar Association is a professional association of attorneys. According to the Charter, Article 2 - “The Association is an independent, compulsory and mandatory organization of Croatian attorneys”. All attorneys in Croatia must be members of the Croatian Bar Association.\textsuperscript{34}

The Czech Bar Association is a self-governed, professional organization with national competence. Any person who practices law must be registered on the List of Attorneys maintained by the Czech Bar Association. “A lawyer may be a person who is registered in the Lawyers’ Directory kept at the Czech Advocacy Chamber”.\textsuperscript{35} Registration in the Directory is possible only on request and under the terms and conditions determined by Article 5 of the Legal Profession Act.\textsuperscript{36}

The Slovak Bar Association is an independent self-governed, professional organization. Lawyer has to be admitted to the Slovak Bar Association to receive the right to practice the law.\textsuperscript{37}

In the United States, advocates generally are licensed and regulated by state governments. Although much of the oversight of advocate practice occurs under the separate judicial branch of government, nonetheless it is a government-run system. Each of the 50 states in the United States has its own system of overseeing the profession of advocates.

Each state also has one main state bar association that represents the interests of advocates, provides continuing legal education, and promotes good practice. Other bar associations operate on state, local, and national levels, and it is not uncommon for an advocate to belong to several bar associations. Each bar association serves a different constituency, although the main state bar associations and the national American Bar Association attempt to serve the largest segment of the advocate community. These associations are good examples of what a bar can do to serve and promote the practice of legal advocacy.

The American Bar Association is the largest voluntary professional association in the world. With more than 400,000 members, the ABA provides law school accreditation, continuing legal education, information about the law, programs to assist lawyers and judges in their work, and initiatives to improve the legal system for the public. The mission of the American Bar Association is to be the national representative of the legal profession, serving the public and the profession by promoting justice, professional excellence, and respect for the law.

\textsuperscript{32} Attorneys Act, arts. 78 - 98

\textsuperscript{33} Attorney Act; Articles 111 – 130.

\textsuperscript{34} http://www.odvj-komora.hr/WebStuff/Bar.html

\textsuperscript{35} Legal Profession Act of Czech Republic, Article 4

\textsuperscript{36} http://old.cak.cz/1250/akomora/anj/frame.html

\textsuperscript{37} http://www.sak.sk/blox/cms/en
In the United States, bar association membership is regulated individually by each state. For instance, the State Bar of California is one of the largest unified state bars. California was one of the first states to unify its bar in 1927 by the state legislature. As such, membership is mandatory for all attorneys who are licensed to practice law in California. The State Bar of California is a public corporation within the judicial branch of government, serving as an arm of the California Supreme Court. All State Bar members are officers of the court. To practice law in California, State Bar applicants must pass a rigorous three-day examination, which is administered by the Committee of Bar Examiners (CBE). The State Bar offers educational programs and all California attorneys are required to complete 25 hours of continuing legal education every three years.38

The New York State Bar Association (NYSBA) is the oldest and largest voluntary state bar association in the nation, and is a separate entity from the licensing body for New York – the NYS Office of Court Administration (OCA). Unlike some other states, New York does not have an integrated bar. The New York State Board of Law Examiners administers the New York State Bar Exam and determines attorney reciprocity. The NYSBA is not the official New York Bar and is not responsible for attorney licenses or registration. The NYS Office of Court Administration (OCA) has the official licensing/registration unit of lawyers. NYSBA membership dues are voluntary and are paid annually. Licensing fees with the NYS Office of Court Administration (OCA) are mandatory and are paid biennially by all attorneys engaged in the active practice of law.39

Therefore, if advocates in Ukraine are not required to join the bar, it is recommended to foresee how their practice will be regulated, how they will face sanctions for misbehavior, how the advocates will be respected and trusted, and how the right of citizens to access competent legal assistance will be protected.

VII. Ethics and Disciplinary Enforcement

The professional conduct of lawyers should be guided by a comprehensive code of ethics that sets forth meaningful standards and rules that are adhered to by members of the legal profession. Both Council of Europe Recommendation Rec (2000)21 on the Freedom of Exercise of the Profession of Lawyers and the United Nation Basic Principles on the Role of Lawyers regulate disciplinary proceedings for advocates.

UN Basic Principle 26 and Council of Europe Rec. Principle VI require that either legislation or the legal profession, through its agencies or bar association, should establish codes of professional conduct for lawyers and disciplinary proceedings.

UN Basic Principle 27 states that in cases of disciplinary proceedings “lawyers shall have the right to a fair hearing, including the right to be assisted by a lawyer of their choice”. Council of Europe Recommendations determine that all disciplinary proceedings against lawyers should be conducted with “full respect of the principles and rules laid down in the European Convention on Human Rights, including the right of the lawyer concerned to participate in the proceedings and to apply for judicial review of the decision.”

38 Information is collected from the official web site of State Bar of California at http://www.calbar.ca.gov/state/calbar
39 Information is collected from the official website of NYSBA at http://www.nysba.org/
UN Basic Principle 28 determines that a disciplinary case against an advocate should be reviewed by the impartial disciplinary body established by the legal profession or before a court, and “shall be subject to an independent judicial review”.

The Miroshnichenko draft is deficient on the subject of professional standards in that it does not provide for, nor even mention, an advocate’s code of ethics. The draft may contemplate that ethics rules governing the conduct of advocates would be contained in Rules of Practice promulgated by the Congress of Advocates of Ukraine under Article 50. However, such a formulation is deficient inasmuch as a free-standing code of ethical conduct is an essential element of an independent, self-governing profession. The draft law should authorize the appropriate national bar authority (presumably, either the Congress of Advocates of Ukraine or the Council of Advocates of Ukraine) to implement a code of ethics governing the conduct of advocates practicing law in Ukraine. Moreover, the law should clearly state that advocates have the obligation to adhere to the code of ethics and that their failure to do so subjects the advocate to disciplinary sanctions.

Commendably, both the Shentsev and Onischuk drafts specifically include in the advocate’s oath the obligation to “adhere to rules of advocate's ethics.” In addition, under provisions enumerating the professional duties of an advocate, both the Shentsev and Onischuk drafts state that the advocate is required to adhere to the rules of advocate’s ethics. Moreover, both laws empower the Congress of Advocates of Ukraine to ratify (i.e., draft and implement) rules of ethics governing the advocates’ profession.

All three of the draft laws could be improved by further delineation of an accused attorney’s procedural due process rights in disciplinary proceedings and in a number of other regards. While such rights could be set out in succeeding legislation, or in regulations or decrees issued by the national Congress or national Council of Advocates of Ukraine, it may be preferable to include these rights in the law on the bar.

Like the Miroshnichenko draft, neither the Shentsev nor Onischuk drafts specify an accused advocate’s due process rights in disciplinary proceedings. These should include the right to submit information and call witnesses, the right to a hearing, and the right to be represented by counsel during the proceedings. For comparative purposes, it should be noted that both the laws of Bulgaria and Croatia provide that an advocate has the right to be represented by counsel in disciplinary proceedings. In addition, there are no provisions in these drafts relating to who may file a complaint against an advocate and whether the complaining party has any right to appeal if the disciplinary commission decides not to proceed. Both drafts do provide that decisions of the disciplinary commissions can be appealed to either the Appeals Commission of Advocates of Ukraine or “at the court.” However, the drafts do not specify which parties have the right to appeal.

Article 45 of the Shentsev draft and Article 40 of the Onischuk draft provide that discipline cannot be imposed on an advocate more than six months after commitment of the offense.
provision would potentially allow unethical advocates to escape sanction under a number of circumstances, including the situation where the client does not discover the misconduct (e.g., theft of client funds early in a lengthy case) until after six months have elapsed. The drafters may want to consider a longer time period or provide that the time limitation runs from the date the violation is discovered.

The Shentsev, Onischuk, and Miroshnichenko drafts all provide that the Appeal Commission of Advocates can affirm, change, or cancel a decision of the regional disciplinary commission. The drafters may want to consider providing the Appeal Commission with the power to remand the disciplinary matter back to the regional disciplinary commission for further fact-finding and decision. This would provide the Appeal Commission with a mechanism to require additional factual development in instances where it felt that the investigative record was incomplete or inadequate.

All three draft laws establish similar requirements for the election of Disciplinary and Qualification Commission members. Disciplinary commissions consist of 9 advocates with at least 7 years of working experience as an advocate. All draft laws except the Miroshnichenko draft allow the participation of other legal professionals in an advisory capacity. The members of this committee should be of the highest professional competence and well respected by their peers, so that their decisions are accepted as authoritative and also to ensure that decisions are legally correct and well reasoned. The legislation might incorporate additional requirements, such as continuing legal education courses in ethics or some other professional requirements, in addition to simply requiring 7 years of working experience.

A disciplinary committee must have transparency - its decisions should be written and published so the citizens know that complaints are treated seriously. The professionalism and, ultimately, the success of self governance for the legal profession depend upon an open process.

The bar of Ukraine has a responsibility not only to protect advocates from improper pressure, but also to improve their legal practice and standards of service to the public. This means that bar association should have a long term commitment to improving the ethical standards of Ukrainian advocates.

VIII. Continuing Legal Education (CLE)

In order to offer competent legal services, lawyers need to maintain and strengthen the skills required by the profession, and must always be conscious of all new developments in the law. Continuing legal education (“CLE”) is designed to serve both of these needs.

The importance of continuing legal education is emphasized both in CoE Recommendations on the Legal Profession and in the UN Basic Principles on the Role of Lawyers. CoE Principle II (3) directly requires that member states promote “legal education, including programs of continuing

46 Article 57
47 Article 52
48 Article 56
49 Shentsev draft – Article 56; Onischuk draft – Article 51 and Miroshnichenko draft – Article 55
education … 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”. Principle II (2) of the COE Recommendations requires from the
state to take all necessary measures “to ensure a high standard of legal training and morality as a
prerequisite for entry into the profession and to provide for the continuing education of lawyers”. More
generally, principle 9 of the UN Basic Principles states that “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.”

It is of utmost importance to the public, and to members of the bar themselves, that
attorneys maintain their professional competence, keep abreast of developments in the law, and
become more proficient in selected areas of practice. In a constantly changing legal environment, the
strengthening of legal skills and the awareness of human rights and ethics issues is essential to a
healthy, well-functioning legal system. Primary responsibility for providing continuing legal
education (CLE) should fall to the leadership of the bar in Ukraine.

The Miroshnichenko draft provides that an advocate is “obliged” to “raise the level of
professional skills”\(^\text{50}\) while the Shentsev and Onischuk drafts state that an advocate is “required to
advance his/her professional qualification”.\(^\text{51}\) None of the drafts attempt to define a standard for
determining whether this “obligation” or “requirement” has been met. The provisions might be
amended to require an advocate to undertake a specific number of CLE hours each year, with an
obligation to report completion of this requirement to the council.

All three draft laws make Regional Councils of Advocates responsible for supporting
advocates in improving their professional skills and knowledge by organizing seminars, trainings,
and conferences.\(^\text{52}\) This positive approach helps ensure the availability of trainings and access to
courses not only in the capital but also in the regions. The drafters of the legislation should consider
assigning primary responsibility for administering and coordinating CLE to the Council of
Advocates of Ukraine. Council of Advocates of Ukraine should determine uniform standards for
CLE, minimum number of CLE hours required, course content and a system for reporting CLE
credit.

In the Bulgarian Attorneys Act, responsibility for CLE is assigned to the Supreme Bar
Council, the leadership of the bar, which established an Attorneys’ Training Center headed by an
executive director. This centralized training center has developed CLE courses and coordinated CLE
training with regional bar councils, who retain a concurrent obligation to provide CLE to their
members. The drafters of the Ukraine legislation may want to consider the establishment of a similar
institution to ensure that advocates in Ukraine maintain the legal skills necessary to practice law and
to serve their clients.

The law on the bar should determine whether CLE is mandatory. If mandatory, the statute
should regulate it and also set any exemptions from CLE requirements, if such exist, based on the

\(^{50}\) Miroshnichenko draft – Article 30 paragraph 1(5)

\(^{51}\) Shentsev draft – Article 39 (6) and Onischuk draft – Article 34 (6)

\(^{52}\) Miroshnichenko draft – Article 48. (11); Shentsev draft – Article 50 (13); Onischuk draft – Article 45 (13)
field of practice, tenure, etc. If CLE is mandatory and lawyers do not comply with its requirements, sanctions should be determined and disciplinary proceedings for such sanctions established.

Many Western European countries and the United States require lawyers to attend mandatory continuing legal education courses. No national standard for continuing legal education exists. Qualification to practice law is conducted on a state-by-state basis. Some state bar associations require lawyers to submit a CLE credit form or demonstrate other proof that minimum CLE requirements were met. These states usually require an attorney to devote a specific number of hours to attending continuing legal education courses in order to retain a lawyer’s license, while others have encouraged such training on voluntary basis. If the CLE is mandatory in the state and an advocate fails to take a required curriculum of CLE courses the advocate’s license might be suspended. In the United States, although licenses are issued by the government, CLE is usually provided through non-governmental bar associations. Many, if not most, courses are taught by practicing advocates. Advocates decide the curriculum. In states where CLE is mandatory, the bar will report to the state any advocate who does not comply, and the state can withdraw the license.

IX. Professional Rights and Security and Social and Economic Rights of Advocates

Lawyers are “essential agents of the administration of justice”.\(^{53}\) Given their key roles in the democratic process, it is critical for professional associations to maintain their independence from government authorities. Independent lawyers are the vital means by which individuals gain access to the justice system, protect their fundamental rights and freedoms, obtain remedies when these rights have been infringed, and resolve disputes with the members of society or with the state. These rights of lawyers have more importance in many emerging democracies and especially post communist countries where the lawyers were considered to be the faithful servitors of the state interests.

Guarantees for lawyer independence are set forth in the United Nations Basic Principles on the Role of Lawyers, Principle 16(a), and the Council of Europe Recommendation on the Freedom of Exercise of the Profession of Lawyers, Principle I(1). In addition, freedom of lawyers from official sanction for carrying out their duties within the standards of the profession is advocated in Principle I (4) of the CoE Recommendation\(^ {54}\).

Social guarantees and the security of lawyers are recognized as important issues for the proper functioning of lawyers in the country. Both United Nations Basic Principles on the Role of Lawyers, Principle 17 and 20 and Council of Europe Recommendation on the Freedom of Exercise of the Profession of Lawyers Principle 5 (3); (4) and (5) regulate the issue of lawyers’ security.

\(^{53}\) UN Basic Principles on the Role of Lawyers; Principle 12

\(^{54}\) UN Basic Principle 16 (a): “Governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference”

CoE Recommendation Principle I (1) and (4): “All necessary measures should be taken to respect, protect and promote the freedom of exercise of the profession of lawyer without discrimination and without improper interference from the authorities or the public, in particular in the light of the relevant provisions of the European Convention on Human Rights”.

‘Lawyers should not suffer or be threatened with any sanctions or pressure when acting in accordance with their professional standards’.

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UN Principle 17 requires adequate safeguards for a lawyer where his/her security is threatened and establishes that “Lawyers shall enjoy civil and penal immunity for relevant statements made in good faith…” Principle 5 (5) of the Council of Europe Recommendation on the Freedom of Exercise of the Profession of Lawyers requires bar associations to take any measure to defend a lawyer’s interests if the lawyer is arrested or detained, or where a search of either the lawyer themselves or their property, or where a seizure of documents or materials in the lawyer’s possession is conducted.\(^5\)

The draft law of Miroshnichenko lists guarantees of legal practice under Article 3 and determines that any interference or obstruction with legal practice is prohibited. The Mirshnichenko draft imposes the responsibility for “ensuring guarantees for the provisions of legal practice” on the state.\(^6\) These provisions are ambiguous and leave open the effective implementation of the important guarantees of legal practice set forth in the draft.

The Miroshnichenko draft law prohibits imposing criminal liability or threatening an advocate with criminal prosecution for actions taken while providing legal assistance. The draft law establishes special requirements for the commencement of criminal charges against an advocate and determines that only the Prosecutor General of Ukraine, his/her deputies, or Prosecutors of the Autonomous Republic of Crimea, region (oblast), cities of Kiev and Sevastopol, (i.e. only high level prosecutors) can commence a criminal case against an advocate. The search or examination of an advocate, his/her property, or information and telecommunications means used by advocate, or interception of an advocate’s communications and other related activities that may results in disclosure of confidential information all require court approval.

Both the Shentsev and Onischuk drafts list guarantees of legal practice and determine that “professional rules, honor and dignity of the advocate are protected by the law”.\(^7\) These articles set administrative and criminal responsibility for unjustified provision of information and for the interference in the activities of advocate that threaten life, health, property of an advocate or of his/her close relatives.\(^8\) These drafts also establish special procedures for opening a criminal case against an advocate and oblige the authorities to immediately inform the regional councils of advocates regarding the detention of an advocate.\(^9\) The Shentsev and Onischuk drafts prohibit any interference with legal practice, the search and examination of the advocate and his/her property, or

\(^{55}\) United Nations Basic Principles on the Role of Lawyers, Principle 17: “Where the security of lawyer is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.” Principle 20: “Lawyers shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional appearances before a court, tribunal or other legal or administrative authority”.

\(^{56}\) Mirshnichenko draft – Article 3; paragraph 6

\(^{57}\) Shentsev draft – Article 40; Onischuk draft – Article 35.

\(^{58}\) Shentsev draft – Article 40 paragraph 2 and 3. and Onischuk draft – Article 35 paragraphs 2 and 3

\(^{59}\) Shentsev draft – Article 40 paragraph 4 and 5 and Onischuk draft – Article 35 paragraphs 4 and 5
the monitoring and retrieval of any data from an advocate’s informational system and means of communication.\textsuperscript{60}

The Shentsev and Onischuk drafts dedicate separate articles to the social guarantees of an advocate and ensure various types of social state support for them.\textsuperscript{61} Pensions are provided to advocates who have no less than 10 years of experience at the age of retirement, with the pension paid by state. Additionally, bar self-governance can create non-state pension and other social support funds.

The draft laws specifically list the rights and protections of advocates in both civil and criminal proceedings\textsuperscript{62}, but it should be clarified that enumeration of the rights of advocates is meaningless without sanctions for their violation. All three draft laws provide the list of guarantees without any adequate sanctions for their violation. The Criminal Code\textsuperscript{63} of Ukraine determines criminal liability for the interference with activity of a defense attorney or legal agent. Additionally, a draft law is currently being considered that would establish administrative liability. It is highly recommended to have all these provisions listed in the law regulating the legal profession in the country.

\textbf{X. Legal Aid}

The provision of legal aid is not only an essential component in expanding the access to justice, but it is one of the fundamental guarantees associated with the right to a fair trial embodied in international human rights documents. This right is protected by Article 14.3(d) of the International Covenant on Civil and Political Rights and by Article 6.3 of the European Convention on Human Rights.

Article 14.3(d) of the ICCPR states that “in the determination of any criminal charge against him, everyone shall be entitled . . . to have legal assistance assigned to him in any case where the interests of justice so require and without payment by him in any such case if he does not have sufficient means to pay for it.”

Article 6.3 (c) of the ECHR states that any person charged with a criminal offense has among other rights, the minimum right “to defend himself in person or through legal assistance of his own choosing or, if he has no sufficient means to pay for legal assistance, to be given it for free if the interests of justice so require.” The ECHR, through its interpretation of this provision, has asserted that a state party’s obligation to provide free legal assistance is based on two types of

\textsuperscript{60} Shentsev draft – Article 40 and Onischuk draft – Article 35
\textsuperscript{61} Shentsev draft – Article 42 and Onischuk draft – Article 37
\textsuperscript{62} Miroshnichenko draft – Article 3; Onischuk draft - Article 35 and Shentsev draft – Article 40
\textsuperscript{63} Criminal Code of Ukraine – Article 397: Any interference with lawful activity of a defense attorney or legal agent, or violation of legal guaranties of their activity and professional secrets, –shall be punishable by a fine of 100 to 200 tax-free minimum incomes, or correctional labor for a term up to two years, or arrest for a term up to six months, or restraint of liberty for a term up to three years. 2. The same actions committed by a person through abuse of office, –shall be punishable by a fine of 300 to 500 tax-free minimum incomes, or restraint of liberty for a term up to three years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.
requirements: (1) Those involving financial status; and (2) those based on the “interests of justice.” First, a state is obliged to provide free legal assistance to a person charged with a criminal offense only if that person lacks sufficient means to retain a lawyer independently. Second, a state is required to provide free legal assistance to an accused person who lacks sufficient means to hire an attorney only if it is also necessary in the interests of justice. Ratification of the Convention and the compliance of national legislation with its norms are requirements for admission of a country to the Council of Europe and are important criteria for accession to the European Union.

There is sometimes a serious gap between legislative requirements and actual conditions. The legal profession should play a key role narrowing this gap. Increasing access to legal services throughout society and to the most vulnerable segments of society in particular should be an objective of both the legal profession and state authorities in any democratic society.

Principle 3 and Principle 4 of the United Nations Basic Principles on the Role of Lawyers and Principle IV (1)-(3) of the Council of Europe Recommendation on the Freedom of Exercise of the Profession of Lawyer apply to this matter. Both instruments advocate that special attention be given to ensuring that economically disadvantaged persons are able to call upon the assistance of lawyers in order to protect their rights and freedoms.

The ability of those without funds to obtain legal advice and legal representation in proceedings in courts and state bodies is crucial to a fair and effective system of justice and the rule of law.64

The three draft laws provide that legal aid to disadvantaged persons will be dispensed at the expense of the state. Funding of legal aid activities are properly the role of the state (See UN Basic Principles on the Role of Lawyers, Principle 2). However, the advocate’s profession also has a broad interest in seeing that disadvantaged clients are not excluded from the courts and legal system (See UN Basic Principles on the Role of Lawyers, Principle 3). The drafters may wish to consider a provision encouraging the pro bono representation of indigent clients.

The amount and procedures for payment of advocate’s fees is left to the Cabinet of Ministers upon “approval” by the “higher body of bar self-governance”65 or the National Council of Advocates.66 The one revision that could be made to the provisions on legal aid in the three drafts on the bar is to include a provision that requires that advocates be reasonably and fairly compensated from the state budget for the services they perform. All drafts also lack the details necessary to ensure that the selection of advocates to provide this representation is fair, transparent and impartial and results in clients receiving competent legal assistance. Selected advocates must also be qualified, capable, and willing to take such cases.

Many countries provide for legal aid through separate legislation. A good example for this is the new Bulgarian Legal Aid Act, which entered into force on January 1, 2006. This legislation centralizes the system for regulating and administering legal aid in Bulgaria. The Legal Aid Act authorizes the Minister of Justice to “elaborate, coordinate and conduct the state policy in the sphere

64 CoE Principle IV (1); UN Basic Principle 1
65 Miroshnichenko draft - Article 26, Paragraph 3 and Article 27, Paragraph 4
66 Shentsev and Onisheuk Drafts Articles 27 and 28
of legal aid”, and establishes a National Legal Aid Bureau to organize the system of legal aid with the Bar Councils. (Legal Aid Act – Article 6 (1) and 6 (2)) The National Legal Aid Bureau is declared to be an independent, state agency funded from the state budget. The Act regulates the legal aid in criminal, civil and administrative cases before all court instances, and establishes a fee schedule for legal aid services.

There are different ways of offering legal services either through individual lawyers, through professional associations of lawyers, or a combination of both. However, where legal services are not made available by the profession, state authorities should intervene, in the interests of the society, by establishing and funding special legal assistance programs, including legal aid programs and public defender services. Lawyers should be able to maintain complete independence from the state, even when participating in state-funded programs.

In the United States, providing legal assistance to those without sufficient funds to engage their own attorney is accomplished in varying ways on a state-by-state basis and is dependent on whether the case involves a civil or criminal proceeding. The Sixth Amendment to the United States Constitution states: "In all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defense." There are three basic models for the delivery of defense services in the United States: (1) traditional “public defender” programs, in which salaried attorneys provide representation in indigent cases; (2) the assigned counsel model, in which private attorneys are assigned to provide defense services either from an ad hoc list maintained by the courts or through some more systematic organization of services; and (3) the contract model, whereby individual attorneys or firms contract to provide some or all of a jurisdiction’s indigent defense services.

XI. Other Issues

There are some additional issues that the drafters may wish to consider in formulating the law on the bar.

Rules on Conflicts of Interest

The Miroshnichenko draft contains some basic conflict of interest rules in Article 23. The Shentsev and Onischuk drafts scarcely address this subject. Principle III.3.d of the Council of Europe’s Recommendation 21 on the Freedom of Exercise of the Profession of Lawyer provides that the duty of the advocate to the client includes “avoiding conflicts of interest.” The drafters of the Shentsev and Onischuk drafts may wish to set out basic conflict of interest principles in the legislation, leaving more detailed provisions for inclusion in the advocate’s ethics code.

Professional insurance

The drafters could consider a provision requiring advocates to maintain professional liability insurance to cover damages suffered by clients on account of the advocate’s negligent actions. Such a requirement is included in a number of European statutes (e.g., See Czech Law, Article 24,

Bulgarian Attorneys Act, Article 50) and the requirement is mandatory under Section 3.9 of the CCBE Code of Conduct. While such a requirement could be imposed by regulation, it would seem preferable to include it in the law on the bar.

**Personal publicity**

The drafters of all three drafts may want to consider including general provisions on advocate’s advertising, which could be supplemented in detail in the ethics code for advocates. For example, can an advocate advertise in print or electronic media or maintain a website? Are there any limitations on what information can be included in a law firm’s brochures? The CCBE Code of Conduct provides that “personal publicity by a lawyer [advocate] in any form of media such as by press, radio, television, by electronic commercial communication or otherwise is permitted” as long as it is accurate, not misleading, and respectful of the core values of the profession.\(^{68}\) Because advocate advertising is a controversial and rapidly evolving area, the drafters may want to establish broad parameters of what is, and is not, permissible in the law of the bar.

**Foreign Attorneys**

The Miroshnichenko draft has no provision pertaining to the treatment or rights of foreign advocates. The Shentsev draft (Article 60) and the Onischuk draft (Article 55) each contain a provision covering foreign advocates, including provision for a Unified Register of Foreign Advocates and a provision extending to foreign advocates’ disciplinary liability for violation of Ukrainian law or rules of ethics. The drafters of the Miroshnichenko draft should consider similar provisions in their proposed legislation.

**Time Requirements and Deadlines**

There are provisions in all three draft laws requiring that action be taken within a certain time. In most instances these times seem unrealistically short. For example, in the Onischuk and Shentsev drafts, a local qualification commission must decide whether an applicant will be given the right to practice no later than 10 days after the applicant takes the exam.\(^{69}\) The Miroshnichenko draft gives the qualification commission only a 5-day period for the same action.\(^{70}\) The time requirements and deadlines should be reviewed throughout all three draft laws. The drafters should be realistic about the ability of these new organizations to effectively and efficiently discharge the duties assigned to them. In particular, the qualification and disciplinary commissions should be given realistic time deadlines to complete their work, given that their members have demands on their time resulting from efforts to earn a living practicing law. The logistics of providing notice and conducting the regional meetings will require time and financial resources that will immediately impose upon those advocates who wish to be active participants in the new processes.

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\(^{68}\) CCBE Code of Ethics - Section 2.6.1 and 2.6.2

\(^{69}\) Onischuk Draft – Article 12 ; Shentsev Draft – Article 13 Acquisition of the advocate status

\(^{70}\) Miroshnichenko draft – Article 9. Admission to the Bar
XII. Conclusion

All three drafts represent an ambitious attempt to address the whole range of issues inherent in organizing and regulating the legal profession. They establish a bar that is essentially independent of state control, provide for the rights and duties of advocates, require the administration of a bar examination, create a hierarchy of bar organizations that function on the regional and national level, and establish a method for imposing disciplinary sanctions for violations of the norms set forth in the law. The drafts attempt to provide for legal assistance to those who cannot afford to pay fees and define the relationship between the advocate and his client.

The law governing the advocates of Ukraine should be as clear as possible regarding the purposes that their organization seeks to achieve. It should be clearly stated at the beginning of the law governing the Bar of Ukraine that the Bar and the legal system of Ukraine exist to serve justice and the people of Ukraine. To this end the Bar should seek to maintain the rule of law, without which justice is not possible, and to protect their own independence, without which the rule of law would not be possible. Each of these principles should be repeated throughout the document, to explain the purposes of the practical clauses that implement them.

To achieve this goal drafters should prevent the management of the bar by one small group or outside power. The bar should protect its members against outside interference by maintaining its own independent mechanisms of qualification and self-discipline. The bar should improve legal practice, by promoting law reform and inspiring standards of ethics. It should educate its members, by providing for continuing legal education and a well-designed bar exam.

In addition to the comments and advices made above, the assessors also suggest the following: (1) a stronger declaration of principles be added to the draft laws; (2) the stated principles be tied to the substantive provisions wherever possible; (3) the independence from government be more clearly declared in the final draft; (4) the oath of advocates be elaborated to include a commitment to ethics and justice; (5) a Bar Committee on Ethics be created to improve the standards of ethics of the Bar of Ukraine; (6) a Bar Committee on Legal Education be created to supervise the Bar Examination and Continuing Legal Education;

The draft law on regulation legal profession is an important step forward. The establishment and protection of the rule of law depends upon an independent, competent legal profession. It is difficult to establish such legal profession under complicated political, social, and economic conditions. We congratulate the Bar of Ukraine and the Parliament of Ukraine on their commitment to the rule of law, democracy, universal human rights and an independent Association of Advocates.
Appendix A

Biographical Statements of Experts Assessing the Draft Law
Biographical Statements of Experts Assessing the Draft Law

Thomas B. Brand

Thomas B. Brand has served as Deputy District Attorney in Multnomah County, Oregon, for both civil and criminal sections. He was in private practice and served as vice chairman of Oregon State Bar in 1974-1978 and on several other positions including disciplinary and bar examiners. He was the member of Oregon State Bar in 1953-1991 and transferred to inactive status in 1991. He holds his degree from Oregon Law School.

Alan Friedman

Alan Friedman is currently the Director of Governmental Relations for Anne Arundel County, Maryland. He previously served as Director of Legislative Relations for Maryland Governor Robert L. Ehrlich, Jr. From 1990 to 1999, he was the District Public Defender for Anne Arundel County, Maryland. He also served as an ABA/CEELI Rule of Law Liaison in Georgia from 1999 to 2000 and as an in-country consultant to the World Bank’s Georgia Judicial Training Program from 2001 to 2002.

The Honorable Martha Rasin

Judge Martha Rasin served on the District Court of Maryland, a statewide trial court in the United States, for 16 years, 5 of which were as the Chief Judge. She received numerous awards for her work as Chief Judge, including recognition for the passage of a law providing 24-hour court access to victims of domestic violence. Judge Rasin has taught judges in South African and Swaziland, and participated in learning programs with French, English and Dutch judges. She serves on the External Advisory Board of the Center for International and Comparative Law at the University of Baltimore School of Law, her alma mater. Prior to becoming a judge, Judge Rasin practiced as an attorney in Maryland and federal courts.

The Honorable Margaret Kravchuk

Judge Margaret Kravchuk graduated from the University of Maine School of Law in 1976. In 1985 she was appointed to the state court bench, serving as a judge in Maine District Court from 1985 - 1990. In 1990 Judge Kravchuk was elevated to the Maine Superior Court and in 1997 became the Chief Justice of the statewide general jurisdiction trial court. Her experience includes both civil and criminal jury trials, including numerous murder trials and various types of civil litigation. In January, 2000, Judge Kravchuk became one of two United States Magistrate Judges serving in the District of Maine.

Professor Joel S. Newman

American Bar Association—Rule of Law Initiative


Professor Mortimer Sellers

Mortimer Sellers is Regents Professor of the University System of Maryland and Director of the University of Baltimore Center for International and Comparative Law. He was educated at Harvard College, Harvard Law School, and as a Rhodes Scholar and Frank Knox Fellow at University College, Oxford.

Keith Thomas

Keith Thomas practiced law in the public and private sectors for thirty years, retiring from his position as Associate Counsel in the Office of Professional Responsibility at the U.S. Justice Department in 2000. Since that time he has worked as an independent legal consultant. While serving for 16 months as a CEELI liaison in Bulgaria, he worked principally on anti-corruption initiatives, judicial reform, legal profession reform, and legal education reform, including lecturing on legal ethics at two of the Bulgarian law schools. In 2005 he returned to Bulgaria as a legal specialist to assist the Supreme Bar Council draft an ethics code for attorneys, which was adopted in July 2005. Keith served as the team leader on ABA CEELI's Legal Profession Reform Index project for Bulgaria in 2006. He received his JD and BA degrees from Vanderbilt University and is a member of the District of Columbia Bar.

Professor Dennis Tuchler

Dennis Tuchler is Professor of Law Emeritus at St. Louis University On the faculty of St. Louis University School of Law since 1965. He received his BA degree in 1960 from Reed College and JD in 1963 from University of Chicago.

Paul Vayer

Paul Vayer is practicing attorney and Associate Professor in the area of law, government, management, political science and public administration. He has previously participated in the CEELI projects. He specifically reviewed and provided commentary on the Office of People's Advocate for Albania; Legal and Government Analysis of the Office of Civil Reform of the Republic of Lithuania; Legal and Governmental Analysis of the Office of Ethics for Oblask Russia and Legal and Governmental Analysis of the Ethics Code for Civil Servants for Romania. He also serves as a member of the International City Manager's Association as both a member of the International Diversity Task Force and Academy for International Development.
Appendix B

United Nations Basic Principles on the Role of Lawyers
United Nations Basic Principles on the Role of Lawyers

Havana, Cuba, 27 August to 7 September 1990

(http://www.ohchr.org/english/law/lawyers.htm)

Whereas in the Charter of the United Nations the peoples of the world affirm, inter alia, their determination to establish conditions under which justice can be maintained, and proclaim as one of their purposes the achievement of international cooperation in promoting and encouraging respect for human rights and fundamental freedoms without distinction as to race, sex, language or religion,

Whereas the Universal Declaration of Human Rights enshrines the principles of equality before the law, the presumption of innocence, the right to a fair and public hearing by an independent and impartial tribunal, and all the guarantees necessary for the defence of everyone charged with a penal offence,

Whereas the International Covenant on Civil and Political Rights proclaims, in addition, the right to be tried without undue delay and the right to a fair and public hearing by a competent, independent and impartial tribunal established by law,

Whereas the International Covenant on Economic, Social and Cultural Rights recalls the obligation of States under the Charter to promote universal respect for, and observance of, human rights and freedoms,

Whereas the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provides that a detained person shall be entitled to have the assistance of, and to communicate and consult with, legal counsel,

Whereas the Standard Minimum Rules for the Treatment of Prisoners recommend, in particular, that legal assistance and confidential communication with counsel should be ensured to untried prisoners,

Whereas the Safeguards guaranteeing protection of those facing the death penalty reaffirm the right of everyone suspected or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings, in accordance with article 14 of the International Covenant on Civil and Political Rights,

Whereas the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power recommends measures to be taken at the international and national levels to improve access to justice and fair treatment, restitution, compensation and assistance for victims of crime,

Whereas adequate protection of the human rights and fundamental freedoms to which all persons are entitled, be they economic, social and cultural, or civil and political, requires that all persons have effective access to legal services provided by an independent legal profession,
Whereas professional associations of lawyers have a vital role to play in upholding professional standards and ethics, protecting their members from persecution and improper restrictions and infringements, providing legal services to all in need of them, and cooperating with governmental and other institutions in furthering the ends of justice and public interest,

The Basic Principles on the Role of Lawyers, set forth below, which have been formulated to assist Member States in their task of promoting and ensuring the proper role of lawyers, should be respected and taken into account by Governments within the framework of their national legislation and practice and should be brought to the attention of lawyers as well as other persons, such as judges, prosecutors, members of the executive and the legislature, and the public in general. These principles shall also apply, as appropriate, to persons who exercise the functions of lawyers without having the formal status of lawyers.

**Access to lawyers and legal services**

1. All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings.

2. Governments shall ensure that efficient procedures and responsive mechanisms for effective and equal access to lawyers are provided for all persons within their territory and subject to their jurisdiction, without distinction of any kind, such as discrimination based on race, colour, ethnic origin, sex, language, religion, political or other opinion, national or social origin, property, birth, economic or other status.

3. Governments shall ensure the provision of sufficient funding and other resources for legal services to the poor and, as necessary, to other disadvantaged persons. Professional associations of lawyers shall cooperate in the organization and provision of services, facilities and other resources.

4. Governments and professional associations of lawyers shall promote programmes to inform the public about their rights and duties under the law and the important role of lawyers in protecting their fundamental freedoms. Special attention should be given to assisting the poor and other disadvantaged persons so as to enable them to assert their rights and where necessary call upon the assistance of lawyers.

**Special safeguards in criminal justice matters**

5. Governments shall ensure that all persons are immediately informed by the competent authority of their right to be assisted by a lawyer of their own choice upon arrest or detention or when charged with a criminal offence.

6. Any such persons who do not have a lawyer shall, in all cases in which the interests of justice so require, be entitled to have a lawyer of experience and competence commensurate with the nature of the offence assigned to them in order to provide effective legal assistance, without payment by them if they lack sufficient means to pay for such services.

7. Governments shall further ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention.
8. All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials.

**Qualifications and training**

9. 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.

10. 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.

11. In countries where there exist groups, communities or regions whose needs for legal services are not met, particularly where such groups have distinct cultures, traditions or languages or have been the victims of past discrimination, Governments, professional associations of lawyers and educational institutions should take special measures to provide opportunities for candidates from these groups to enter the legal profession and should ensure that they receive training appropriate to the needs of their groups.

**Duties and responsibilities**

12. Lawyers shall at all times maintain the honour and dignity of their profession as essential agents of the administration of justice.

13. The duties of lawyers towards their clients shall include:

(a) Advising clients as to their legal rights and obligations, and as to the working of the legal system in so far as it is relevant to the legal rights and obligations of the clients;

(b) Assisting clients in every appropriate way, and taking legal action to protect their interests;

(c) Assisting clients before courts, tribunals or administrative authorities, where appropriate.

14. Lawyers, in protecting the rights of their clients and in promoting the cause of justice, shall seek to uphold human rights and fundamental freedoms recognized by national and international law and shall at all times act freely and diligently in accordance with the law and recognized standards and ethics of the legal profession.

15. Lawyers shall always loyally respect the interests of their clients.

**Guarantees for the functioning of lawyers**

16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to
consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

17. Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

18. Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.

19. No court or administrative authority before whom the right to counsel is recognized shall refuse to recognize the right of a lawyer to appear before it for his or her client unless that lawyer has been disqualified in accordance with national law and practice and in conformity with these principles.

20. Lawyers shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional appearances before a court, tribunal or other legal or administrative authority.

21. It is the duty of the competent authorities to ensure lawyers access to appropriate information, files and documents in their possession or control in sufficient time to enable lawyers to provide effective legal assistance to their clients. Such access should be provided at the earliest appropriate time.

22. Governments shall recognize and respect that all communications and consultations between lawyers and their clients within their professional relationship are confidential.

Freedom of expression and association

23. Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognized standards and ethics of the legal profession.

Professional associations of lawyers

24. Lawyers shall be entitled to form and join self-governing professional associations to represent their interests, promote their continuing education and training and protect their professional integrity. The executive body of the professional associations shall be elected by its members and shall exercise its functions without external interference.

25. Professional associations of lawyers shall cooperate with Governments to ensure that everyone has effective and equal access to legal services and that lawyers are able, without improper interference, to counsel and assist their clients in accordance with the law and recognized professional standards and ethics.
Disciplinary proceedings

26. Codes of professional conduct for lawyers shall be established by the legal profession through its appropriate organs, or by legislation, in accordance with national law and custom and recognized international standards and norms.

27. Charges or complaints made against lawyers in their professional capacity shall be processed expeditiously and fairly under appropriate procedures. Lawyers shall have the right to a fair hearing, including the right to be assisted by a lawyer of their choice.

28. Disciplinary proceedings against lawyers shall be brought before an impartial disciplinary committee established by the legal profession, before an independent statutory authority, or before a court, and shall be subject to an independent judicial review.

29. All disciplinary proceedings shall be determined in accordance with the code of professional conduct and other recognized standards and ethics of the legal profession and in the light of these principles.
Appendix C

Council of Europe Recommendation on the Freedom of Exercise of the Profession of Lawyer

(Adopted by the Committee of Ministers on 25 October 2000 at the 727th meeting of the Ministers' Deputies)
COUNCIL OF EUROPE
COMMITTEE OF MINISTERS
Recommendation Rec(2000)21 of the Committee of Ministers to member states on the freedom of exercise of the profession of lawyer


The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Having regard to the provisions of the European Convention on Human Rights;

Having regard to the United Nations Basic Principles on the Role of Lawyers, endorsed by the General Assembly of the United Nations in December 1990;

Having regard to Recommendation No. R (94) 12 on the independence, efficiency and role of judges, adopted by the Committee of Ministers of the Council of Europe on 13 October 1994;

Underlining the fundamental role that lawyers and professional associations of lawyers also play in ensuring the protection of human rights and fundamental freedoms;

Desiring to promote the freedom of exercise of the profession of lawyer in order to strengthen the rule of law, in which lawyers take part, in particular in the role of defending individual freedoms;

Conscious of the need for a fair system of administration of justice which guarantees the independence of lawyers in the discharge of their professional duties without any improper restriction, influence, inducement, pressure, threats or interference, direct or indirect, from any quarter or for any reason;

Aware of the desirability of ensuring a proper exercise of lawyers' responsibilities and, in particular, of the need for lawyers to receive sufficient training and to find a proper balance between their duties towards the courts and those towards their clients;

Considering that access to justice may require persons in an economically weak position to obtain the services of lawyers,

Recommends the governments of member states to take or reinforce, as the case may be, all measures they consider necessary with a view to the implementation of the principles contained in this recommendation.
For the purpose of this recommendation, "lawyer" means a person qualified and authorised according to the national law to plead and act on behalf of his or her clients, to engage in the practice of law, to appear before the courts or advise and represent his or her clients in legal matters.

**Principle I - General principles on the freedom of exercise of the profession of lawyer**

1. All necessary measures should be taken to respect, protect and promote the freedom of exercise of the profession of lawyer without discrimination and without improper interference from the authorities or the public, in particular in the light of the relevant provisions of the European Convention on Human Rights.

2. 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.

3. Lawyers should enjoy freedom of belief, expression, movement, association and assembly, and, in particular, should have the right to take part in public discussions on matters concerning the law and the administration of justice and to suggest legislative reforms.

4. Lawyers should not suffer or be threatened with any sanctions or pressure when acting in accordance with their professional standards.

5. Lawyers should have access to their clients, including in particular to persons deprived of their liberty, to enable them to counsel in private and to represent their clients according to established professional standards.

6. All necessary measures should be taken to ensure the respect of the confidentiality of the lawyer-client relationship. Exceptions to this principle should be allowed only if compatible with the rule of law.

7. Lawyers should not be refused access to a court before which they are qualified to appear and should have access to all relevant files when defending the rights and interests of their clients in accordance with their professional standards.

8. All lawyers acting in the same case should be accorded equal respect by the court.

**Principle II - Legal education, training and entry into the legal profession**

1.1. 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.

2. 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 continuing education of lawyers.
3. Legal education, including programmes of continuing 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.

**Principle III - Role and duty of lawyers**

1. Bar associations or other lawyers' professional associations should draw up professional standards and codes of conduct and should ensure that, in defending the legitimate rights and interests of their clients, lawyers have a duty to act independently, diligently and fairly.

2. Professional secrecy should be respected by lawyers in accordance with internal laws, regulations and professional standards. Any violation of this secrecy, without the consent of the client, should be subject to appropriate sanctions.

3. The duties of lawyers towards their clients should include:

   a. advising them on their legal rights and obligations, as well as the likely outcome and consequences of the case, including financial costs;

   b. endeavouring first and foremost to resolve a case amicably;

   c. taking legal action to protect, respect and enforce the rights and interests of their clients;

   d. avoiding conflicts of interest;

   e. not taking up more work than they can reasonably manage.

4. Lawyers should respect the judiciary and carry out their duties towards the court in a manner consistent with domestic legal and other rules and professional standards. Any abstention by lawyers from their professional activities should avoid damage to the interests of clients or others who require their services.

**Principle IV - Access for all persons to lawyers**

1. All necessary measures should be taken to ensure that all persons have effective access to legal services provided by independent lawyers.

2. Lawyers should be encouraged to provide legal services to persons in an economically weak position.

3. Governments of member states should, where appropriate to ensure effective access to justice, ensure that effective legal services are available to persons in an economically weak position, in particular to persons deprived of their liberty.

4. Lawyers’ duties towards their clients should not be affected by the fact that fees are paid wholly or in part from public funds.
Principle V - Associations

1. Lawyers should be allowed and encouraged to form and join professional local, national and international associations which, either alone or with other bodies, have the task of strengthening professional standards and safeguarding the independence and interests of lawyers.

2. Bar associations or other professional lawyers' associations should be self-governing bodies, independent of the authorities and the public.

3. The role of Bar associations or other professional lawyers' associations in protecting their members and in defending their independence against any improper restrictions or infringements should be respected.

4. Bar associations or other professional lawyers' associations should be encouraged to ensure the independence of lawyers and, inter alia, to:
   a. promote and uphold the cause of justice, without fear;
   b. defend the role of lawyers in society and, in particular, to maintain their honour, dignity and integrity;
   c. promote the participation by lawyers in schemes to ensure the access to justice of persons in an economically weak position, in particular the provision of legal aid and advice;
   d. promote and support law reform and discussion on existing and proposed legislation;
   e. promote the welfare of members of the profession and assist them or their families if circumstances so require;
   f. co-operate with lawyers of other countries in order to promote the role of lawyers, in particular by considering the work of international organisations of lawyers and international intergovernmental and non-governmental organisations;
   g. promote the highest possible standards of competence of lawyers and maintain respect by lawyers for the standards of conduct and discipline.

5. Bar associations or other professional lawyers' associations should take any necessary action, including defending lawyers' interests with the appropriate body, in case of:
   a. arrest or detention of a lawyer;
   b. any decision to take proceedings calling into question the integrity of a lawyer;
   c. any search of lawyers themselves or their property;
   d. any seizure of documents or materials in a lawyers' possession;
   e. publication of press reports which require action on behalf of lawyers.
Principle VI - Disciplinary proceedings

1. Where lawyers do not act in accordance with their professional standards, set out in codes of conduct drawn up by Bar associations or other associations of lawyers or by legislation, appropriate measures should be taken, including disciplinary proceedings.

2. Bar associations or other lawyers’ professional associations should be responsible for or, where appropriate, be entitled to participate in the conduct of disciplinary proceedings concerning lawyers.

3. Disciplinary proceedings should be conducted with full respect of the principles and rules laid down in the European Convention on Human Rights, including the right of the lawyer concerned to participate in the proceedings and to apply for judicial review of the decision.

4. The principle of proportionality should be respected in determining sanctions for disciplinary offences committed by lawyers.
Appendix D

CCBE Code of Conduct for Lawyers
CCBE Code of Conduct for Lawyers

1. PREAMBLE

1.1. The Function of the Lawyer in Society

In a society founded on respect for the rule of law the lawyer fulfils a special role. His duties do not begin and end with the faithful performance of what he is instructed to do so far as the law permits. A lawyer must serve the interests of justice as well as those whose rights and liberties he is trusted to assert and defend and it is his duty not only to plead his client's cause but to be his adviser.

A lawyer's function therefore lays on him a variety of legal and moral obligations (sometimes appearing to be in conflict with each other) towards:

the client; the courts and other authorities before whom the lawyer pleads his client's cause or acts on his behalf; the legal profession in general and each fellow member of it in particular; and the public for whom the existence of a free and independent profession, bound together by respect for rules made by the profession itself, is an essential means of safeguarding human rights in face of the power of the state and other interests in society.

1.2. The Nature of Rules of Professional Conduct

1.2.1. Rules of professional conduct are designed through their willing acceptance by those to whom they apply to ensure the proper performance by the lawyer of a function which is recognised as essential in all civilized societies. The failure of the lawyer to observe these rules must in the last resort result in a disciplinary sanction.

1.2.2. The particular rules of each Bar or Law Society arise from its own traditions. They are adapted to the organisation and sphere of activity of the profession in the Member State concerned and to its judicial and administrative procedures and to its national legislation. It is neither possible nor desirable that they should be taken out of their context nor that an attempt should be made to give general application to rules which are inherently incapable of such application.

The particular rules of each Bar and Law Society nevertheless are based on the same values and in most cases demonstrate a common foundation.

1.3. The Purpose of the Code

1.3.1. The continued integration of the European Union and European Economic Area and the increasing frequency of the cross-border activities of lawyers within the European Economic Area have made necessary in the public interest the statement of common rules which apply to all lawyers from the European Economic Area whatever Bar or Law Society they belong to in relation to their cross-border practice. A particular purpose of the statement of those rules is to mitigate the difficulties which result from the application of «double deontology» as set out in Article 4 of the E.C. Directive 77/249 of 22nd March 1977.
1.3.2. The organisations representing the legal profession through the CCBE propose that the rules codified in the following articles:

be recognised at the present time as the expression of a consensus of all the Bars and Law Societies of the European Union and European Economic Area; be adopted as enforceable rules as soon as possible in accordance with national or EEA procedures in relation to the cross-border activities of the lawyer in the European Union and European Economic Area; be taken into account in all revisions of national rules of deontology or professional practice with a view to their progressive harmonisation. They further express the wish that the national rules of deontology or professional practice be interpreted and applied whenever possible in a way consistent with the rules in this Code.

After the rules in this Code have been adopted as enforceable rules in relation to his crossborder activities the lawyer will remain bound to observe the rules of the Bar or Law Society to which he belongs to the extent that they are consistent with the rules in this Code.

1.4. Field of Application Ratione Personae

The following rules shall apply to lawyers of the European Union and the European Economic Area as they are defined by the Directive 77/249 of 22nd March 1977.

1.5. Field of Application Ratione Materiae

Without prejudice to the pursuit of a progressive harmonisation of rules of deontology or professional practice which apply only internally within a Member State, the following rules shall apply to the cross-border activities of the lawyer within the European Union and the European Economic Area. Cross-border activities shall mean:

(a) all professional contacts with lawyers of Member States other than his own; and

(b) the professional activities of the lawyer in a Member State other than his own, whether or not the lawyer is physically present in that Member State.

1.6. Definitions In these rules:

“Home Member State” means the Member State of the Bar or Law Society to which the lawyer belongs.

“Host Member State” means any other Member State where the lawyer carries on cross-border activities.

“Competent authority” means the professional organisation(s) or authority(ies) of the Member State concerned responsible for the laying down of rules of professional conduct and the administration of discipline of lawyers.
2. GENERAL PRINCIPLES

2.1. Independence

2.1.1. The many duties to which a lawyer is subject require his absolute independence, free from all other influence, especially such as may arise from his personal interests or external pressure. Such independence is as necessary to trust in the process of justice as the impartiality of the judge. A lawyer must therefore avoid any impairment of his independence and be careful not to compromise his professional standards in order to please his client, the court or third parties.

2.1.2. This independence is necessary in non-contentious matters as well as in litigation. Advice given by a lawyer to his client has no value if it is given only to ingratiate himself, to serve his personal interests or in response to outside pressure.

2.2. Trust and Personal Integrity

Relationships of trust can only exist if a lawyer’s personal honour, honesty and integrity are beyond doubt. For the lawyer these traditional virtues are professional obligations.

2.3. Confidentiality

2.3.1. It is of the essence of a lawyer’s function that he should be told by his client things which the client would not tell to others, and that he should be the recipient of other information on a basis of confidence. Without the certainty of confidentiality there cannot be trust. Confidentiality is therefore a primary and fundamental right and duty of the lawyer. The lawyer’s obligation of confidentiality serves the interest of the administration of justice as well as the interest of the client. It is therefore entitled to special protection by the State.

2.3.2. A lawyer shall respect the confidentiality of all information that becomes known to him in the course of his professional activity.

2.3.3. The obligation of confidentiality is not limited in time.

2.3.4. A lawyer shall require his associates and staff and anyone engaged by him in the course of providing professional services to observe the same obligation of confidentiality.

2.4. Respect for the Rules of Other Bars and Law Societies

Under the laws of the European Union and the European Economic Area a lawyer from another Member State may be bound to comply with the rules of the Bar or Law Society of the Host Member State. Lawyers have a duty to inform themselves as to the rules which will affect them in the performance of any particular activity. Member organisations of CCBE are obliged to deposit their codes of conduct at the Secretariat of CCBE so that any lawyer can get hold of the copy of the current code from the Secretariat.
2.5. Incompatible Occupations

2.5.1. In order to perform his functions with due independence and in a manner which is consistent with his duty to participate in the administration of justice a lawyer is excluded from some occupations.

2.5.2. A lawyer who acts in the representation or the defence of a client in legal proceedings or before any public authorities in a Host Member State shall there observe the rules regarding incompatible occupations as they are applied to lawyers of the Host Member State.

2.5.3. A lawyer established in a Host Member State in which he wished to participate directly in commercial or other activities not connected with the practice of the law shall respect the rules regarding forbidden or incompatible occupations as they are applied to lawyers of that Member State.

2.6. Personal Publicity

2.6.1. A lawyer should not advertise or seek personal publicity where this is not permitted. In other cases a lawyer should only advertise or seek personal publicity to the extent and in the manner permitted by the rules to which he is subject.

2.6.2. Advertising and personal publicity shall be regarded as taking place where it is permitted, if the lawyer concerned shows that it was placed for the purpose of reaching clients or potential clients located where such advertising or personal publicity is permitted and its communication elsewhere is incidental.

2.7. The Client’s Interest

Subject to due observance of all rules of law and professional conduct, a lawyer must always act in the best interests of his client and must put those interests before his own interests or those of fellow members of the legal profession.

2.8. Limitation of Lawyer’s Liability towards his Client

To the extent permitted by the law of the Home Member State and the Host Member State, the lawyer may limit his liabilities towards his client in accordance with rules of the Code of Conduct to which he is subject.

3. RELATIONS WITH CLIENTS

3.1. Acceptance and Termination of Instructions

3.1.1. A lawyer shall not handle a case for a party except on his instructions. He may, however, act in a case in which he has been instructed by another lawyer who himself acts for the party or where the case has been assigned to him by a competent body.
The lawyer should make reasonable efforts to ascertain the identity, competence and authority of the person or body who instructs him when the specific circumstances show that the identity, competence and authority are uncertain.

3.1.2. A lawyer shall advise and represent his client promptly, conscientiously and diligently. He shall undertake personal responsibility for the discharge of the instructions given to him. He shall keep his client informed as to the progress of the matter entrusted to him.

3.1.3. A lawyer shall not handle a matter which he knows or ought to know he is not competent to handle, without co-operating with a lawyer who is competent to handle it. A lawyer shall not accept instructions unless he can discharge those instructions promptly having regard to the pressure of other work.

3.1.4. A lawyer shall not be entitled to exercise his right to withdraw from a case in such a way or in such circumstances that the client may be unable to find other legal assistance in time to prevent prejudice being suffered by the client.

3.2. Conflict of Interest

3.2.1. A lawyer may not advise, represent or act on behalf of two or more clients in the same matter if there is a conflict, or a significant risk of a conflict, between the interests of those clients.

3.2.2. A lawyer must cease to act for both client when a conflict of interests arises between those clients and also whenever there is a risk of a breach of confidence or where his independence may be impaired.

3.2.3. A lawyer must also refrain from acting for a new client if there is a risk of a breach of confidence entrusted to the lawyer by a former client or if the knowledge which the lawyer possesses of the affairs of the former client would give an undue advantage to the new client.

3.2.4. Where lawyers are practising in association, paragraphs 3.2.1 to 3.2.3 above shall apply to the association and all its members.

3.3. Pactum de Quota Litis

3.3.1. A lawyer shall not be entitled to make a pactum de quota litis.

3.3.2. By «pactum de quota litis» is meant an agreement between a lawyer and his client entered into prior to final conclusion of a matter to which the client is a party, by virtue of which the client undertakes to pay the lawyer a share of the result regardless of whether this is represented by a sum of money or by any other benefit achieved by the client upon the conclusion of the matter.

3.3.3. The pactum de quota litis does not include an agreement that fees be charged in proportion to the value of a matter handled by the lawyer if this is in accordance with an officially approved fee scale or under the control of competent authority having jurisdiction over the lawyer.
3.4. Regulation of Fees

3.4.1. A fee charged by a lawyer shall be fully disclosed to his client and shall be fair and reasonable.

3.4.2. Subject to any proper agreement to the contrary between a lawyer and his client fees charged by a lawyer shall be subject to regulation in accordance with the rules applied to members of the Bar or Law Society to which he belongs. If he belongs to more than one Bar or Law Society the rules applied shall be those with the closest connection to the contract between the lawyer and his client.

3.5. Payment on Account If a lawyer requires a payment on account of his fees and/or disbursements such payment should not exceed a reasonable estimate of the fees and probable disbursements involved. Failing such payment, a lawyer may withdraw from the case or refuse to handle it, but subject always to paragraph 3.1.4 above.

3.6. Fee Sharing with Non-Lawyers

3.6.1. Subject as after-mentioned a lawyer may not share his fees with a person who is not a lawyer except where an association between the lawyer and the other person is permitted by the laws of the Member State to which the lawyer belongs.

3.6.2. The provisions of 3.6.1 above shall not preclude a lawyer from paying a fee, commission or other compensation to a deceased lawyer’s heirs or to a retired lawyer in respect of taking over the deceased or retired lawyer’s practice.

3.7. Cost Effective Resolution and Availability of Legal Aid

3.7.1. The lawyer should at all times strive to achieve the most cost effective resolution of the client’s dispute and should advise the client at appropriate stages as to the desirability of attempting a settlement and/or a reference to alternative dispute resolution.

3.7.2. A lawyer shall inform his client of the availability of legal aid where applicable.

3.8. Clients funds

3.8.1. When lawyers at any time in the course of their practice come into possession of funds on behalf of their clients or third parties (hereinafter called «client’s funds») it shall be obligatory:

3.8.1.1. That client’s funds shall always be held in an account of a bank or similar institution subject to supervision of Public Authority and that all clients’ funds received by a lawyer should be paid into such an account unless the client explicitly or by implication agrees that the funds should be dealt with otherwise.

3.8.1.2. That any account in which the client’s funds are held in the name of the lawyer should indicate in the title or designation that the funds are held on behalf of the client or clients of the lawyer.
3.8.1.3. That any account or accounts in which client’s funds are held in the name of the lawyer should at all times contain a sum which is not less than the total of the client’s funds held by the lawyer.

3.8.1.4. That all funds shall be paid to clients immediately or upon such conditions as the client may authorise.

3.8.1.5. That payments made from client’s funds on behalf of a client to any other person including:

a) payments made to or for one client from funds held for another client and b) payment of the lawyer's fees, be prohibited except to the extent that they are permitted by law or are ordered by the court and have the express or implied authority of the client for whom the payment is being made.

3.8.1.6. That the lawyer shall maintain full and accurate records, available to each client on request, showing all his dealings with his client’s funds and distinguishing client’s funds from other funds held by him.

3.8.1.7. That the competent authorities in all Member States should have powers to allow them to examine and investigate on a confidential basis the financial records of lawyer’s client’s funds to ascertain whether or not the rules which they make are being complied with and to impose sanctions upon lawyers who fail to comply with those rules.

3.8.2. Subject as aftermentioned, and without prejudice to the rules set out in 3.8.1 above, a lawyer who holds client’s funds in the course of carrying on practice in any Member State must comply with the rules relating to holding and accounting for client’s funds which are applied by the competent authorities of the Home Member State.

3.8.3. A lawyer who carries on practice or provides services in a Host Member State may with the agreement of the competent authorities of the Home and Host Member State concerned comply with the requirements of the Host Member State to the exclusion of the requirements of the Home Member State. In that event he shall take reasonable steps to inform his clients that he complies with the requirements in force in the Host Member State.

3.9. Professional Indemnity Insurance

3.9.1. Lawyers shall be insured at all times against claims based on professional negligence of an extent which is reasonable having regard to the nature and extent of the risks which each lawyer may incur in his practice.

3.9.2. When a lawyer provides services or carries out practice in a Host Member State, the following shall apply:

3.9.2.1. The lawyer must comply with any Rules relating to his obligation to insure against his professional liability as a lawyer which are in force in his Home Member State.

3.9.2.2. A lawyer who is obliged so to insure in his Home Member State and who provides services
or carries out practice in any Host Member State shall use his best endeavours to obtain insurance cover on the basis required in his Home Member State extended to services which he provides or practice which he carries out in a Host Member State.

3.9.2.3. A lawyer who fails to obtain the extended insurance cover referred to in paragraph

3.9.2.2 above or who is not obliged so to insure in his Home Member State and who provides services or carries out practice in a Host Member State shall in so far as possible obtain insurance cover against his professional liability as a lawyer whilst acting for clients in that Host Member State on at least a basis equivalent to that required of lawyers in the Host Member State.

3.9.2.4. To the extent that a lawyer is unable to obtain the insurance cover required by the foregoing rules, he shall inform such of his clients as might be effected.

3.9.2.5. A lawyer who carries out practice or provides services in a Host Member State may with the agreement of the competent authorities of the Home and Host Member States concerned comply with such insurance requirements as are in force in the Host Member State to the exclusion of the insurance requirements of the Home Member State. In this event he shall take reasonable steps to inform his clients that he is insured according to the requirements in force in the Host Member State.

4. RELATIONS WITH THE COURTS

4.1. Applicable Rules of Conduct in Court A lawyer who appears, or takes part in a case before a court or tribunal in a Member State, must comply with the rules of conduct applied before that court or tribunal.

4.2. Fair Conduct of Proceedings A lawyer must always have due regard for the fair conduct of proceedings. He must not, for example, make contact with the judge without first informing the lawyer acting for the opposing party or submit exhibits, notes or documents to the judge without communicating them in good time to the lawyer on the other side unless such steps are permitted under the relevant rules of procedure. To the extent not prohibited by law a lawyer must not divulge or submit to the court any proposals for settlement of the case made by the other party or its lawyer without the express consent by the other party’s lawyer.

4.3. Demeanour in Court A lawyer shall while maintaining due respect and courtesy towards the court defend the interests of his client honourably and fearlessly without regard to his own interests or to any consequences to himself or to any other person.

4.4. False or Misleading Information A lawyer shall never knowingly give false or misleading information to the court.

4.5. Extension to Arbitrators Etc. The rules governing a lawyer’s relations with the courts apply also to his relations with arbitrators and any other persons exercising judicial or quasi-judicial functions, even on an occasional basis.
5. RELATIONS BETWEEN LAWYERS

5.1. Corporate Spirit of the Profession

5.1.1. The corporate spirit of the profession requires a relationship of trust and co-operation between lawyers for the benefit of their clients and in order to avoid unnecessary litigation and other behaviour harmful to the reputation of the profession. It can, however, never justify setting the interests of the profession against those of the client.

5.1.2. A lawyer should recognise all other lawyers of Member States as professional colleagues and act fairly and courteously towards them.

5.2. Co-operation Among Lawyers of Different Member States

5.2.1. It is the duty of a lawyer who is approached by a colleague from another Member State not to accept instructions in a matter which he is not competent to undertake. He should in such case be prepared to help his colleague to obtain the information necessary to enable him to instruct a lawyer who is capable of providing the service asked for.

5.2.2. Where a lawyer of a Member State co-operates with a lawyer from another Member State, both have a general duty to take into account the differences which may exist between their respective legal systems and the professional organisations, competences and obligations of lawyers in the Member States concerned.

5.3. Correspondence Between Lawyers

5.3.1. If a lawyer sending a communication to a lawyer in another Member State wishes it remain confidential or without prejudice he should clearly express this intention when communicating the document.

5.3.2. If the recipient of the communication is unable to ensure its status as confidential or without prejudice he should return it to the sender without revealing the contents to others.

5.4. Referral Fees

5.4.1. A lawyer may not demand or accept from another lawyer or any other person a fee, commission or any other compensation for referring or recommending the lawyer to a client.

5.4.2. A lawyer may not pay anyone a fee, commission or any other compensation as a consideration for referring a client to himself.

5.5. Communication with Opposing Parties

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A lawyer shall not communicate about a particular case or matter directly with any person whom he knows to be represented or advised in the case or matter by another lawyer, without the consent of that other lawyer (and shall keep the other lawyer informed of any such communications).

5.6. Change of Lawyers

5.6.1. A lawyer who is instructed to represent a client in substitution for another lawyer in relation to a particular matter should inform that other lawyer and, subject to 5.6.2 below, should not begin to act until he has ascertained that arrangements have been made for the settlement of the other lawyer's fees and disbursements. This duty does not, however, make the new lawyer personally responsible for the former lawyer's fees and disbursements.

5.6.2. If urgent steps have to be taken in the interests of the client before the conditions in 5.6.1 above can be complied with, the lawyer may take such steps provided he informs the other lawyer immediately.

5.7. Responsibility for Fees

In professional relations between members of Bars of different Member States, where a lawyer does not confine himself to recommending another lawyer or introducing him to the client but himself entrusts a correspondent with a particular matter or seeks his advice, he is personally bound, even if the client is insolvent, to pay the fees, costs and outlays which are due to the foreign correspondent. The lawyers concerned may, however, at the outset of the relationship between them make special arrangements on this matter. Further, the instructing lawyer may at any time limit his personal responsibility to the amount of the fees, costs and outlays incurred before intimation to the foreign lawyer of his disclaimer of responsibility for the future.

5.8. Training Young Lawyers

In order to improve trust and co-operation amongst lawyers of different Member States for the clients’ benefit there is a need to encourage a better knowledge of the laws and procedures in different Member States. Therefore, when considering the need for the profession to give good training to young lawyers, lawyers should take into account the need to give training to young lawyers from other Member States.

5.9. Disputes amongst Lawyers in Different Member States

5.9.1. If a lawyer considers that a colleague in another Member State has acted in breach of a rule of professional conduct he shall draw the matter to the attention of his colleague.

5.9.2. If any personal dispute of a professional nature arises amongst lawyers in different Member States they should if possible first try to settle it in a friendly way.

5.9.3. A lawyer shall not commence any form of proceedings against a colleague in another Member State on matters referred to in 5.9.1 or 5.9.2 above without first informing the Bars or Law Societies
to which they both belong for the purpose of allowing both Bars or Law Societies concerned an opportunity to assist in reaching a settlement. 7

ANNEX

POLICY STATEMENT CONCERNING PROFESSIONAL SECRECY OF LAWYERS AND LEGISLATION ON MONEY LAUNDERING

CCBE aims to work for a harmonized attitude amongst its member organisations. It therefore recommends that national lawyer's organization of the CCBE Member States to include, if not already included, in their codes of conduct the following obligations:

1. In whichever case submitted to a lawyer, he or she should check the identity of the client or the intermediary of the client for which the lawyer is acting.
2. To prohibit, when lawyers are asked to handle funds, for any lawyer to receive or handle any fund that do not strictly correspond to a file known by name.

3. For lawyers participating in a legal transaction to withdraw if they seriously suspect that the planned operation will result in money laundering and the client is not prepared to abstain from this operation.

CCBE also aims at including these provisions in its own Code of Conduct for transnational legal business.
Appendix E

CCBE Position on
Regulatory and Representative Functions of Bars
II. Core Values Of The Legal Profession

(A.) General

At the outset, the CCBE wishes to summarise some of the core values of the legal profession – independence, absence of conflicts of interest, and professional secrecy/confidentiality - which should help in the understanding of this paper where the core values are referred to on a regular basis. The list of core values is not to be seen as an exhaustive list; it is rather a reference to core values which have also been referred to on a regular basis at a European level without prejudice to other core values which may exist at a national level.

All EU Member States recognise these core values as major objectives and principles of regulation for the legal profession. They should be seen primarily not as rights of the lawyer but rather as obligations of lawyers to implement rights of clients. Violation of such core obligations is, in some EU Member States, not only a professional violation but also a criminal offence. The core values should also be seen as an instrument of how access to justice and the maintenance of the rule of law can be achieved.

These core values are not only part of the general principles of the CCBE Code of Conduct or CCBE positions but are also referred to in a number of European and international instruments which relate to the legal profession: the UN Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 19901; the Council of Europe Recommendation Rec(2000)21 of the Committee of Ministers to member states on the freedom of exercise of the profession of lawyer of 25 October 2002 and the European Parliament resolution on scale fees and compulsory tariffs for certain liberal professions, in particular lawyers, and on the particular role and position of the liberal professions in modern society of 5 April 2001.

(B.) The core values

Independence

The many duties to which a lawyer is subject require his/her absolute independence, meaning that the lawyer has to be free from all influence, especially such as may arise from his/her personal interests or external pressure. The idea of lawyer independence is deeply held both within and outside the legal profession across Europe. Such independence is considered as necessary to trust in the process of justice as is the impartiality of the judge. A lawyer must therefore avoid any impairment of his/her independence and be careful not to compromise his/her professional
standards in order to please his/her client, the court or third parties when handling legal matters be it non-contentious or contentious. Independence is required, in principle, to permit lawyers to serve the interests of their clients, without being influenced by other interests to which the lawyer might either legally or factually be bound. The independence of lawyers is also recognised in the Council of Europe Recommendation on the freedom of exercise of the profession of lawyer; the Council of Europe therein notes that it is “conscious of the need for a fair system of administration of justice which guarantees the independence of lawyers in the discharge of their professional duties without any improper restriction, influence, inducement, pressure, threats or interference, direct or indirect, from any quarter or for any reason”. Furthermore, the Council of Europe recognises the role of bars in defending their independence against any improper restrictions or infringements and also encourages the bars to ensure such independence. Also the European Parliament resolution and the UN Basic Principles relating to lawyers recognise the importance of the independence of lawyers in exercising their profession.

The European Court of Justice in the Wouters case notes that “independence is an essential guarantee for the individual and for the judiciary, with the result that lawyers are obliged not to get involved in business or joint activities which threaten to compromise it”.

Avoidance of conflicts of interest

With a view to the duty of lawyers to serve only the interests of their clients, the legal profession has always maintained strict rules on the avoidance of conflicts of interest. These rules concern situations where a lawyer might be bound to serve the interests of more than one party in a matter where those interests are significantly different.

The Council of Europe Recommendation on lawyers referred to above lists the avoidance of conflicts of interest as one of the principal duties of lawyers towards their clients. The European Parliament in its resolution recognises that certain rules, which are necessary in the specific context of a profession – including the avoidance of conflicts of interest – are not to be considered restrictions of competition within the meaning of Article 81(1) EC Treaty.

Professional secrecy/confidentiality

A further duty of lawyers recognised as crucial to the proper provision of legal services is the duty to maintain confidentiality with respect to all information professionally received in confidence. If the right of the citizen to safeguard professional secrecy/confidentiality, i.e. the right of the citizen to be protected against any divulging of his/her communication with his/her lawyer, would be denied, people may be denied access to legal advice and to justice.

The CCBE hereby reaffirms its previous positions relating to legal professional privilege, in particular the CCBE statement of February 20018 and the CCBE position of December 20049. The principle of confidentiality is also enshrined in the CCBE Code of Conduct (2002).

The Council of Europe Recommendation on lawyers states that “professional secrecy should be respected by lawyers in accordance with internal laws, regulations and professional standards. Any violation of this secrecy, without the consent of the client, should be subject to appropriate sanctions.”
The European Court of Justice in the Wouters case states with regard to professional secrecy/confidentiality that it “constitutes an essential guarantee of the freedom of the individual and of the proper working of justice, so that in most Member States it is a matter of public policy”.

III. CCBE Views on Regulatory and representative functions of bars

The debate in this area is a question of how lawyers should organise themselves in the public interest within the context of the authority delegated to them by the state.

At the outset, it should be noted that an independent legal profession is the cornerstone of a free and democratic society. Self-regulation, conceptually, must be seen as a corollary to the core value of independence. Self-regulation addresses the collective independence of the members of the legal profession. Exclusive direct state regulation, without a leading role for the profession in the setting and enforcing of standards of conduct and of service, is incompatible with an independent legal profession.

The many benefits of regulation of the legal profession with a leading role played by the profession itself include: voluntary availability of expertise to regulate the subject matters relating to the legal profession, high level of acceptance of standards set and enforced by professional colleagues, flexibility and cost effectiveness.

The CCBE also believes important to emphasise what is meant by representation through Bars. The Bars are representing the lawyers towards the courts and the government. The Bars, however, do not take care about the business interests of their members but the lawyers’ position in society.

In most of the democratic states of Europe it has been traditional for the Bar to represent the interests of the legal profession and to be entrusted by the State with a leading role in the regulation of the profession in the public interest including the enforcement of ethical rules. In these countries, there is not felt to be any conflict between the two roles. Both roles would have the common objective of maintaining high standards of conduct and service by the legal profession to the public. Experience in these countries has shown that any theoretical potential for conflict of interest between the two roles can be managed by structures and systems within bars and external oversight arrangements.

Furthermore, in no Member State have lawyers been deemed unfit to balance the various interests which they are faced with (such as duty to the court, duty to the client) in their daily work, and it is the kind of balancing act which members of the legal profession are expected, and indeed trained and regulated, to undertake every day of their professional lives.

That is not to say that the combined function of representation and regulation is the only model. The CCBE would like to recall in this context the European Court of Justice jurisprudence finding that “the fact that different rules may be applicable in another Member State does not mean that the rules in force in the former State are incompatible with Community law”. It should be noted that national regulations/systems are embedded in a specific national context.
Appendix F

ABA Model Rules of Professional Conduct

Rule 8.4 - Misconduct
ABA Model Rules of Professional Conduct

Rule 8.4 Misconduct

It is professional misconduct for a lawyer to:

(b) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

COMMENT [2]
Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return. However, some kinds of offenses carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving “moral turpitude”. That concept can be constructed to include offenses concerning some matters of personal morality, such as adultery and comparable offenses that have no specific connection to fitness for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust, or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation.

Full text of the ABA Model Rules of Professional Conduct can be found at:
http://www.abanet.org/cpr/mrpc/mrpc_toc.html

The Commentaries to the Rule 8.4 can be found at:
http://www.sconet.state.oh.us/Atty-vcs/ProfConduct/proposal/rule_updates_102805/rule_8_4.pdf
Appendix G

(Draft Law No. 2677 of December 6, 2006)

Law on the Bar - Miroshnichenko Draft
Draft

Draft Law

(to substitute the draft law # 2677 of 06 December 2006)

Introduced by People’s Deputy of Ukraine
Miroshnichenko Y.R.

LAW OF UKRAINE

On the Bar

This Law seeks to govern relations pertaining to the realization of legal practice in Ukraine for the purpose of creating proper conditions for the provision by advocates of efficient legal assistance and protection of rights, freedoms and legal interests of individuals and legal entities.

SECTION 1.

Article 1. Definitions

1. The terms used in this Law shall have the following meanings:

Advocate – an individual practicing law;

Legal practice – professional activity of the advocate aimed at ensuring the right of a person to protection against conviction, representation of individuals and legal entities and their provision with legal assistance;

Advocate’s inquiry – a written request of the advocate to a governmental agency, local self-government authorities, their officials, directors of business entities, institutions and organizations, irrespective of their property status and subordination, and civil organizations to submit data, certificates, references or other official documents (or certified copies thereof) or to grant a formal explanation or answer on the matters within their competence.

Advocate’s firm, office, association or collegium of advocates (hereinafter –association of advocates) – organizational forms of carrying out legal practice by two or more advocates;

Bar of Ukraine (Advokatura) – of Ukraine non-governmental professional independent self-governed law enforcement institution specially authorized by the Constitution of Ukraine, comprising all advocates and aimed at ensuring the right of a person to protection against conviction and provision of legal assistance;

Bar Self-governance – the right guaranteed by the state and entitling advocates to independently resolve issues related to the organization and activities of the bar.

Advocate’s fee – remuneration for legal assistance provided by the advocate.
Client – individual or legal entity to whom the advocate provides legal assistance;

Legal assistance – service of legal nature provided by the advocate to a client for the purpose of the exercise and protection of the rights, freedoms and legal interests of the latter.

Article 2. Legal regulation and principles of legal practice

1. Legal practice shall be carried out in compliance with the objectives of the bar as established by the Constitution of Ukraine and be subject to this Law and other laws of Ukraine, charters of associations of advocates.

2. Legal practice shall be carried out pursuant to the principles of the rule of law, independence, democracy, humanism and confidentiality.

3. Legal practice shall be carried out by the advocate within the entire territory of Ukraine, and, if abroad, it shall be regulated by international treaties of Ukraine.

4. Representation and protection of the rights, freedoms and legal interests of individuals and legal entities in the courts of Ukraine shall be provided exclusively by advocates.

5. For the purpose of compliance with guaranties of advocate’s practice, ensuring high professional level of advocates and liability for the quality of legal assistance rendered by the advocate, bar self-governance shall act in Ukraine.

Article 3. Guarantees of legal practice

1. Any interference with legal practice or hindrance thereto shall be prohibited, in particular;

1) demand to the advocate, his/her assistant, intern, officials and technical workers of association of advocates to provide information that is classified as advocatory secret. The aforesaid persons may not be interrogated on such information;

2) demand to individuals to provide evidence related to the provision of legal assistance, protection of rights or representation by the advocate, provided that respective evidence is qualified as advocatory secret;

3) demand to the advocate to disclose an agreement on the provision of legal assistance;

4) making submission by an inquiry body, investigator and prosecutor, as well as making by a court of a separate resolution (writ) with respect to legal position of the advocate in the case;

5) concealment, distortion or misrepresentation of information, delay in providing or failing to provide such information, documents or other data in response to the advocate’s inquiry;
6. The state shall be responsible for ensuring guarantees for the provision of legal practice.

Article 4. Advocatory Secret

1. The advocate shall be obliged to keep an advocatory secret.

2. The subject matter of an advocatory secret shall be:

1) the very fact that a person applies to the advocate (association of advocate);

2) information on the client or third persons, that became known to the advocate in relation to his/her legal practice (including information from a person about a previously committed crime or another misconduct);

3) nature of an assignment or issue brought by a person to the advocate (association of advocates), as well as content of documents the advocate is provided with;

4) content of advice, consultation, comments given by the advocate (association of advocates), content of the documents he/she drafted.
5) information stored in electronic form and any documents and information received by the advocate in the course of his/her legal practice;

6) content of the agreement on the provision of legal assistance made by and between a client and the advocate;
7) another information related to legal practice.

3. State bodies and local self-government authorities, legal entities and individuals shall have no right to take any actions that may result in disclosure of advocatory secret.

4. Advocatory secret shall have no time limits.

5. Data of the inquiry and pre-trial investigation bodies that became known to the advocate in his/her in the course of legal practice may not be disclosed otherwise than subject to permission of the investigator, prosecutor or another person in charge of inquiry.

6. Information, objects and documents received during executive-search operations or investigatory actions with respect to the advocate (including after suspension, termination or deprivation of the right to legal practice) may be used as evidence on the part of prosecution only in the event that they are not related to the case of the advocate’s client. The restrictions hereinabove shall not extend to the means of crime as well as those objects circulation of which is prohibited or restricted under effective legislation of Ukraine.

**Article 5. Advocate Ethics**

1. In his/her practice, the advocate shall be obliged to adhere to the universal principles of morality; to always act with self-respect and have respect for honor and dignity of a client, other advocates, employees and officials of state bodies and local self-government authorities, and citizens; to refrain from actions, making statements and deeds that may compromise him/her and the Bar of Ukraine.

2. Exercise by the advocate of his/her rights in contravention of the universal principles of morality, human rights and, legal interests of the society and the state shall be deemed in all respects inadmissible.

**Article 6. Advocate’s Assistant**

1. The advocate may have assistants working under employment agreement (contract) made with the advocate (association of advocates).

2. Advocate’s assistant shall have no right to practice law.

3. Advocate’s Assistant shall keep an advocatory secret.

4. No person specified in article 9 paragraph 3 of this Law may be an advocate’s assistant.
Article 7. Intern of Advocate

1. Intern of advocate shall be a person with law degree (university, academy, institute).

2. Intern of advocate shall have internship with the advocate (association of advocates).

3. Employment conditions shall be determined by the employment contract between the intern and the advocate (association of advocates) in pursuance of the labour legislation.

4. The advocate shall provide for training of the intern to prepare him/her for legal practice.

5. No person specified in article 9 paragraph 3 of this Law may be an intern of the advocate.

Article 8. Register of Advocates of Ukraine

1. The Register of Advocates of Ukraine shall be the unified official database of advocates of Ukraine of free access, that is created for the purpose of ensuring the right of every person to freely choosing the defender, receiving efficient legal assistance, including that free of charge, according to this Law and other laws of Ukraine.

2. The Register of Advocates of Ukraine shall contain information on advocates necessary and sufficient for the citizens to exercise their constitutional right to freely choose the defender of their rights, for ensuring the participation of the advocate in the provision of free of charge legal assistance, as well as in the event of his/her appointment as a defender according to the legislation, in particular:
   1) surname, name and patronymic of the advocate;

    2) the date of admission to the bar and the name of the body that has made the respective decision;

    3) Advocate License number;

    4) address and telephone number of the advocate’s workplace;

    5) information on any liability imposed on the advocate;

    6) information on suspension of the right to practice law.

3. The duty to keep records in the Register, upgrade the information and make information public shall be placed on the Council of Advocates of Ukraine according to the Regulation on the Register of Advocates of Ukraine.
SECTION II. ACQUISITION OF THE RIGHT TO PRACTICE LAW

Article 9.

1. The right to practice law shall be vested in an individual who has complete law degree, at least two years of work experience as a lawyer or intern of advocate, good command of official state language and has passed bar examination, taken the Oath of Advocate of Ukraine and obtained Advocate License.

2. The right of a person to practice law shall not be subject to any age limit.

3. The right to practice law shall not be vested in:

1) prosecutor, investigator, judge, notary public, expert, patent agent, legal counsel, any other person who works in the court, procuracy, notary office, internal affairs bodies, security service, state governmental bodies, local self-government authorities, or military or state service;

2) a person who has non-liquidated or non-expunged conviction for criminal negligent;

3) a person convicted of crime (irrespective of whether liquidated or expunged or not);

4) a person found legally incapacitated in the order established by law;

5) a person who has been subject to disbarment.

Article 10. Eligibility to Bar exam

1. A person who meets the requirements of this Law shall have the right to file an application for bar examination with the qualification commission of advocates.

The following shall be attached to the application:

1) a copy of the passport or another personal identification;

2) a form with personal particulars;

3) copy of employment record book;

4) a copy of a document about higher education

5) a document evidencing absence of previous conviction.

2. The qualification commission of advocates shall have the right to check for authenticity of the documents and information submitted, apply to appropriate bodies with the request for check-up or verification of such documents or information. Within 10 working days following the receipt of the respective request, the bodies and officials shall be obliged to give notice to the appropriate qualification commission of advocates of the results of processing such request.
3. After completion of the relevant check-up proceedings, the qualification commission of advocates shall make decision to allow the person to take qualification examination or provides the applicant with reasonable rejection that may be challenged in the Appeal Commission of Advocates.

Article 11. Bar exam

1. The duty to arrange for and hold bar examination shall be placed on the qualification commission of advocates.

2. The bar examination shall be taken in the official state language;

3. Regulation on the procedure, content, criteria and procedures of evaluation of knowledge of the person intending to acquire the right to practice law as well as the curriculum of the bar exam shall be approved by the Congress of Advocates of Ukraine.

Article 12. Admission to the Bar

1. Within 5 days following the date of bar examination the qualification commission of advocates shall make decision on granting to the person the right to practice law (on admission of the person to the bar) or deny this right to the person.

2. The Decision on denial of the right to practice law may be appealed to the Appeal Commission of Advocates.

3. The decision on granting the right to practice law to the person shall take effect on the date when the person takes the Oath of Advocate of Ukraine.

Article 13. Oath of Advocate of Ukraine

1. A person who receives the License of Advocate and the Card of Advocate of Ukraine shall take the oath of the advocate of Ukraine in the following form:

   “I, (name and surname), hereby solemnly swear to provide legal assistance in accordance with the Constitution of Ukraine and laws of Ukraine, to keep advocatory secret and comply with the Rules of Legal Practice”.

2. The text of the Oath, signed by the advocate, shall be deposited with the qualification commission of advocates and kept in the personal file of the advocate.

Article 14. Entry into Register of Advocates of Ukraine

1. Within 10 days following the date of taking the Oath of Advocate of Ukraine, information about the advocate shall be entered by the qualification commission into the Register of Advocates of Ukraine.
SECTION III. ORGANIZATIONAL FORMS OF LEGAL PRACTICE

Article 15. Organizational forms of legal practice

1. Legal practice shall be carried out by the advocate solely or as a member of association of advocates.

2. The advocate shall be obliged to have his/her own working place at his/her own choice where to practice law.

4. The advocate shall have the freedom in choosing one of organizational forms of legal practice: in advocate’s office, advocate’s bureau or association of advocates. Organizational form of legal practice shall be reflected in the name.

4. Associations of advocates shall act according to the principles of voluntarism, self-government and collegiality.

Article 17. Advocate’s office

1. Advocate’s office shall consist of one advocate and may not be legal entity.

2. Activity of the advocate, who has founded the advocate’s office shall be subject to provisions of the Regulation.

3. The advocate who has founded the advocate’s office shall have his/her own seal and stamp, open accounts in banks within the territory of Ukraine and, per the procedure established by the legislation, in foreign banks.

Article 17. Advocate Bureau

1. Advocate’s bureau shall consist of one advocate and shall be a legal entity.

2. Activity of the advocate who has founded the advocate’s bureau shall be subject to provisions of the Regulation.

3. The advocate who has founded the advocate’s bureau shall have his/her own seal and stamp, open accounts in banks within the territory of Ukraine and, per the procedure established by the legislation, in foreign banks.

Article 18. Association of Advocates

1. Association of advocates shall be a legal entity founded by two or more advocates, act on the basis of the charter approved and partnership agreement concluded by its members. Under the partnership agreement advocates-partners shall undertake to combine their efforts for the purpose of providing legal assistance, protection of right and representation on behalf of all partners.
2. Founders and partners of association of advocates shall be exclusively advocates. An association of advocates may also employ advocates on the basis of civil agreement.

3. An association of advocates shall be registered with the Ministry of Justice of Ukraine per the procedure established by effective law, of which a respective entry is made in the Register kept in compliance with the Regulation, approved by the Cabinet of Ministers of Ukraine.

4. An association of advocates shall have all rights and bear all liabilities pertaining to legal entity and envisaged by the Civil and Commercial codes and other legal acts of Ukraine.

5. An agreement on provision of legal assistance shall be made on behalf of the association of advocates by an authorized person who, subject to consent of the client, assigns to the advocate of the association fulfillment of the obligations under the agreement. Improper fulfillment of or failure to fulfill the contractual obligations with respect to provision of legal assistance shall entail liability on the part of the association of advocates. Conditions, grounds and procedure of liability of the advocate to the association of advocates shall be determined by the partnership agreement or agreements with advocates.

6. Advocate’s fee and expenses connected with the performance of the agency shall be paid to the account of the association of advocates.

7. Association of advocates shall be a non-profit organization and maintained at the expense of contributions of advocates – members of association of advocates.

Article 19. Unions, associations and other non-governmental organizations of advocates.

Associations of advocates shall have the right to found local, all-Ukrainian and international unions, associations, other non-governmental organizations and charitable funds.

SECTION IV. PROVISION OF LEGAL ASSISTANCE BY ADVOCATE

Article 20. Kinds of Legal Assistance

1. The advocate shall have the right to provide legal assistance in the form of:

1) oral consultations and written legal memoranda, commentary on the norms of law;

2) drafting written applications, claims, motions, draft contracts and any other documents of legal nature;

3) representation and protection of rights, freedoms and legal interests of the client in Ukrainian courts, other adjudicatory bodies, state bodies and local self-government authorities, as well as before individuals and legal entities;

4) any other actions that are not contrary to law.
Article 21. Grounds for Provision of Legal Assistance

1. The advocate shall provide legal assistance on the grounds of agreement or law.

2. Powers of the advocate with respect to representation and protection of rights, freedoms and legal interests of the client shall be evidenced by the power of attorney issued by the client or association of advocates.

Article 22. Agreement on Provision of Legal Assistance

1. Agreement on the Provision of Legal Assistance shall be made between an individual or legal entity (client) and the advocate (association of advocates) according to the provisions of the Civil Code of Ukraine.

2. Agreement on the Provision of Legal Assistance may be made for the benefit of a third person.

3. Agreement on the Provision of Legal Assistance may be made in oral form as well as in writing.

Article 23. Grounds for Denial in Legal Assistance.

1. The advocate shall have no right to assume agency in the event that:

1) the performance requested by the client go beyond professional rights and duties of the advocate;

2) the outcome desired by the client or means and methods to achieve it are illegal;

3) performance of agency may result in disclosure of advocatory secret;

4) he/she is providing or provided legal assistance to another person whose interests are in conflict with the interests of the person who applied for legal Assistance.

5) he/she has participated in the case at hand in the capacity of investigator, person in charge of inquiry, participant or representative of a participant in the proceedings, or has family relation to one of said persons;

6) he/she reached no agreement with the client (hi/her/its representative) with respect to essential provisions of agreement;

7) performance of agency may be in conflict with personal interests of the advocate, interests of his/her relatives, association of advocates to which he/she is a party, or his/her professional duties.

Article 24. Termination of Agreement on Provision of Legal Assistance

1. The Agreement on the provision of legal assistance shall terminate upon complete fulfillment thereof.
2. The agreement may be at any time early terminated upon mutual consent of both parties, unless otherwise stipulated by legislation.

3. Client may at any time and for any reason unilaterally terminate the agreement with the advocate.

4. The advocate (association of advocates) shall have the right to early (before fulfillment of the agency) terminate the agreement in the event that:

1) the client takes advantage of the legal assistance provided to him/her/it by the advocate to facilitate committing a crime;

2) the client grossly violates the duties assumed by him under the agreement;

3) proper fulfillment of the obligation becomes impossible due to the actions of the client contrary to the advice of the advocate;

4) the client refuses to pay expenses stipulated in the agreement;

5) the client made no down payment or advance payment on the account of the fee where it was stipulated by the agreement on the provision of legal assistance to make such payments;

6) in other cases envisaged by effective legislation or the Rules of Legal Practice.

The client shall receive from the advocate sufficient information about possible consequences of early termination of the agreement and about the right of the client to retain another advocate.

**Article 25. Remuneration for Advocate. Fee.**

1. The advocate shall have remuneration for his work in the form of fee.

2. The amount of fee shall not include any funds paid by the client or his/her/its representative for the purpose of covering actual expenses related to the fulfillment of the agreement;

3. The procedure of calculation of the fee (fix amount, payment on the hourly basis, additional fee, revision of the amount of fee due to changes in the scope and difficulty of work etc.) shall be established in the agreement on the provision of legal assistance.

4. The total amount of all deductions from the amount of fee my not exceed thirty per cent. No deductions from compensatory and other payments that may not be subject to collection of debt according to legislation shall be made.

5. The advocate (association of advocates) shall have no right to enter into agreements of property nature with the client, except for agreements on granting security of the client’s obligation to pay fee and to cover actual expenses related to the fulfillment of agency.
6. The order of payment of remuneration to the advocate shall be established in the agreement on the
provision of legal assistance.

**Article 26. Provision of Legal Assistance at the expense of the state.**

1. In the event and per the procedure established by law, the advocate shall provide legal assistance to
individuals at the expense of the state (free legal assistance).

2. Payment of fee and compensation for any expenses incurred by the advocate in the event of
providing legal assistance at the expense of the state shall be made by the authorized central executive
body from the budget of Ukraine.

3. Amount and procedure of payment of fee and compensation for expenses incurred by the advocate
in the event of providing legal assistance at the expense of the state shall be established by the
Cabinet of Ministers of Ukraine upon approval by the higher body of bar self-governance.

**Article 27. Provision of legal Assistance upon appointment**

1. Procedure of appointing the advocate for the protection of interests on the part of prosecution
shall be determined by the criminal-procedural legislation of Ukraine.

2. Appointment of the advocate on the part of prosecution shall be made through regional councils
of advocates.

3. Payment of fee and compensation for expenses incurred by the advocate in the event of providing
legal assistance upon appointment shall be made by the authorized central executive body from the
State budget of Ukraine.

4. Amount and procedure of payment of fee and compensation for expenses incurred by the advocate
in the event of providing legal assistance upon appointment shall be established by the Cabinet of
Ministers of Ukraine upon approval by the higher body of the bar self-governance.

**Article 28. Taxation of Legal Practice**

1. Legal practice shall be subject to taxation in accordance with effective legislation of Ukraine.

3. Income of associations of advocates, Council of Advocates of Ukraine, regional councils of
advocates shall be subject to taxation in the same order as that of non-governmental organizations.

**SECTION V. RIGHTS AND OBLIGATIONS OF ADVOCATE**

**Article 29. Rights of Advocate**

1. For the purpose of the exercise and protection of rights, freedoms and legal interests of a client,
the advocate shall have the right to take any actions that are not prohibited by this Law and the Rules
of Legal Practice.

2. In practicing law, the advocate shall have the right to:
1) gather and present evidence in the cases in which he/she provides legal assistance;

2) obtain information or documents, or copies thereof from state bodies, local self-government authorities, legal entities and individuals within the ten-day term following the date of their receipt of the respective advocate’s inquiry;

3) to have, for the purpose of inspection, free access to the documents and records necessary for the provision of legal assistance in the state bodies, local self-government authorities, legal entities as well as make copies thereof;

4) obtain written conclusions from experts on the matters requiring expertise;

5) in the cases in which the advocate provides legal assistance, verify copies of documents except for those that are subject to mandatory notarization according to law;

6) have confidential meetings with the client including meetings upon detention of the client, during the client’s being in custody and imprisonment, - without any restrictions as to the number and duration of such meetings.

7) acquaint him/herself with all materials making the basis for detention of the client or for application of injunction thereto, or for criminal charge, and after completion of court proceedings – with all materials of the case, make excerpts and copies thereof and reprove them.

8) take part in investigation held with participation of the client, as well as in the investigation held in response to his/her/it upon application or application of the advocate hi/herself; in the process of investigation, ask questions, make remarks and raise procedural defenses as to investigation, which shall be formalized in the form of protocol;

9) make use of technical means, including that for making copies of records of the case in which the advocate is providing legal assistance, recording investigatory, court and other procedural actions with participation of the advocate; a person in charge of inquiry, investigator, judge, court shall have the right to prohibit the advocate to make use of technical means exclusively for the purpose of preventing disclosure of information about intimate life of persons involved in the case as well as in the event that it is necessary for the security of the persons under protection and for the protection of state secret;

10) to examine persons (upon their consent) who possess any information relevant to the case in which the advocate provides legal assistance; to record results of such examination;

11) to make applications and complaints during reception with officials and receive written and grounded answers to those applications and complaints.

12) be present during consideration of his/her applications and complaints at the meetings of collegial bodies and make explanations as to the nature of applications and complaints;

13) in the courts of Ukraine, use the premises allotted to the bar;
14) employ assistants and other staff;

15) take other actions that are not contrary to legislation of Ukraine;

3. The advocate shall have the right to participate in the activity of the bodies of bar self-governance, elect and be elected to any post with those bodies.

**Article 30. Duties of Advocate**

1. In practicing law the advocate shall be obliged to:

1) efficiently and conscientiously protect the rights, freedoms and legal interests of the client;

2) comply with requirements of effective legislation, Rules of Legal Practice, Oath of Advocate;

3) comply with the decisions of the bodies of bar self-governance;

4) pay yearly contributions for the maintenance of the bodies of the bar self-governance;

5) raise the level of professional skills;

6) provide protection upon appointment and render legal assistance at the expense of the state in the cases and per the procedure established by law;

7) keep advocatory secret;

8) within ten-day term give written notice of changes of information about him/her in the Register of Advocates of Ukraine to the respective regional council of advocates;

2. The advocate shall not be allowed to:

1) exercise his/her powers to the detriment of the client;

2) in absence of the consent from the client, disclose information that makes an advocatory secret, make use of that information for personal gain or in the interests of third persons;

3) take position in the case contrary to the will of the client except when the advocate is sure of self-condemnation of the client;

4) recognize conviction of the client if the latter does not plead guilty;

5) cooperate on the basis of confidentiality with the bodies in charge of executive-search operations and pre-trial investigation;
6) refuse from the assumed obligation on the provision of legal assistance, except when otherwise established by law.

SECTION VI. SUSPENSION, TERMINATION AND DEPRIVATION OF THE RIGHT TO PRACTICE LAW (DISBARMENT)

Article 31. Suspension of Right to Practice Law.

1. The right to practice law shall be suspended by the qualification commission of advocates that issued the Advocate License in the following instances:

1) occupation by the advocate of offices and performance of the works set forth in article 9 paragraph 3 subparagraph 1 of this Law – until termination of said circumstances;

2) criminal negligence perpetrated by the advocate – until liquidation or expunction of conviction;

3) discipline imposed on the advocate in the form of suspension of the right to practice law – until expiry of the established term;

4) recognition of the advocate incapacitated – until renewal of full legal capacity of his/her person;

2. In the event of suspension of the right of advocate to practice law, the respective entry shall be made in the Register of Advocates of Ukraine.

3. The decision on the suspension of the right of the advocate to practice law may be appealed to the Appeal Commission of Advocates within one month following the date of adoption of the relevant decision.

4. A person affected by the circumstances set forth in paragraph 1 subparagraph 1 of this article shall be obliged to give notice thereof to the appropriate qualification commission of advocates within one month following the date of the occurrence thereof.

Article 32. Termination of Right to Practice Law

1. The right to practice law shall be terminated by the qualification commission of advocates that issued the License of Advocate in the following instances:

1) submission by the advocate of an application for voluntary termination of the right to practice law;

2) the advocate has been found in court as missing;

3) the advocate has been found in court as deceased;

4) death of the advocate.
2. In the event of termination of the right of advocate to practice law, the information about the advocate shall be struck off from the Register of Advocates of Ukraine, and the Certificate of Advocate shall be revoked.

**Article 33. Deprivation of Right to Practice Law (Disbarment)**

1. A person shall be deprived of the right to practice law (disbarred) by the decision of the qualification commission of advocates in the following instances:

   1) upon submission of voluntary written application of the advocate;
   2) revelation of false information on the basis of which the person acquired the right to practice law;
   3) taking effect by the court conviction of intentional crime by the advocate;
   4) failure by the advocate to fulfill his/her duties stipulated in paragraph 4 article 31 of this Law.

2. In the event of deprivation of the right to practice law (disbarment), the information about the advocate shall be struck off from the Register of Advocates of Ukraine, and the Certificate of Advocate shall be revoked.

3. The decision on the deprivation of the right to practice law (disbarment) may be appealed to the Appeal Commission of Advocates within one month following the date of adoption of the relevant decision.

**SECTION VII. DISCIPLINARY LIABILITY OF ADVOCATE**

**Article 34. General provisions on disciplinary liability of advocates**

On the grounds stipulated by law, a disciplinary liability may be imposed on the advocate per the procedure in disciplinary cases.

**Article 35. Grounds for Disciplinary Liability of Advocate**

1. Disciplinary liability may be imposed on the advocate on the ground of his/her committing a disciplinary misconduct.

2. Disciplinary misconduct of the advocate shall be:

   1) non-compliance of the advocate with the requirements related to ineligibility for the office;
   2) breaking by the advocate of his/her oath;
   3) inefficient level of provision of legal assistance;
4) systematical or occasional gross violation of Rules of Legal Practice;

5) disclosure of advocatory secret that resulted in violation of rights and interests of the client;

6) groundless (unreasonable) violation of the procedural rules in the process of provision of legal assistance that resulted in violation of rights and interests of the client;

7) failure to timely fulfill his/her duties that resulted in violation of rights and interests of the client;

8) breach of other duties of advocate stipulated by this Law and procedural legislation of Ukraine that resulted in violation of rights and interests of the client.

3. Judgment against interests of the client, reversal or alteration of the judgment in the case in which the advocate provided legal assistance shall not be regarded as the ground for disciplinary liability if no disciplinary misconduct has been involved.

Article 36. Initiation of disciplinary liability of Advocate

1. The right to initiate disciplinary liability of the advocate by means of filing a written complaint with the disciplinary commission of advocates shall be vested in the client as well as other persons whose rights, freedoms or legal interests have been violated by the advocate.

2. No one shall have the right to abuse the right established in paragraph one of this article, in particular, initiation of the question of liability of the advocate in absence of sufficient grounds for that and making use of said right as the means to make pressure on the advocate in relation to provision of legal assistance by him.

Article 38. Stages of Disciplinary Proceedings against Advocate

1. Disciplinary proceedings shall mean the procedure of consideration of written complaints containing information about existence of probable disciplinary misconduct in the actions of the advocate.

2. Disciplinary proceedings shall include the following stages:

1) instigation or denial in instigation of disciplinary proceedings;

2) consideration of disciplinary case;

3) making decision on imposing disciplinary liability on the advocate and application of one of disciplinary sanctions thereto or dismissal of disciplinary case;
Article 38. Instigation of Disciplinary Proceedings
1. Within one month following the date of receiving a complaint, the disciplinary commission of advocates shall make a resolution on instigation of disciplinary proceedings with respect to the advocate and appoints the date for consideration thereof of which notice is given to the advocate and the subject of initiation of disciplinary liability of the advocate.

2. Should the complaint miss any information about existence of probable disciplinary misconduct in actions of the advocate, the disciplinary commission of advocates shall deny instigation of disciplinary proceedings giving valid grounds for such denial.

3. Anonymous complaints shall not be screened by the disciplinary commission of advocates.

Article 39. Consideration of Disciplinary Case

1. Any disciplinary case with respect to the advocate shall be considered by the disciplinary commission of advocates within one month from the date of instigation thereof.

2. In the course of consideration of the case the commission shall hear out explanations of the accused advocate, as well as the subject of initiation of disciplinary liability of the advocate. The persons hereinabove shall have the right to provide evidence in order to support their arguments.

3. The commission may hear out information of other persons invited at the request of the advocate, subject of initiation of disciplinary liability of the advocate, or upon the initiative of the commission. Other documents or materials that are included into the records of the case or additionally submitted during the hearing may be considered by the commission.

4. Should the advocate or the subject of initiation of disciplinary liability of advocate fail to come to the hearing of the commission in absence of valid reasons, the case shall proceed.

5. Proceedings of the commission shall be formalized in the form of minutes signed by the chair person at the hearing and the person responsible for making records for the minutes.

Article 40. Disciplinary sanctions and terms of their application and cancellation

1. In the event of disciplinary misconduct the advocate may be subjected to only one of the following sanctions:

1) warning;

2) suspension from practice for the term from 1 month to 1 year;

3) deprivation of the right to practice law (disbarment).

2. The advocate can be called to disciplinary liability within one year following the date of revelation of a misconduct less the period of temporary disability of the advocate or his/her vacations.
3. Unless a new disciplinary sanction is imposed on the advocate within three years after the date of imposition of the disciplinary sanction on that advocate, he/she shall be regarded to have had no disciplinary sanction. Restoration of the right to practice law shall be made by means of making respective entry in the Register of Advocates of Ukraine.

Article 41. Making Decision in Disciplinary Case

1. Upon review of the disciplinary case, the disciplinary commission of advocates shall, by simple majority of votes in attendance, make decision on calling the advocate to disciplinary liability for engaging in disciplinary misconduct or on imposing one kind of disciplinary sanctions upon him/her or on dismissal of the case.

2. The decision shall be made in the absence of the accused advocate and announced to him/her against personal signature. The advocate and the subject of initiation of disciplinary liability of advocate shall be provided with a copy of the decision within 3 days following the date of the decision or the date of respective application.

3. The decision in the disciplinary case shall contain:

1) name of the commission;

2) time and place of making decision;

3) surnames and initials of the members of the commission;

4) surname, name and patronymic of the advocate – respondent party to the respective disciplinary case;

5) factual basis of the case;

6) explanations of the advocate and information on his/her person;

7) explanations of the subject of initiation of disciplinary liability of advocate;

8) Reasoning for the decision with reference to proofs (in particular, conduct that results in disciplinary liability, the type of sanction imposed on the advocate or grounds for dismissal of the case).

9) procedure and terms for appeal.

4. In deciding on the type of disciplinary sanction, considerations must be given to the nature of misconduct professional misconduct, its consequences, personal record of the advocate, kind and level of fault, other circumstances that influence the choice of the type of disciplinary sanction.

5. Should any signs of criminal misconduct be revealed, the disciplinary commission shall be obliged to notify thereof the appropriate state bodies.
Article 42. Appeal from Decision in Disciplinary Case

1. The advocate or the subject of initiation of disciplinary liability of advocate shall have the right to appeal the decision of the disciplinary commission of advocates to the Appeal Commission of Advocates within one month from the date of decision.

2. The Appeal Commission of Advocates shall within ten days from the date of receiving the appeal obtain the records of the disciplinary case from the respective disciplinary commission of advocates and consider them in the order established by law.

3. The decision of the Appeal Commission of Advocates shall be final and may not be subject to further appeal.

SECTION VIII. BAR SELF-GOVERNANCE

Article 43. Hierarchy of bar self-governance

1. The system of the bar self-governance in Ukraine shall be made of the Congress of Advocates of Ukraine, Council of Advocates of Ukraine, meetings of advocates in regions, regional councils of advocates.

2. The system of the bar self-governance in Ukraine shall also include the Appeal Commission of Advocates, qualification, disciplinary and audit commissions of advocates.

Article 44. Participation in Bodies of Bar Self-governance.

1. The right to elect and be elected to the bodies of the bar self-governance shall be vested exclusively with advocates.

2. No advocate shall have the right to be elected to the same body of the bar self-governance for two successive terms and occupy concurrent elective offices in several bodies of the bar self-governance.

3. The work at the elective offices of the bodies of the bar self-governance shall be on the voluntary basis. By the decision of the Congress of Advocates of Ukraine or regional meetings of advocates such work may be done on the basis of employment agreement made by the person with the Council of Advocates of Ukraine or relevant Regional Councils of Advocates.

4. The advocate shall have the right to recover his/her expenses incurred in performance of functions in the bodies of the bar self-governance.

Article 45. Regional Meetings of Advocates

1. Regional meetings of advocates shall be convened in the Autonomous Republic of Crimea, regions (oblasts), cities of Kyiv and Sevastopol at least once in every three year.
2. Extraordinary regional meetings of advocates shall be convened by the regional council of advocates:

1) upon its own initiative;

2) on the demand of one third of all advocates of the region;

3. Should the demand of advocates on convocation of the meeting be left unattended, the advocates shall be entitled to the right to convocate the meeting on their own.

4. Regional meetings of advocates shall be deemed competent if at least one third of all advocates with their workplaces in the respective region are in attendance.

5. The notice of the time and venue of the regional meeting of advocates shall be sent by the Regional Council of Advocates to advocates by means of registered letter with notice of service or by courier.

Article 46. Competence of Regional Meeting of Advocates

1. The competence of the Regional Meeting of Advocates shall comprise:

1) election of the Head and other members of the regional council of advocates, making decisions on their early dismissal;

2) election of the members of qualification and disciplinary commissions of advocates, making decisions on their early dismissal;

3) election of the members of the audit commission of the regional council of advocates;

4) approval of the Regulations on the regional council of advocates, qualification commission of advocates, audit commission of the regional council of advocates;

5) approval of the procedure of the regional meeting of advocates;

6) election of delegates to the Congress of Advocates of Ukraine;

7) approval of the budget of the regional council of advocates;

8) approval of the report of the regional council of advocates;

9) approval of the report of the audit commission of the regional council of advocates;

10) establishment of the order of raising professional skills of regional advocates;

11) making other decisions on the matters related to the organization and activity of the advocates of the region.
2. The decisions of the regional meeting of advocates shall be made by simple majority vote of all advocates in attendance;

3. The decisions of the regional meeting of advocates on the matters set forth in subparagraphs 1, 2, 4, 7, 8 paragraph 1 of this article shall be made by two thirds majority vote of all advocates in attendance;

**Article 47. Regional Council of Advocates**

1. Regional Councils of Advocates elected by respective regional councils of advocates for the term of three years in the number of nine advocates of the region shall operate during the time between the regional meetings of advocates in the Autonomous Republic of Crimea, regions (oblasts) cities of Kyiv and Sevastopol.

2. A regional council of advocates shall be a legal entity and operate on the basis of its regulations approved by the regional meeting of advocates in accordance with Standard Regulations on the regional council of advocates approved by the Congress of advocates of Ukraine.

3. The powers of the regional council of advocates may be early terminated by the respective decision of the regional meeting of advocates.

4. The meeting of the regional council of advocates shall be deemed competent if at least two thirds of all advocates are in attendance;

5. The decisions of the regional council of advocates shall be made by simple majority of votes of its members in attendance.

6. The Head of the regional council of advocates shall be elected by the regional meeting of advocates from among the members of the council of advocates for the term of three years.

7. The duty to make for the organizational and technical provision of the activity of the regional council of advocates shall be placed on its secretariat.

**Article 48. Competence of Regional Council of Advocates**

1. The competence of the Regional Council of Advocates shall comprise:

1) representation of interests of the advocates of the region in their relations with state bodies, local self-government authorities, legal entities and individuals;

2) organization of the provision of legal assistance at the expense of the state;

3) organization of the provision of legal assistance upon appointment;

4) convocation of the regional meeting of advocates;

5) provision for the fulfillment of the decisions of the regional meeting of advocates, disciplinary and qualification commissions of advocates;
6) organizational and technical provision for the regional meeting of advocates, activity of disciplinary and qualification commissions of advocates, audit commission of the regional council of advocates according to the budget of the regional council of advocates;

7) disposal of the property of the regional council of advocates according to the budget and purpose of the property.
8) establishment of special funds for the provision for the activity of advocates;

9) keeping and safety of personal files of advocates of the region;

10) issuance of the License of Advocate; administration of the Oath of Advocate;

11) taking organizational measures for raising professional skills of advocates of the region (holding seminars, forums, conferences etc.);

12) making entries into the Register of advocates of Ukraine;

13) making other decisions on the matters within the competence of the regional council of advocates under this Law, decision of the Congress of Advocates of Ukraine or regional meetings of advocates made within the framework of their competence;

**Article 49. Congress of Advocates of Ukraine**

1. The Congress of Advocates of Ukraine shall be the highest body of the bar self-governance.

2. The Congress of Advocates of Ukraine shall be convoked at least one time every three years.

3. Extraordinary Congress of Advocates of Ukraine may be convoked upon the initiative of the Council of Advocates of Ukraine or on the demand of at least five regional councils of advocates or one fifth of all advocates enrolled in the Register of Advocates of Ukraine.

4. Delegates to the Congress of Advocates of Ukraine shall be elected by the regional meetings of advocates according to the quote of representation established by the Council of Advocates of Ukraine.

5. The Congress of Advocates of Ukraine shall be deemed competent if at least one half of all elected delegates take part in its work.

6. The procedure of the work of the Congress of Advocates of Ukraine shall be established by this Law and the Procedure of the Congress of Advocates of Ukraine
Article 50. Powers of Congress of Advocates of Ukraine

1. The exclusive competence of the Congress of Advocates of Ukraine shall comprise:

1) electing the Head and members of the Council of Advocates of Ukraine, members of the audit commission of the Council of Advocates of Ukraine, making the decision on early termination of their powers;

2) electing members of the Appeal Commission of Advocates and making the decision on early termination of their powers;

3) appointing members of the High Council of Justice of Ukraine pursuant to its quota, making the decision on early termination of their powers;

4) approving the report of the Council of Advocates of Ukraine, the audit commission of the Council of Advocates of Ukraine, appointing members of the High Council of Justice of Ukraine;

5) approving the Regulation on the order of passing the bar exam, its content, criteria and procedure for evaluation of the knowledge of persons who intend to obtain the right to practice law, as well as the Programs of the qualification exam;

6) approving the Rules of Legal Practice;

7) approving the Provisions of the Congress of Advocates of Ukraine;

8) approving the Regulations on the Council of Advocates of Ukraine and the Regulations on the Appeal Commission of Advocates;

9) approving the Standard Regulation on the regional council of advocates;

10) approving the Standard Regulations on qualification and disciplinary commissions of advocates;

11) approving the budget of the Council of Advocates of Ukraine;

12) determining the amount of annual membership fee to be paid by advocates for maintaining bar self-governance bodies;

13) determining the procedure and rates of deductions to be made from the budgets of the regional councils of advocates to support operation of the Council of Advocates of Ukraine;

14) making other decisions related to organization and operation of the Bar of Ukraine.

2. Decisions of the Congress of Advocates of Ukraine shall be approved by simple majority of votes of delegates present at the Congress. Decisions on issues indicated in subparagraphs 1, 2, 3, 4, 11 of
the first paragraph of this Article, shall be approved by the majority of votes of delegates present at
the Congress.

Article 51. Council of Advocates of Ukraine

1. Council of Advocates of Ukraine shall operate in-between convocations of the Congress of
Advocates of Ukraine.

2. Council of Advocates of Ukraine shall consist of twenty seven advocates elected by the Congress
of Advocates of Ukraine from advocates who have been practicing law for over seven years.

3. Members of the Council of Advocates of Ukraine shall be appointed for the term of three years.

4. The Council of Advocates of Ukraine is a legal entity and conducts its activities based on the
Regulations on the Council of Advocates of Ukraine approved by the Congress of Advocates of
Ukraine.

5. Powers of the Council of Advocates of Ukraine may be subject to early termination based on the
decision of the Congress of Advocates of a region.

Article 52. Powers of Council of Advocates of Ukraine

1. Council of Advocates of Ukraine shall have the authority to:

1) represent interests of the Bar of Ukraine before the state bodies and local self-government
authorities, legal entities and individuals;

2) convocate and organize the Congress of Advocates of Ukraine;

3) determine the quota of representation of advocates from regions at the Congress of Advocates of
Ukraine;

4) approve the Regulations on the Register of Advocates of Ukraine;

5) approve forms of the License of Advocate and the Card of Advocate;

6) consider claims against resolutions of regional councils of advocates;

7) provide for maintenance of the Register of Advocates of Ukraine;

8) provide organizational, material and technical support to organization of the Congress of
Advocates of Ukraine, operation of the Appeal Commission of Advocates, the audit commission of
the Council of Advocates of Ukraine, other bodies established by the Congress;

9) make other decisions within the authority of the Council of Advocates of Ukraine in compliance
with this Law or resolutions of the Congress of Advocates of Ukraine approved within the
framework of its authorities.

2. Meetings of the Council of Advocates of Ukraine shall be deemed competent if no less than two
thirds of its members are in attendance.
3. Decisions of the Council of Advocates of Ukraine shall be approved by the majority of votes of members present at the meeting.

4. The Secretariat shall be created to provide for material and technical support of the operation of the Council of Advocates of Ukraine.

Article 53. Head of the Council of Advocates of Ukraine

1. The Head of the Council of Advocates of Ukraine shall be elected by the Congress of Advocates of Ukraine from among its members for the term of three years.

2. The Head of the Council of Advocates of Ukraine shall have the authority to:
   1) represent the Council of Advocates of Ukraine before the state bodies and local self-government authorities, legal entities and individuals;
   2) manage the activities of the Council of Advocates of Ukraine;
   3) appoint and dismiss employees of the Secretariat of the Council of Advocates of Ukraine;
   4) preside at the meetings of the Council of Advocates of Ukraine;
   5) sign decisions and other documents of the Council of Advocates of Ukraine;
   6) perform other activities stipulated by this Law, decision of the Congress of Advocates of Ukraine or the Council of Advocates of Ukraine approved within the framework of their authorities.

3. Powers of the Head of the Council of Advocates of Ukraine may be subject to early termination by the respective decision of the Congress of Advocates of Ukraine.

4. The Head of the Council of Advocates of Ukraine shall perform his/her duties on the terms of employment contract.

Article 54. Qualification Commissions of Advocates

1. Qualification commissions of advocates shall be established by meetings of advocates in the Autonomous Republic of Crimea, regions (oblasts), cities of Kiev and Sevastopol in the regional councils of advocates and shall be comprised of nine advocates of the region who have been practicing law for over seven years.

2. The qualification commission of advocates shall elect the Head of the qualification commission of advocates from among its members for the three year term.

3. The qualification commission of advocates shall have the authority to:
   1) organize and hold qualification examinations;
   2) approve decisions on granting the right to practice law;
   3) approve decisions on suspension, termination of the right to practice law or disbarment;
4) make decisions on other issues within the authority of the qualification commission of advocates in compliance with this Law or resolutions of the Congress of Advocates of Ukraine or the regional meeting of advocates approved within the framework of their competence.

4. Meetings of the qualification commission of advocates shall be deemed competent if no less than two thirds of its members are in attendance.

5. Decision of the qualification commission of advocates shall be approved by the majority of votes of its members present at the meeting. Such decision shall be sent to the relevant person by registered mail with notice of service or delivered in person and verified by signature within five days following its adoption.

6. Any decision of the qualification commission of advocates may be challenged in the Appeal Commission of Advocates within one month from the date it is approved.

7. The qualification commission of advocates shall act in compliance with this Law and the Regulations on Qualification Commissions of the Bar of the Autonomous Republic of Crimea, regions (oblasts), cities of Kiev and Sevastopol approved by the meeting of advocates of the respective region.

Article 55. Disciplinary Commissions of Advocates

1. Regional meetings of advocates shall elect regional disciplinary commissions of advocates for the purpose of considering and resolving issues on disciplinary liability of advocates in the Autonomous Republic of Crimea, regions (oblasts), cities of Kiev and Sevastopol at councils of advocates of regions. These commissions shall comprise of nine advocates of the region who have been practicing law for over seven years.

2. Disciplinary commission of advocates shall elect from among its members the Head of the disciplinary commission of advocates for the three year term.

3. Disciplinary commission of advocates shall act in compliance with this Law and the Regulations on Disciplinary Commissions of Advocates of the Autonomous Republic of Crimea, regions (oblasts), cities of Kiev and Sevastopol approved by the regional meeting of advocates of the respective region.

4. The disciplinary commission of advocates shall have the authority to:
   1) screen the claims against advocates;
   2) consider and resolve claims related to disciplinary liability of advocates;
   3) impose disciplinary sanctions on advocates;
   4) make other decisions within the authority of the disciplinary commission of advocates in compliance with this Law or resolutions of the Congress of Advocates of Ukraine or the regional meeting of advocates approved within the framework of their authorities.
5. Hearings of the disciplinary commission of advocates shall be deemed competent if no less than two thirds of its members are in attendance.

6. Decision of the disciplinary commission of advocates shall be approved by the majority of votes of its members present at the hearing. Such decision shall be sent to the relevant person by registered mail with notice of service or delivered in person and verified by signature within five days after being approved.

7. Any decision of the disciplinary commission of advocates may be challenged in the Appeal Commission of Advocates within one month from the date of its being approved.

Article 56. Appeal Commission of Advocates

1. The Appeal Commission of Advocates shall be appointed for reconsidering decisions of the qualification and disciplinary commissions of the Bar, the Congress of Advocates of Ukraine; this commission shall be comprised of fifteen advocates who have been practicing law for over ten years.

2. Members of the Appeal Commission of Advocates shall be appointed by the Congress of Advocates of Ukraine for the three year period.

3. The Appeal Commission of Advocates shall elect the Head of the Appeal Commission of Advocates from among its members for the term of three years.


5. Following the consideration of the claims related to decisions of qualification or disciplinary commissions of advocates, the Appeal Commission of Advocates shall:

1) leave the decision of the qualification or disciplinary commissions of advocates unchanged;

2) change the decision of the qualification or disciplinary commissions of advocates;

3) cancel the decision of the qualification or disciplinary commissions of advocates and approve a new decision.

6. The meeting of the Appeal Commission of Advocates shall be deemed competent if no less than two thirds of its members are in attendance.

7. The decisions of the Appeal Commission of Advocates shall be approved by the majority of votes of members present at the meeting.
Article 57. Decisions of Bar Self-governance Bodies

1. The decisions of the Congress of Advocates of Ukraine and the Council of Advocates of Ukraine approved within the framework of their authorities stipulated by this Law are binding for all advocates and associations of advocates of Ukraine.

2. The decisions of the regional meetings of advocates and regional the council of advocates approved within the framework of their authorities stipulated by this Law are binding for all advocates and associations of advocates in the given regions.

3. The decisions of the bar self-governance bodies shall become effective as of the date they are approved unless otherwise stipulated by the decision itself.

Article 58. Financing Bar Self-governance Bodies

1. The bar self-governance bodies shall be financed from:

1) annual membership fees of advocates for maintaining the bar self-governance bodies;

2) money proceeds from conferences, seminars, other events of the bar self-governance bodies focused on enhancing the competence of advocates;

3) free will donations from advocates and advocate associations;

4) charity donations received from legal entities or individuals;

5) other legal sources.

2. Membership fee amount payable by advocates for maintenance of the bar self-governance bodies may not be calculated as percent (proportion) of the advocate's compensation.

3. Funds shall be remitted into the accounts of the boards of advocates in regions and used exclusively in compliance with cost sheets approved by meetings of advocates of regions.

4. Funds stipulated by subparagraphs 2-5 of paragraph one of this article may be paid directly onto the account of the Council of Advocates of Ukraine and used in compliance with the budget of the Council of Advocates of Ukraine approved by the Congress of Advocates of Ukraine.

5. Council of Advocates of Ukraine and regional councils of advocates shall appoint relevant audit commissions elected for a three year term to exercise control over designated use of funds of the Council of Advocates of Ukraine and regional councils of advocates. These audit commissions shall be comprised of five advocates.

6. Audit commissions shall report correspondingly to the Congress of Advocates of Ukraine or regional meetings of advocates.
ARTICLE IX. FINAL AND TRANSITIONAL PROVISIONS

1. This Law shall become effective from the date of its official publication.

2. The right to practice law shall be reserved for the individuals who by the date of taking effect by this Law have obtained Licenses of Advocate and were practicing law.

License of Advocate and Card of Advocate, valid on the date of taking effect by this Law, shall be deemed valid and do not require substitution.

Individuals specified in subparagraph one of this paragraph shall be obliged to file the information required for making entry with the Register of Advocates of Ukraine with the qualification commissions of advocates.

Non-fulfillment of the specified obligation may be the ground for termination of the right to practice law until the moment of the qualification commission of advocates (from the date of formation – the regional council of advocates) is provided with the said information.

3. Unless otherwise stipulated by the international agreement of Ukraine that became effective per the established procedure, higher legal degree according to this Law shall be the higher legal education, obtained in any educational institution of Ukraine, as well as in any educational institution of the former USSR until 31 of December, 1991.

4. For the purposes of this Law, the period of systematical rendering legal services by an individual – subject of business activity, if it is its main activity, shall be included to legal work experience.

It shall be prohibited to carry out business activities of rendering legal services after expiry of the six month term from the date of taking effect by this Law.

5. Foundation meetings of advocates in the Autonomous Republic of Crimea, regions (oblasts), cities of Kyiv and Sevastopol, as well as foundation Congress of Advocates of Ukraine shall be conducted for the purpose of election of the bar self-governance bodies. Foundation meetings of advocates and the foundation Congress of advocates shall be held within the six month term from the date of taking effect by this Law.

For the purpose of organization and holding the meeting of advocates, the qualification and disciplinary commissions of advocates of the respective region shall:

1) make lists of advocates in the region;

2) notify all advocates of the region of the date and place of the meeting by means of publication in mass media, including written notification to all advocates associations, registered in the territory of the respective region;

3) notify advocates of the provisional agenda of the meeting.
Notices, envisaged by subparagraphs 2, 3 of the second paragraph of this clause, shall be given to advocates of the region not later than ten days before the date of the meeting by means of registered mail with notice of service.

Location of the workplace of the advocate shall determine affiliation of the advocate with the respective region.

The respective regional qualification and disciplinary Commissions of advocates shall determine the date, time and place of the meeting, as well as the provisional agenda of the meeting in compliance with the provisions of this Law.

The meetings shall be deemed competent if no less than one third of advocates in the respective region are in attendance.

The Head of the respective regional qualification and disciplinary commission of advocates shall be responsible for opening of the foundation meeting of advocates. Mandate and account commissions shall be elected for ensuring proper conduct of the foundation Meeting.

6. The foundation meeting of advocates shall elect delegates to the foundation Congress of advocates in Ukraine. Electoral quotient shall be determined proportionally to the number of advocates of the region: one delegate from every fifty advocates.

The Higher Qualification Commission of Advocates in the Cabinet of Ministers of Ukraine shall be responsible for preparation of the foundation meeting.

All decisions concerning organization of the foundation Congress of Advocates of Ukraine shall be made by simple majority of votes of members of the Higher Qualification Commission of Advocates of Ukraine.

For the purpose of preparation for the foundation Congress of Advocates of Ukraine, the Higher Qualification Commission of Advocates of Ukraine shall:

1) form organizational committee of the foundation Congress of Advocates in Ukraine;

2) notify delegates of the first Congress of advocates in Ukraine of the date and place of the Congress and provisional agenda.

Data, envisaged by subpara 2 of the fourth paragraph of this clause, shall be brought to the notice of the delegates of the foundation Congress not later than ten days before the date of its conduct by means of registered mail with notice of service.

The Ministry of Justice of Ukraine, the Main Department of Justice of the Ministry of Justice of the Republic of Crimea, regional, Kyiv and Sevastopol City Justice Administrations shall be obliged to provide the Higher Qualification Commission of Advocates of Ukraine with informational and organizational support in holding the foundation Congress of Advocates in Ukraine.

The Foundation Congress of Advocates of Ukraine shall be deemed competent if no less than one half of elected delegates participate.
The Head of the Higher Qualification Commission of Advocates of Ukraine shall be responsible for opening of foundation Congress of Advocates of Ukraine. Mandate and account commissions shall be elected for ensuring the proper conduct of the Congress.

7. The process of bringing the foundation documents and business forms of associations of advocates operating at the moment of taking effect by this Law, into line with the provisions of this law shall be made by means of transformation thereof (reorganization, division, spin-off) into one or several associations of advocates in the business forms, envisaged by this Law, or by means of liquidation of the respective association of advocates within the six month term from the date of taking effect by this Law.

Associations of advocates established in the result of reorganization of associations of advocates, subjects of business activity, business companies shall be their successors.

8. Amendments shall be made to the following legislative acts of Ukraine:

[The list of legislative changes follows]

Head of the Verkhovna Rada of Ukraine
O.Moroz
Appendix H

(Draft Law No. 2421 of October 26, 2006)

Law on the Bar - Shentsev Draft
The draft is forwarded by D.Shentsev, 
people’s deputy of Ukraine

Number, registration date: 2421 dated 26.10.2006
Registration session: 2 session V convocation
The subject of legislative initiative: People’s deputy of Ukraine
The author of the draft: Shentsev D.O. V convocation

The Law of Ukraine on the Bar
(new formulation)

This Law establishes the foundations of organization and work of the Bar in Ukraine.

Part 1. General provisions
Article 1. Definition of key terms

In this Law the key terms carry the following meaning:

advocate – physical person, which has acquired a special status defined by this Law and has the right to practice advocacy

The Bar of Ukraine – non-governmental self-governing professional remedial institution, which includes all of the advocates;

advocate’s practice – independent, professional activity that provides legal assistance;

advocate’s secret – type of confidential information, content, scope, method of acquisition, safekeeping and usage of which is defined by this Law;

– organizational form of advocate’s practice

The Bar self-governance — a state- guaranteed right of the advocates to independently resolve problems of organization and activities of the Bar in accordance with procedures defined by this Law;

Appeals Commission of Advocates of Ukraine – national, collegial institution of The Bar self-governance which is a part of the National Council of Advocates of Ukraine and which reviews decisions of disciplinary and qualification commissions of advocates;

Higher legal education – higher education in the specialty of “science of law”, “international law” or “law enforcement activity”
advocate’s fee – monetary remuneration of the advocate (organizational form of advocate’s practice) for provision of legal assistance;

disciplinary commission of advocates – regional, collegial, Bar self-governing institution, which is a part of the regional council of advocates and aims to review and resolve issues of disciplinary responsibilities of advocates;

- agreement on the provision of legal assistance – civic and legal contract according to which one party - the advocate (organizational form of advocate’s practice)- takes on its behalf the authorization from the other party – the client, or individual who acts in the interest of the client- to provide legal assistance, and the other party- the client, or the individual who acts in the interest of the client takes responsibility to pay the advocate’s (organizational form of advocate’s practice) fee and also expenses associated with the fulfillment of the contract;

foreign advocate – an individual, who has been authorized to practice advocacy according to the laws of a foreign state;

qualifying examination – assessment of the theoretical and practical levels of knowledge of individuals, who wish to acquire the advocate’s status;

qualification commission of advocates – regional, collegial, Bar self-governing institution that is a part of the regional council of advocates and is meant to determine the level of professional knowledge of individuals, who wish to practice advocacy;

client – physical or legal entity, the state of Ukraine, the Autonomous Republic of Crimea, territorial communities, foreign states or other subjects of law, to which the advocate provides legal assistance;

National Council of Advocates of Ukraine – national, collegial, executive institution of The Bar self-governance;

warrant of advocate – a written document that verifies advocate’s authority in the provision of legal assistance;

advocate’s assistant – person, who is adequate in accordance with this Law and works for the advocate or organizational form of advocate’s practice on the basis of an employment contract;

advocate’s Card – a written document, which certifies the identity and the advocate’s status;

legal assistance – steps aimed at fulfilling and defending the rights, freedoms and lawful interests of the client, which are taken by the advocate on basis, according to order and in manner as defined by this Law;

region – Autonomous Republic of Crimea, Oblast’, cities of Kyiv and Sevastopol’;
Article 2. Field this Law effects
This Law regulates the relationship of acquisition and termination of the advocate’s status, practice of advocacy, organization and functioning of the system of Bar self-governance in Ukraine.

Article 3. Objectives and principles of organization and functioning of the Bar
The Bar of Ukraine acts to provide the right to defend against a charge and to provide legal assistance.

Organization and functioning of the Bar is based on the principles of the rule of law, humanism, democracy, voluntarism, legitimacy, confidentiality, corporatism, independence, self-governance.

Article 4. Legal regulation of organization and functioning of the Bar in Ukraine
The principles of organization and functioning of the Bar are established by the Constitution of Ukraine, this Law and also by other laws of Ukraine that do not contradict this Law.

Organization and functioning of the Bar is also regulated by other laws of legislation of Ukraine, by decisions of the Bar self-governing bodies.

If concluded by the international agreement of Ukraine, which effectively came into force, where other rules are established than those foreseen by this Law, the rules of the international agreement take precedence.

Article 5. The Bar and the State
The Bar is not a part of the governmental system or of the local self-governance.

The state creates appropriate conditions for the functioning of the Bar and ensures that advocate’s guarantees are safeguarded.

The advocate (organizational form of advocate’s practice) has a possibility to choose the system of taxation, accounting and auditing according to the law.
Governmental entities and institutions of local self-governance are obliged to seek consent from the Bar self-governing institutions on the normative-legal bills that relate to issues of organization and functioning of the Bar in Ukraine.

Authorized central executive body:
1) gathers statistical information about the organization and functioning of the Bar;
2) organizes the granting of legal aid at the expense of the state;
3) provides payment of the advocate’s fee and compensation of the advocate’s expenses in case legal aid is provided at the expense of the state budget in accordance to this Law;
4) performs organizational, methodological and informational support of the Unified Register of Organizational Forms of Advocate’s Practice of Ukraine and Unified Register of Foreign Advocates.

Part II. Terms of acquiring, suspending and terminating the advocate’s status

Article 6. Terms of acquiring advocate’s status
Individual acquires advocate’s status if he/she:
1) has fully completed higher legal education;
2) commands the national language;
3) has at least three years of working experience in the field of law;
4) successfully completed the internship;
5) successfully passed the qualifying examinations;
6) took the Oath of an Advocate of Ukraine;
7) received Licence on the right to practice advocacy.

Individual cannot acquire the advocate’s status if he/she:
1) is designated as incapable or partially incapable;
2) performs activities which are incompatible with the advocate’s status;
3) was convicted for premeditated grave or especially grave crime, regardless of the criminal record being suspended or fulfilled;
4) has a closed case where he/she has been accused of premeditated grave or especially grave crime, except if the case has been closed because the crime has not happened, the case has been closed due to the lack of criminal action in the activity of the person or if the person has not been proved guilty of the crime;
5) has an unfulfilled or active criminal record due to committed premeditated crime;
6) has due to the disciplinary penalty her/his Licence for the right to practice advocacy suspended and is dismissed from the position of legal, police and other governmental institutions based on the lack of professional responsibility, violation of the Oath for the duration of three years from the day of such disciplinary penalty.

Article 7. Activities which are incompatible with the advocate’s status
Incompatible with the advocate’s status is:
1) work on a full-time basis in elected or appointed positions in the state or local institutions;
2) military or alternative (non-military) service;
3) activity of a notary;
4) activities of the court expert;
Article 8. Experience in the field of law

The legal work experience needed to acquire the advocate’s status can include the work of:

1) a judge, prosecutor, investigator, notary;
2) judge’s assistant, prosecutor’s assistant, advocate’s assistant, notary’s intern;
3) lawyer (jurist), jurisconsult, head jurisconsult, head of the legal department and other positions in the governmental, municipal, firm or organization irrespective of the form of ownership as long as the position requires the Certificate of higher legal education;
4) employees who teach, train and provide professional preparation in vocationally-technical, higher or post-graduate institutions, if those positions require higher legal education;
5) employees of the research institutions if those positions require higher legal education.

Article 9. Internship

The person who decides to acquire the advocate’s status must go through the internship period of six months with an advocate who has work experience of not less than seven years.

Released from the internship are persons who have been working as an advocate’s assistant for more than a year.

An advocate mustn’t have more than two interns at one time.

The contract of the internship is signed between the individual wanting to acquire advocate’s status and the advocate who will be providing the internship or an organizational form of advocate’s practice.

When the contract is signed with the organizational form of advocate’s practice for the internship, it must note the name of the advocate who will provide the internship.

The contract for the internship has to be registered with the regional council of advocates within five days of its signing.

The provision on order of the internship and the Programme of the internship is approved by the National Council of Advocates of Ukraine.

The advocate (organizational form of advocate’s practice) creates appropriate conditions for the intern to achieve practical experience for the practice of advocacy and ensures the fulfilment of the internship Programme by the intern.

Based on the results of the internship, the advocate (organizational form of advocate’s practice) issues to the person who successfully completed the internship a report on the achievement of practical experience necessary for the practice of advocacy. The results of the internship and the conclusion on the achievement of practical experience are valid for three years following the completion of the internship.

Article 10. Advocate’s intern

The intern of the advocate must be a person who has completed higher legal education, has command of the national language and who also meets the requirements of Part Two of Article 6 of this Law.

An advocate’s intern follows the instructions of the advocate, who in turn provides the internship, and the intern cannot carry out any activities, which according to the law are strictly in the competency of an advocate.

The advocate’s intern must keep advocate’s secret and act according to the Rules of advocate’s ethics.
Article 11. Admission to the qualifying examination

The person who fulfils the requirements of par. 1-4 of Part One, Part Two of Article 6 and who expresses the wish to acquire the advocate’s status must submit to the regional council of advocates at his/her place of residence an application to take a qualifying examination.

The following must be attached with the application for taking a qualifying examination:

1) a passport or other document that verifies the individual’s identity;
2) a biographical statement;
3) a copy of employee’s record or other documents that prove the work experience in the field of law;
4) a notarized copy of the higher legal education diploma;
5) a conclusion on the achievement of practical experience necessary for the practice of advocacy;
6) written referrals in relation to acquiring the advocate's status from at least two advocates with the work experience of at least 7 years
7) a document certifying the place of residence (if absent in the identification document);
8) a receipt that verifies the payment for the qualifying examination;
9) a certification which confirms non-conviction record;

The regional council of advocates considers the application and makes a decision:

1) on approval for the candidate to take the qualifying examination;
2) on refusal to give permission to take the qualifying examination;

The regional council of advocates makes a decision to refuse the candidate to take the qualifying examination in case of:

1) inadequacy of information provided by the applicant as to the requirements of par. 1-4 of first part and second part of Article 6 of this Law;
2) falsehood of the information provided;

In case of the partial provision of the required supporting documentation, the regional council of advocates suspends the consideration of the application and gives an applicant a term for the fulfillment of the application’s shortcomings.

The period for considering an application shall not exceed one month from the day of its arrival.

In case the additional review is needed to verify the information stated in the application and supporting documents, the regional council of advocates may appeal to the corresponding state authorities, organs of self-governance, legal entities and natural persons with inquiries. The indicated persons are obligated to provide all the necessary information not later than ten days from the moment of receipt of the inquiries.

In case of the additional review the period for considering an application and documents, defined by part 6 of the Article, may be increased by the decision of the regional council of advocates to two months from the day of the application arrival.

Article 12. Qualifying examination

The order and the Programme of the Qualifying examination is determined by the National Council of Advocates of Ukraine.

Qualifying examination is taking place at least once every three months.
Qualifying examination is carried out in the official language.

The candidate that has not passed the qualifying examination is entitled to re-take the examination not earlier than in six months.

**Article 13. Acquisition of the advocate’s status**

The decision on the issuance of the Licence on the right to practice advocacy is taken by the qualification commission of advocates no later than ten days since the standing of the qualifying examinations by the applicant.

The individual is granted a advocate’s status from the moment of receiving the Licence on the right to practice advocacy and upon taking of the below Oath:

“I____________________________, solemnly swear to honestly and diligently defend the rights, freedoms and lawful interests of the client, to provide legal assistance in accordance with the Constitution of Ukraine and the laws of Ukraine, to adhere to the rules of the advocate’s ethics, to value and to keep the name of the advocate of Ukraine and to be loyal to the Oath”.

The wording of the Oath is kept in the individual file of the advocate.

To receive the Licence on the right to practice advocacy one must pay the amount and in order as defined by the National Council of Advocates.

**Article 14. Licence on the right to practice advocacy**

The advocate’s status is confirmed by the Licence on the right to practice advocacy.

Licence on the right to practice advocacy is issued for the indefinite term.

The validity of the Licence on the right to practice advocacy can be suspended or terminated only on the occasions provided for by this Law.

The format of the Licence on the right to practice advocacy is approved by the National Council of Advocates of Ukraine.

**Article 15. Suspension of the Licence on the right to practice advocacy**

The valid Licence on the right to practice advocacy is suspended in cases of:

1) an advocate, based on his/her own wishes, applying to suspend the Licence on the right to practice advocacy;

2) an advocate being engaged in activities that are incompatible with the advocate’s status;

3) an advocate gone missing;

4) a disciplinary penalty being imposed on the advocate and his/her Licence on the right to practice advocacy suspended.

5) in other cases under the present Law

The valid Licence on the right to practice advocacy is suspended on the terms noted in part one of this Article.

During the term of suspension of the Licence on the right to practice advocacy, the individual cannot practice advocacy or take part in the activities of the Bar self-governing bodies.

The Bar self-governing institution which took the decision to suspend the Licence on the right to practice advocacy renews the validity of the document within ten days of the receipt of an appropriate application, if determined that the circumstances of part one of this Article have disappeared.
Article 16. Termination of the Licence on the right to practice advocacy

The valid Licence on the right to practice advocacy is terminated in cases of:

1) the advocate, based on his/her own wishes, applying to suspend the Licence on the right to practice advocacy;

2) death of an advocate or an advocate being proclaimed as deceased;

3) the advocate being designated as incapable or partially incapable;

4) the court decision determining the advocate guilty of a premeditated crime gains legal force;

5) a court case being closed where the advocate was accused of premeditated grave or especially grave crime, except if the case has been closed because the crime has not happen, the case has been closed due to the lack of criminal action in the activity of the person or if the person has not been proved guilty of a crime;

6) disciplinary penalty being imposed on the advocate and his/her Licence on the right to practice advocacy terminated;

7) the information based on which the Licence to practice advocacy was issued is determined as false.

Part III. Advocate’s practice

Article 17. The right to practice advocacy

The right to practice advocacy belongs exclusively to the advocates.

Advocate’s practice is carried out in organizational manners determined by this Law.

Advocate’s practice is not considered to be entrepreneurial.

Advocate’s practice takes place across the territory of Ukraine and beyond its borders, if it is provided by the international agreement or by the law of the foreign country.

The right to practice advocacy is valid from the time the advocate’s details are entered to the Unified register of Advocates of Ukraine.

Article 18. Unified Register of Advocates of Ukraine

The Unified Register of Advocates of Ukraine is created to register, collect, keep and to provide verifiable information about advocates who practice advocacy in Ukraine.

The maintenance of the Unified Register of Advocates of Ukraine is done according to this Law and Provision on the Unified Register of Advocates that is approved by the National Council of Advocates of Ukraine.

The administrator of the Unified Register of Advocates of Ukraine is the National Council of Advocates of Ukraine that performs organizational, methodological and informational support of the Unified Register of Advocates of Ukraine and controls the activities of the registration bodies.

The registration bodies of the Unified Register of Advocates of Ukraine are the regional councils of advocates who are authorized to make entries to the Unified Register of Advocates of Ukraine.

The following information is included in the Unified Register of Advocates of Ukraine:

1) surname, name and middle name (patronymic name) of the advocate;

2) registration number and date when the decision to issue the Licence on the right to practice advocacy was taken;

3) name of the institution, which took the decision to issue the Licence on the right to practice advocacy;
4) registration number and date when the Licence on the right to practice advocacy was issued;
5) postal code, address and telephone number of the advocate's workplace;
6) the manner in which advocacy is practiced; in case it is practiced as the organizational form of advocate’s practice- its name and location;
7) information about the suspension or termination of the valid Licence on the right to practice advocacy;
8) information about the disciplinary penalty being imposed on the advocate;
9) date when the information was entered into the Unified Register of Advocates of Ukraine;
10) surname, name and middle name (patronymic name) of the person who entered the information into the Unified Register of Advocates of Ukraine.

The information of the Unified Register of Advocates of Ukraine is open to all and is placed on the official web site of the National Council of Advocates of Ukraine for general use.

**Article 19. Advocate’s Card**

Advocate’s Card is issued by the regional council of advocates of Ukraine on the basis of the Licence on the right to practice advocacy after the information about the advocate has been entered into the Unified Register of Advocates of Ukraine.

The form of advocate’s card is determined by the National Council of Advocates of Ukraine.

The advocate’s Card contains:
1) surname, name and middle name (patronymic name) of the advocate;
2) advocate’s registration number in the Unified Register of advocates of Ukraine;
3) number of the Licence on the right to practice advocacy;
4) name of the institution, which took the decision to issue the Licence on the right to practice advocacy;
5) advocate’s photograph;
6) issuance date of the advocate’s Card.

Advocate’s Card is signed by the Head of the appropriate regional council of advocates that issued the Card and stamped by the seal of the regional council of advocates.

**Article 20. Types of advocate’s practice**

While practicing advocacy, the advocate grants legal assistance by means of:
1) verbal and written consultations, inquiries or explanations of legal questions;
2) drafting of conclusions on legal questions;
3) drafting of statements, complaints, agreements and other documents of legal character;
4) defending the rights, freedoms and legal interests of a suspect, accused individual, defendant, acquitted person in the criminal legal proceeding;
5) representation and defence of rights, freedoms and legal interests of the client:
   - in constitutional, civil, economic, administrative and criminal legal proceeding;
   - in execution and implementation of a sentence;
   - in a tribunal, international commercial arbitration (court) and other organs for the decision of disputes;
   - in foreign or international judicial and other bodies;
   - before public and local self-government authorities, legal or physical entities;
5) the provision of legal economic activity of a client, including external economic sphere.

An advocate has the right to provide legal assistance in other manners, not forbidden by the law.
Article 21. Reasons for providing legal assistance

An advocate gives legal assistance on the basis of an agreement on the provision of legal assistance or law.

The powers of an advocate for the provision of legal assistance are proved by the order or the legal authorization from the client.

Article 22. An agreement on the provision of legal assistance

In an agreement on the provision of legal assistance, the type of legal assistance provided, the advocate’s fee, and the order of payment along with other terms are specified at the discretion of the parties involved.

The agreement on the provision of legal assistance is made in written form. The agreement on the provision of verbal or written consultations, inquiries or explanations of legal questions can be made in verbal form with a condition that it is fulfilled immediately during the drafting of the agreement.

The conclusion of the agreement on the provision of legal assistance can be completed by a third person acting on behalf of a client. In this case the client’s consent is required in order to provide legal assistance.

Civil legislation of Ukraine, including the peculiarities defined by this Law, is used when concluding an agreement on the provision of legal assistance.

Article 23. Premature termination of the agreement on the provision of legal assistance

The client can singularly terminate the agreement on the provision of legal assistance, immediately informing the advocate about it.

The advocate (organizational form of advocate’s practice) can singularly prematurely terminate the agreement on the provision of legal assistance if:

1) a client is deliberately using advocate’s assistance for the illegal purposes;
2) a client violates duties foreseen in the agreement on the provision of legal assistance;
3) a proper provision of a legal assistance becomes impossible due to the actions of a client that are taken contrary to the advocate’s advice;
4) a client refuses to pay advocate’s expenses as concluded in the agreement and if the expenses are necessary for further provision of legal assistance;
5) in other circumstances foreseen by the law.

In case the agreement on the provision of legal assistance according to positions of this Article is terminated, the advocate (organizational form of advocate’s practice) has the right to receive advocate’s fee for practically having provided legal assistance and also be compensated for the expenses associated with the provision of legal assistance, unless otherwise has been concluded in the agreement.

Article 24. Advocate’s fee

The advocate’s (organizational form of advocate’s practice) remuneration for the provision of legal assistance is carried out in the form of a fee.

The form of a fee and the order of its payment have to be defined in the agreement on the provision of legal assistance.

Principles of calculation of the fee (fixed sum, per hour, etc) are determined by an agreement between the advocate (organizational form of advocate’s practice) and the client and have to be defined in the agreement on the provision of legal assistance.
The agreement on the provision of legal assistance can foresee the possibility of a future change in the fee, defined in fixed sum, due to a substantial growth or reduction of the volume of legal assistance that has to be provided and the consequences if the agreement on this question is not concluded.

**Article 25. Payment of the expenses associated with the provision of legal assistance**

The advocate’s expenses, associated with the provision of legal assistance, are not included in the advocate's fee unless otherwise determined by the agreement on the provision of legal assistance.

Types of foreseen expenses, associated with the provision of legal assistance and the order of their payment are concluded in the agreement on the provision of legal assistance.

**Article 26. Responsibility for a damage inflicted on a client**

An advocate (organizational form of advocate’s practice) compensates for the damage inflicted on a client when violating the obligation to provide legal assistance.

The size of the material liability of an advocate (organizational form of advocate’s practice) cannot exceed the size of actual damages inflicted on the client unless otherwise determined by the agreement on the provision of legal assistance.

If the damage on a client was inflicted by the intern, advocate’s assistant or other employee of the advocate (organizational form of advocate’s practice), the advocate (organizational form of advocate’s practice) is held responsible.

The organizational form of advocate’s practice compensates for the damages its associate has inflicted when providing legal assistance on behalf of the organizational form of advocate’s practice.

**Article 27. Legal aid at the expense of the state**

In cases determined by the law, an advocate provides legal aid to physical entities at the expense of the state (free legal aid).

The payment of the advocate’s fee and the compensation of advocate’s expenses in case of provision of such legal aid are carried out by the authorized executive body at the expense of the state budget of Ukraine.

The size and order of payment of the advocate’s fee and compensation for the expenses of the advocate, who provides legal aid, is defined by the Cabinet of Ministers of Ukraine with the approval of the National Council of Advocates of Ukraine.

**Article 28. Provision of legal aid by assignment**

The order of advocate’s assignment for the protection against a charge is defined by the criminal and procedural legislation of Ukraine.

The advocate’s assignment for the protection against a charge is carried out through the regional councils of advocates.

The payment of the advocate’s fee and compensation for the expenses of the advocate, who provides legal aid by assignment, is carried out by the authorized executive body at the expense of the state budget of Ukraine.
The size and order of payment of advocate’s fee and compensation for the expenses of the advocate, who provides legal aid by assignment, is defined by the Cabinet of Ministers of Ukraine with the approval of the National Council of Advocates of Ukraine.

**Part IV. Organization of advocate’s practice**

**Article 29. Organizational forms of advocate’s practice**

The organizational forms of advocate’s practice are:
- advocate’s office,
- advocate’s bureau,
- advocate’s board,
- advocate’s society,
- advocate’s firm.

Only advocates can be participants (founders, partners, members) of the organizational form of advocate’s practice.

The term “advocate” can only be used in the names of organizational forms of advocate’s practice and bodies of the Bar self-governance.

Entrepreneurial activity on behalf of the organizational form of advocate’s practice is forbidden.

**Article 30. Advocate’s office**

Advocate’s office is founded by the advocate who individually practices advocacy.
Advocate’s office is not a legal entity.
The agreements on the provision of legal aid are concluded in the advocate’s name.
Advocate’s office is the advocate’s workplace.
Advocate’s office can be located in a residential building.
The advocate who founded the advocate’s office, opens current and other bank accounts, has a round seal, a stamp and appropriate forms.

**Article 31. Advocate’s bureau**

Advocate’s bureau is a non-entrepreneurial institution founded by one advocate and acts on the basis of a statute ratified by him.
The name of the advocate’s bureau must contain a phrase “advocate’s bureau” in it.
The agreements on the provision of legal assistance are concluded in the name of the advocate’s bureau.

**Article 32. Advocate’s board**

Advocate’s board is a non-entrepreneurial institution founded by two or more advocates on the basis of membership and acts on the basis of a statute.
The name of the advocate’s board must contain a phrase “advocate’s board” in it.
The agreements on the provision of legal assistance are concluded by the member of the advocate’s board in advocate’s name with his membership in the board being noted. The agreements on the provision of legal assistance in the name of the advocate’s board cannot be concluded.
The members of advocate’s board are not accountable for the responsibilities of the board, and the advocate’s board is not accountable for the responsibilities of its members.
Article 33. Advocate’s society

Advocate’s society is a simple society founded by two or more advocates-partners, in order to provide legal assistance and acts on the basis of a society agreement (partnership agreement).

Advocate’s society is not a legal entity.

The name of the advocate’s society must contain a phrase “advocate’s society” in it.

The rules on how to change the name of the society in part where it would contain the names of partners are concluded by a partnership agreement.

The agreements on the provision of legal assistance are concluded in the name of all partners of the society by one of the partners, granted he possesses the authorization, unless otherwise established in the partnership agreement.

The advocate’s fee received by the advocate's society is divided in the manner as concluded in the partnership agreement.

The location of the society is noted in the partnership agreement.

The advocates who created the advocate’s society, open current and other bank accounts, have a round seal, a stamp and appropriate forms.

Article 34. Advocate’s firm

Advocate’s firm is a non-entrepreneurial institution founded by two or more advocates-partners and acts on the basis of a statute and a constitutive agreement concluded by the partners of the advocate’s firm. The name of the advocate’s firm must contain a phrase “advocate’s firm” in it.

The organization in the advocate’s firm is headed by a managing partner, unless otherwise concluded in the constitutive agreement.

Advocates can enter into the advocate’s firm as associated members by concluding a civic, legal agreement with the advocate’s firm.

The agreements on the provision of legal assistance are concluded in the name of the entire advocate’s firm by a managing partner, unless otherwise concluded in the constitutive agreement.

In case of liquidation of the advocate’s firm, the property is divided between partners in the manner specified in the constitutive agreement.

Article 35. Registration of Organizational Forms of Advocate’s Practice

Advocate’s bureau, council of advocates, advocate’s firm should undergo state registration in accordance with the legislation on state registration of the legal entities.

Advocate’s bureau, council of advocates, advocate’s firm are considered registered from the moment of their state registration.

The information on the organizational form of advocate’s practice is to be entered into the Unified Register of organizational forms of advocate’s practice of Ukraine within the period and in order as defined by the Cabinet of Ministers of Ukraine.

Article 36. Unified Register of Organizational Forms of Advocate’s Practice of Ukraine

The Unified Register of Organizational Forms of Advocate’s Practice of Ukraine is created to register, collect, keep and provide verifiable information about acting organizational forms of advocate’s practice in Ukraine.

The organization and maintenance of the Unified Register of Organizational Forms of Advocate’s Practice of Ukraine is carried out according to this Law and Provision on the Unified
Register of Organizational Forms of Advocate’s Practice which is confirmed by the Cabinet of Ministers of Ukraine.

The administrator of the Unified Register of Organizational Forms of Advocate’s Practice of Ukraine is an authorized executive institution that performs organizational, methodological and informational support of the Unified Register of Organizational Forms of Advocate’s Practice of Ukraine.

The Unified Register of Organizational Forms of Advocate’s Practice of Ukraine must contain the following information:
1) name of the organizational form of advocate’s practice;
2) type of the organizational form of advocate’s practice;
3) location of the organizational form of advocate’s practice;
4) surname, name and middle name (patronymic name) of the members of the organizational form of advocate’s practice;
5) registration code of the Unified National Register of Enterprises and Organizations of Ukraine – for organizational form of advocate’s practice – legal entities under the Article 30,33 of the present Law; identification number – for the members of the organizational form of advocate’s practice (in presence of such);
6) date of entry of the information into the Unified Register of Organizational Forms of Advocate’s Practice of Ukraine;
7) surname, name and middle name (patronymic name) of the person who entered the information into the Unified Register of Organizational Forms of Advocate’s Practice of Ukraine.

The information to the Unified Register of Organizational Forms of Advocate’s Practice of Ukraine should be provided no later than ten days since the moment of founding of the organizational form of advocate’s practice.

The organizational form of advocate’s practice acquires rights as defined by this Law since the moment of its entry into the Unified Register of Organizational Forms of Advocate’s Practice of Ukraine.

In case of changes to the information contained in the Unified Register of Organizational Forms of Advocate’s Practice of Ukraine, the organizational form of advocate’s practice (members of the organizational form of advocate’s practice) have to inform the authorized executive institution of such changes within ten days.

The information for the Unified Register of Organizational Forms of Advocate’s Practice of Ukraine and changes of information are carried out by the authorized executive institution within ten days since its receipt, of which the organizational form of advocate’s practice is informed by being issued a reference of a set format.

The information of the Unified Register of Organizational Forms of Advocate’s Practice of Ukraine is open to all and is placed on the official web site of the authorized executive institution for general use.

**Part V. Rights and duties of an advocate.**

**Guarantees of advocate’s practice**

**Article 37. Professional rights of an advocate**

While practicing advocacy, the advocate has the right:
1) to choose the organizational form for the practice of advocacy and working place;
2) to choose specialization;
3) to represent and defend the rights and interests of clients in relations with the governmental entities and authorities of local-self governance, legal entities in all forms of ownership and physical entities;

4) to collect and present evidence for cases in which the advocate is providing legal assistance;

5) to receive information or documents, or their copies from state institutions, bodies of local self-governance, legal and physical entities within ten days since the receipt of inquiry (subpoena) with exception of the documents or information whose secrecy is protected by the law;

6) to express his/her view on the actions of other participants of the court case during the court proceeding;

7) to read without obstacles all documents and materials and make copies of them from state institutions, bodies of local self-governance and legal entities, needed for the provision of legal assistance;

8) to familiarize himself/herself with the judicial practice, in particular decisions, sentences and decrees that gained legal force, and with the practice of institutions that resolve disputes in extrajudicial manner;

9) to receive written conclusions of experts on questions that require specialized knowledge;

10) to certify copies of documents in cases where the advocate provides legal assistance, except those which according to the law have to be certified by a notary;

11) to have confidential meetings with a client, including when the latter is detained, retained under guard in the correction facility, without the limit of the quantity and duration of the meetings;

12) to familiarize with all the evidence and procedural documents that constitute the basis for the detention of a client or the basis for implementing a preventive mechanism against the client or for presenting a charge against the client, and at the end of the pre-court investigation – with all of the documents of the case, take notes and copies of them and remark on them;

13) to take part in the investigations when the client is present and also in investigations that are requested by the client or by the advocate himself/herself, while conducting investigation to ask questions, remark and protest the order of investigation that must be noted in the protocol;

14) to use technical means, including copying of materials of the case where advocate is providing legal assistance, to record investigative, judicial and other procedural actions in which the advocate takes part; an individual, who carries out the investigation, detective, judge and court have the right to forbid the use of technical means by the advocate as to prevent the disclosure of private information of individuals who take part in the case and when such measures are needed to help guarantee safety of the people under protection, and also to protect a state secret;

15) to question individuals (with their consent), who know the circumstances important for the case that advocate is assisting with; to record the results of questioning;

16) to declare and report petitions and complaints when received by public servants and also to receive well-reasoned written answers to these petitions and complaints;

17) to be present on board meetings when his/her petitions and complaints are under consideration and give explanations about the nature of petitions and complaints;

18) to familiarize with the protocol (minutes) of the court proceeding and its record, to remark on them;

19) to promptly receive information presented in the case of appeal, prosecutor’s appeal statements and complaints, and give objections to them;

20) to take part in court proceedings;
21) to receive copies of the procedural documents and receive written notifications in cases foreseen by the law;

22) to complain on the decision, actions or inactions of the individual who carries out the investigation, detective, prosecutor, judge, court and other public servant or body in cases where advocate is legally aiding;

23) to protection according to the laws of Ukraine;

24) to employ assistants and other personnel;

25) to pursue other actions that do not violate the laws of Ukraine.

An advocate has the right to take part in the activity of bodies of the Bar self-governance, to elect and be elected for any position in these institutions.

The advocate’s rights under this Law, cannot be repealed, limited or restricted by other laws. The exercise of these rights by an advocate immediately on the basis of this Law is guaranteed.

Article 38. Advocate’s assistant

The advocate’s assistant can be a person who has higher (complete, basic, incomplete) legal education, commands the state language and who also corresponds to the requirements of Part Two of Article 6 of this Law. Advocate’s assistant works with the advocate (organizational form of advocate’s practice) on the basis of an employment contract.

The advocate’s assistant fulfils responsibilities in cases given by the advocate and cannot fulfil tasks which according to the law are in the sole authority of the advocate.

The advocate’s assistant is required to maintain advocate’s secret and act according to the Rules of advocate’s ethics.

Article 39. Professional duties of an advocate

When practicing advocacy, the advocate is required:
1) to professionally and diligently defend the rights, freedoms and legal interests of the client;

2) to adhere to the requirements of the acting legislature, Rules of advocate’s ethics, advocate’s Oath;

3) to execute decisions of the Bar self-governing bodies;

4) to pay annual contributions for the maintenance of the Bar self-governing bodies;

5) to insure, according to the law, civil responsibility for the damage inflicted on a client when providing legal assistance;

6) to advance his/her professional qualifications;

7) to defend an assigned client and provide legal assistance at the expense of the state in cases and order foreseen by the law;

8) to keep advocate’s secret;

9) within ten days inform in written form the regional council of advocates on the changes of advocate’s information that is contained in the Unified Register of Advocates of Ukraine.

10) during the court proceeding to wear a robe which description and the details are determined by the National Council of Advocates of Ukraine.

The Advocate does not have the right:
1) to use his authority to damage the client;

2) to publicize information without the client’s consent that is a part of the advocate’s secret and use this information in advocate’s interests or interests of third parties;

3) to take position in a case that contradicts the will of the client, except at times when the advocate is not sure of the self-defamation of the client;
4) to regard the client guilty if he/she denies the guilt;
5) to confidentially cooperate with bodies that carry out searches and pre-court investigation;
6) to refuse the prior accepted responsibility to provide legal assistance, except in the cases determined by the law.

Article 40. Guarantees of practice of advocacy

Professional rules, honour and dignity of the advocate are protected by the law.

Guarantees of practice of advocacy are:
1) the provision of equal rights of the defender and representative with all of the other participants of the court proceeding;
2) establishment of an administrative responsibility for unjustified provision of information or information by advocate's request (by subpoena);
3) establishment of a criminal responsibility for the interference in the activities of the advocate, for the actions that threaten life, health, property of the advocate or of his close relatives due to the provision by the advocate of legal assistance;
4) special procedure of opening a criminal case against the advocate (only by decree of the Prosecutor General of Ukraine, his deputies, prosecutors of the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol);
5) obligatory immediate notification of the regional council of advocates on the detention of the advocate or the implementation of a preventive mechanism against the advocate;
6) carrying out of the investigation on the advocate with the obligatory presence of the representative from the regional council of advocates.

Forbidden:
1) any interferences with advocate's practice and impediments to its execution;
2) the conducting of a search and an examination of the advocate, rooms where the advocate provides legal assistance or lives, the search and confiscation of documents and possessions connected with the advocate's practice;
3) monitoring and retrieval of the data from informational systems and communication services of the advocate (organizational form of advocate's practice), interception and copying of advocate's (organizational form of advocate's practice) correspondence, and also the use of special methods of observation and collection of the information on the advocate during his practice of advocacy;
4) to demand from the advocate the presentation of the agreement on the provision of the legal assistance as a proof of the authority to take part in the case;
5) to demand from the advocate, intern, advocate's assistant and other employees of the advocate (organizational form of advocate's practice) publicizing of the information that is a part of the advocate's secret and to take any actions for its disclosure;
6) interrogation of the advocate, intern, advocate's assistant or other employee of the advocate (organizational form of advocate's practice) as a witness in relation to the information that is a part of the advocate's secret;
7) presentation of the statement by the investigative body, detective, prosecutor and also presentation of a separate judgement of the court (decision of the judge) in regards to the legal position of the advocate in the case;
8) bringing of the advocate to criminal, administrative, civil, financial and other responsibility, or a threat of its use due to advocate's practice, except in cases as foreseen by the law;
9) forcing into confidential cooperation with institutions that carry out searches and pre-court investigation;

**Article 41. Advocate’s secret**

The advocates, interns, advocate’s assistants and other employees of the advocate (organizational form of advocate’s practice) are obliged to keep advocate’s secret, do not use it in their personal interests or interests of third parties, and also use all possible measures for its safety.

The public and local self-governing bodies, legal and physical entities are obliged to refrain from actions whose effect will cause the disclosure of the advocate’s secret.

The subject of the advocate’s secret is:

1) information about the client or about third parties that became known to the advocate while providing legal assistance (including the notification of the client of his/her crime or other offence);
2) the fact of client’s (individual acting in the interests of a client) appeal to the advocate (organizational form of advocate’s practice);
3) the nature of the case or question that the client (the individual acting in the interests of the client) appealed to the advocate (organizational form of advocate’s practice) about;
4) the content of the agreement on the provision of legal assistance;
5) the content of legal assistance, granted to the client and any documents (materials), compiled (prepared) by the advocates or received from the client or third parties due to the provision of legal assistance, including those kept in the electronic carriers;
6) other data, connected to the provision of legal assistance by the advocate (organizational form of advocate’s practice).

Advocate’s secret is not restricted by time.

**Article 42. Social rights of an advocate**

The advocate has the right to all types of social state support.

The contributions for the state support are paid in by the advocate on the level of a self-employed individual.

Pension is provided to the advocate at his/her pension age who has advocate’s experience of no less than ten years and appropriate to it insurance.

Pensions for the advocates are determined as 80 percent of the income, on which social support was tallied according to the legislation. For each full year above the work experience noted in part three of this Article, pension increases by one percent of the income, but cannot go over 90 percent of the income on which social support was tallied according to the legislation.

The period of work as an advocate’s assistant (intern) is counted towards the work experience of advocate’s practice noted in part three of this Article.

The advocate’s pension is paid to the advocate in full by the state, regardless of the income received after retirement.

The payment of pensions based on the conditions defined by this Article, is carried in the manner established by the legislation on provision of pensions.

Advocates, organizational forms of advocate’s practice and bodies of the Bar self-governance can create non-state pension and other funds of social support.
Article 43. International, national and regional associations of advocates
Advocates and organizational forms of advocate’s practice can create and take part in local, regional, national and international guilds, associations, and charitable funds.

Part VI. Disciplinary responsibility of an advocate

Article 44. Disciplinary responsibility of an advocate
If the requirements of this Law and other legislatives acts of Ukraine that regulate organization and practice of advocacy, advocate’s Oath, Rules of advocate’s ethics are breached, the decision of the disciplinary commission of advocates can use the following measures against the advocate:
1) a warning;
2) a suspension of the Licence on the right to practice advocacy for the term of one year;
3) a termination of the Licence on right to practice advocacy.

Article 45. Examination of cases on disciplinary penalties of an advocate
The order and terms of the use of disciplinary penalties are defined by this Law and the Decree on the disciplinary action in regards to the advocate, which is ratified by the Congress of Advocates of Ukraine.
The disciplinary penalty can be used against the advocate within the month of the disciplinary breach, but no later than six months since the day of its commitment.
The decision to impose disciplinary penalty can be appealed at the Appeals Commission of Advocates of Ukraine within the month of the decision or at the court.
The decision on the imposition of the disciplinary penalty on the advocate takes legal force following the moment when the term for its appeal ends. The issuance of the advocate’s complaint suspends the execution of the decision.

Part VII. The Bar self-governance

Article 46. The system of organs of the Bar self-governance
The system of organs of the Bar self-governance in Ukraine is created by the Congress of Advocates of Ukraine, National Council of Advocates of Ukraine, assemblies of the regional advocates and regional councils of advocates.
The Appeals Commission of the Advocates of Ukraine, qualification, disciplinary and audit commissions of advocates are part of the system of bodies of the Bar self-governance.

Article 47. Participation in the bodies of the Bar self-governance
The right to elect and be elected to the bodies of the Bar self-governance belongs exclusively to advocates.
An advocate cannot be elected to be a part of the same body of the Bar self-governance two consecutive terms in a row and be in elected positions in several institutions of the Bar self-governance at the same time.
The work while in elected positions is public. In cases foreseen by this Law, such work can be performed on the basis of employment contract when the decision is made by the Congress of Advocates of Ukraine or by the assembly of regional advocates.
The advocate is compensated for the expenses incurred while fulfilling the responsibilities while working for the bodies of the Bar self-governance.

**Article 48. Assembly of regional advocates**

The assemblies of regional advocates are held in the Autonomous Republic of Crimea, oblasts, cities Kyiv and Sevastopol no less than once in three years. Extraordinary assemblies of regional advocates are called by the regional council of advocates:

1) based on its own initiative;
2) based on the demand of one third of advocates of the region.

If the demand of advocates about the convention of an assembly is not fulfilled, these advocates have the right to call the assembly on their own.

The assembly of regional advocates is considered official if in their proceedings participate no less than half of advocates whose working location is in the region.

The notification on the time and place of the regional assembly of advocates is sent out by the regional council of advocates as a recommended letter with a confirmation receipt or by a messenger.

The powers of the assembly of advocates include:

1) the election of the Head and other members of the regional council of advocates, deciding on the premature termination of their powers;
2) the election of the members of the qualification and disciplinary commissions of advocates, deciding on the premature termination of their powers;
3) certification of provisions for the regional council of advocates, qualification commission of advocates, disciplinary commission of advocates, audit commission of advocates of regional council of advocates;
4) approval of the order of the regional assembly of advocates;
5) the election of delegates to the Congress of Advocates of Ukraine;
6) approval of the budget estimate of the regional council of advocates;
7) approval of the report of the regional council of advocates;
8) determining the order of raising qualification of regional advocates;
9) the election of the audit commission of the regional assembly of advocates and approval of its annual report;
10) the resolution of any other questions connected to the organization and the activity of the Bar of the region.

The decisions of the regional assembly of advocates are made by a simple majority of votes who participate in the assembly.

The decision of the regional assembly of advocates on the questions foreseen in par. 1, 2, 3, 6, 7 of part five of this Article, is made by no less than two thirds of the advocates who participate in the assembly.

**Article 49. Regional councils of advocates**

The regional councils of advocates which are elected through the assembly of advocates of the appropriate region for three years in quantity of nine advocates of the region, operate in the period between the assemblies of advocates in Autonomous Republic of Crimea, oblasts, cities Kyiv and Sevastopol.

The regional council of advocates is a legal entity and acts on the basis of provision on the regional council of advocates, which is approved at the Congress of Advocates of Ukraine.
The powers of the regional council of advocates can be prematurely terminated according to the decision of the regional assembly of advocates.

The proceedings of the regional assembly of advocates are considered official if more than two thirds of its members are present at the assembly, and decisions are made by majority of the votes who participate in the proceeding.

The Head of the regional council of advocates is elected by the regional assembly of advocates from the regional council of advocates for three years. The secretariat of the regional council of advocates is responsible for the provision of organizational and technical support of the regional assemblies of advocates.

**Article 50. Powers of the regional council of advocates**

Powers of the regional council of advocates include:

1) the representation of interests of advocates in relations with state bodies, institutions of local self-government, legal and physical entities;
2) the organization and provision of legal aid at the expense of the government;
3) the organization and provision of legal aid by the advocates by assignment;
4) the convention of a regional assembly of advocates;
5) the execution of decision taken at the regional assembly of advocates, disciplinary and qualification commissions of advocates;
6) organizational, financial and technical support of the regional assembly of advocates, activities of the disciplinary and qualification commissions of advocates according to the budget of the regional council of advocates;
7) the disposal of property of the regional council of advocates according to the budget and function of the property;
8) the creation of special funds for the provision of advocate’s practice;
9) the decision-making on the qualifying examinations;
10) the organization of carrying out of the internship;
11) conducting and keeping of individual files of advocates of the region;
12) the issuance of the Licence on the right to practice advocacy; taking of an advocate’s Oath;
13) organizing of the events for the advancement of qualifications of regional advocates (organization of seminars, forums, conferences, etc);
14) entering of the data to the Unified Register of Advocates of Ukraine;
15) the resolution of other issues that are in the powers of the regional council of advocates as determined by this Law, by decision of the Congress of Advocates of Ukraine or by the regional assembly of advocates that are within the assembly’s competencies.

**Article 51. Congress of Advocates of Ukraine**

The Congress of Advocates of Ukraine is the highest body of the Bar self-governance in Ukraine.

The Congress of Advocates is convened at least once per three years.

Extraordinary Congress of Advocates of Ukraine can be convened on the initiative of the National Council of Advocates or on the demands of the five regional councils or one fifth of the advocates registered in the Unified Register of Advocates of Ukraine.

The Congress of Advocates of Ukraine is considered official if at least half of the elected delegates take part in its proceeding.
The delegates to the Congress of Advocates of Ukraine are elected by the regional assembly of advocates according to the representational norm, defined by the National Council of Advocates of Ukraine. The order of work and authority of the Congress of Advocates of Ukraine is determined by this Law and by the Regulations of Congress of Advocates of Ukraine.

**Article 52. Authority of Congress of Advocates of Ukraine**
The exceptional plenary powers of the Congress of Advocates of Ukraine include:

1) the election of the Head and members of the National Council of Advocates of Ukraine, members of the audit commission of the National Council of Advocates of Ukraine, decision-making on the premature termination of their powers;

2) the election of members of the Appeals Commission of Advocates of Ukraine and decision-making on the premature termination of their powers;

3) the appointment of the members of High Council of Justice of Ukraine, and decision-making on the premature termination of their powers;

4) the ratification of the annual report of the National Council of Advocates of Ukraine, the audit commission of the National Council of Advocates of Ukraine, and of the appointed members of the High Council of Justice of Ukraine;

5) the ratification of the Rules of advocate’s ethics;

6) the ratification of the Provision on the disciplinary penalty for the advocate;

7) the ratification of the Regulations of Congress of Advocates of Ukraine;

8) the ratification of the Provision on the National Council of Advocates of Ukraine and the Provision on the Appeals Commission of Advocates of Ukraine;

9) the ratification of the Standard statute on the regional councils of Ukraine;

10) the ratification of the Provision on the qualification and disciplinary commissions of the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol;

11) the ratification of the budget of the National Council of Advocates of Ukraine;

12) the determination of the yearly contribution for the maintenance of the Bar self-governing bodies;

13) the determination of the order and norms of deductions of costs for the implementation of resolutions of the National Council of Advocates of Ukraine by the regional councils of Ukraine;

14) the resolution of other issues, connected with the organization and activity of the Bar of Ukraine.

The decisions of the Congress of Advocates of Ukraine are made by a simple majority of votes of the delegates present of the convention. The decisions on the issues foreseen by points 1, 2, 3, 4, 11 of the first part of this article are taken by the majority of the elected delegates to the Congress of Advocates of Ukraine.

**Article 53. National Council of Advocates of Ukraine**
The National Council of Advocates of Ukraine acts in the period between the meetings of Congress of Advocates of Ukraine.

The National Council of Advocates of Ukraine is composed of the twenty one advocates who are elected by the Congress of Advocates of Ukraine.

The term of office of the members of the National Council of Advocates of Ukraine is three years.
The National Council of Advocates of Ukraine is a legal entity and acts on the basis of the Statute on the National Council of Advocates of Ukraine, which is ratified by the Congress of Advocates of Ukraine.

The plenary powers of the National Council of Advocates of Ukraine can be terminated by the decision of the Congress of Advocates of Ukraine.

The powers of the National Council of Advocates include:
1) the representation of the interests of the Bar of Ukraine in relations with the state institutions, local self-government bodies, legal and physical entities;
2) the convocation and organization of the Congress of Advocates of Ukraine;
3) the determination of norms of representation of regional advocates at the Congress of Advocates of Ukraine;
4) the ratification of the statute on the Unified Register of Advocates of Ukraine;
5) the ratification of the format of the Certification on the right to practice advocacy, advocate’s Licence and warrant of advocate;
6) the consideration of complaints on the decisions by the regional councils of advocates;
7) the maintenance of the Unified Register of Advocates of Ukraine;
8) the determination of the size of the payment for the qualifying examinations, and the payment for the issuance of the Licence on the right to practice advocacy;
9) the ratification of the Order and the Programme of the qualifying examination;
10) the ratification of the Statute on the order and the Programme of the internship;
11) the organizational, material and technical support of the Congress of the Advocates of Ukraine, the activities of the Appeals Commission of Advocates of Ukraine, the audit commission of the National Council of Advocates of Ukraine, and other institutions created by the Congress;
12) the resolution of other issues, related to the powers of the National Council of Advocates of Ukraine by this Law or by decision of the Congress of Advocates of Ukraine that is within the competency of the latter.

The session of the National Council of Advocates of Ukraine is considered official if at least two thirds of the members of the National Council of Advocates of Ukraine are present at the session. The decisions are taken by the majority vote of the members of the National Council of Advocates of Ukraine present at the session.

The secretariat is created for the organizational and technical support of the National Council of Advocates of Ukraine.

Article 54. Head of the National Council of Advocates of Ukraine

The Head of the National Council of Advocates of Ukraine is elected by the Congress of Advocates of Ukraine from the members of the National Council of Advocates of Ukraine for the duration of three years.

The powers of the Head of the National Council of Advocates of Ukraine include:
1) the representation of the National Council of Advocates of Ukraine in relations with the state institutions, bodies of local self-governance, legal and physical entities;
2) the organizational leadership of the National Council of Advocates of Ukraine;
3) the employment and the termination of employment of workers of the secretariat of the National Council of Advocates of Ukraine;
4) chairmanship during the session of the National Council of Advocates of Ukraine;
5) the signing of decisions and other documents of the National Council of Advocates of Ukraine;

6) the execution of other tasks as foreseen by this Law, by the decision of the Congress of Advocates of Ukraine or by the National Council of Advocates of Ukraine that is within the compency of the latter.

The powers of the Head of the National Council of Advocates can be prematurely terminated by the decision of the Congress of Advocates of Ukraine.

The Head of the National Council of Advocates of Ukraine carrying out his responsibilities on the terms of an employment contract.

**Article 55. Qualification commissions of advocates**

For the implementation of the plenary powers foreseen by Part Three of this Article, the qualification commissions of advocates are elected in the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol at the regional councils of advocates during the regional assembly of advocates. The elected members to qualification commissions of advocates must consist of nine advocates whose advocate's experience is at least seven years.

The qualification commission of advocates elects the Head of the qualification commission of advocates from its members for the term of three years.

The powers of the qualification commission include:

1) the organization and the conducting of the qualifying examinations;

2) the decision on the issuance of the Licence on the right to practice advocacy;

3) the decision-making in regards to suspension, renewal or termination of the Licence of the right to practice advocacy;

4) the resolution of other issues that are in the competency of the qualification commission of advocates in accordance with this Law, the decision of the Congress of Advocates of Ukraine or the decisions made by the regional assembly of advocates so long as it is within the competency of the latter.

The session of the qualification commission of advocates is considered official if no less than two thirds of the members of the qualification commission of advocates are present. The decisions at the session are made by a majority of votes of the present members of the commission.

On the invitation of the qualification commission of advocates, the representatives of the state and local self-governing authorities, employees of research institutes and educational establishments can take part in the commission’s session with the right of advisory vote.

The decision of the qualification commission of advocates must be sent to the person it concerns no later than five days following the decision by means of recommended letter with the confirmation receipt or by giving the envelope personally and requiring to sign it.

The decision of the qualification commission of advocates can be appealed at the Appeals Commission of Advocates of Ukraine following the moment of the decision being made or at the court.

The Qualification Commission is acting on the basis of the present Law and Provisions on the Qualification and Disciplinary Commissions of Advocates of the Autonomous Republic of Crimea, regions, cities of Kyiv and Sevastopol, established by the Congress of Advocates of Ukraine.
Article 56. Disciplinary commission of advocates

For the consideration and resolution of issues relating to disciplinary responsibility of advocates, the disciplinary commissions of advocates are elected in the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol at the regional councils of advocates during the regional assembly of advocates. The elected members to disciplinary commissions of advocates must consist of nine advocates whose advocate’s experience is at least seven years.

The disciplinary commission of advocates elects the Head of the disciplinary commission of advocates from its members for the term of three years.

The disciplinary commission of advocates acts on the basis of this Law and on the basis of the Statute on the qualification and disciplinary commissions of advocates of the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol, which is ratified by the Congress of Advocates of Ukraine.

The powers of the disciplinary commission include:
1) the examination of complaints on the advocate;
2) the examination and resolution of cases about the disciplinary penalties;
3) the use of the disciplinary penalty in regards to the advocate;
4) the resolution of other issues that are in the competency of the disciplinary commission of advocates in accordance with this Law, the decision of the Congress of Advocates of Ukraine or the decisions made by the regional assembly of advocates so long as it is within the competency of the latter.

The session of the disciplinary commission of advocates is considered official if no less than two thirds of the members of the disciplinary commission of advocates are present. The decisions at the session are made by a majority of votes of the present members of the commission.

On the invitation of the disciplinary commission of advocates, the representatives of the state and local self-governing authorities, employees of research institutes and educational establishments can take part in the commission’s session with the right of advisory vote.

The decision of the disciplinary commission of advocates must be sent to the person it concerns no later than five days following the decision by means of recommended letter with the confirmation receipt or by giving the envelope personally and requiring to sign for it.

The decision of the disciplinary commission of advocates can be appealed at the Appeals Commission of Advocates of Ukraine following the moment of the decision being made or at the court.

Article 57. Appeals Commission of Advocates of Ukraine

The Appeals Commission of Advocates of Ukraine is elected by the Convention of Advocates of Ukraine for the review of the decision made by the qualification and disciplinary commissions of advocates. The Appeals Commission of Advocates of Ukraine consists of fifteen advocates whose advocate’s experience is at least ten years.

The composition of the Appeals Commission of Advocates of Ukraine is elected by the Congress of Advocates of Ukraine for the term of three years.

The Appeals Commission of Advocates of Ukraine elects the Head of the Appeals Commission of Advocates of Ukraine from its members for the term of three years.

The Appeals Commission of Advocates of Ukraine acts at the National Council of Advocates
of Ukraine and on the basis of the Law and the Statute on the Appeals Commission of Advocates of Ukraine that is ratified by the Congress of Advocates of Ukraine.

Appeals Commission of Advocate of Ukraine based on the results of the examination of the decisions made by the qualification or disciplinary commissions of advocates:

1) retains without changes the decision of the qualification or disciplinary commissions of advocates without changes;
2) changes the decision of the qualification or disciplinary commissions of advocates;
3) terminates the decision of the qualification or disciplinary commissions of advocates and issues a new decision.

The session of the Appeals Commission of Advocates of Ukraine is considered official if at least two thirds of the members of the Appeals Commission of Advocates of Ukraine are present. The decisions during the session are taken by a majority vote of the commission members present at the meeting.

**Article 58. Decisions of the Bar self-governing bodies**

The decision of the Congress of Advocates of Ukraine and the National Council of Advocates of Ukraine, made within the competencies of the former and the latter, as defined by this Law, are obligatory to be implemented by all of the advocates and organizational forms of advocate’s practice of Ukraine.

The decisions of the regional assemblies of advocates and of the regional council of advocates made within the competencies of the former and the latter, as defined by this Law, are obligatory to be implemented by all of the advocates and organizational forms of advocate’s practice of these regions.

The decisions of bodies of the Bar self-governance come into force from the moment of their adoption, unless otherwise stated in the decision.

**Article 59. Financial provision of bodies of the Bar self-governance**

Financing of the institutions of the Bar self-governance is carried out by:

1) the contributions for the conducting of the qualifying examinations;
2) proceeds from the issuance of the Licence on the right to practice advocacy;
3) annual contributions by the advocates for the support of the institutions of the Bar self-governance;
4) proceeds from the convocation of conferences, seminars and other events of the institutions of the Bar self-governance in regards to the advancement of the qualification of advocates;
5) voluntary contributions by the advocates and organizational form of advocate’s practice;
6) charitable donations (offerings), that come from legal or physical entities;
7) other sources allowed by the legislation.

The amount of annual contribution by the advocate for the support for the bodies of the Bar self-governance cannot be determined proportionally to the advocate’s fee.

The funds must be placed on the accounts of the regional councils of advocates and be exclusively used by the councils according to the budget ratified by the regional assemblies of advocates.

The funds foreseen by points 4-7 of part one of this Article, can be directly placed on the account of the National Council of Advocates of Ukraine and be used according to the budget of the National Council of Advocates of Ukraine, ratified by the Congress of Advocates of Ukraine.

To control the use of funds of the National Council of Advocates Ukraine and of regional
councils of advocates, the appropriate audit commissions are elected, consisting of five advocates, by the Congress of Advocates of Ukraine and by the regional assemblies of advocates for the period of three years. The audit commissions are accountable to the Congress of Advocates of Ukraine and to the regional assemblies of advocates respectively.

Part VIII. Provision of legal assistance by a foreign advocate

Article 60. Legal assistance by a foreign advocate

A foreign advocate can provide legal assistance in Ukraine only regarding legislative questions of the foreign state, which bestowed the advocate’s status to him/her, granted that the foreign country provides such opportunities to Ukrainian advocates.

A foreign advocate has the right to provide legal assistance on the territory of Ukraine from the moment of his registration with the Unified Register of Foreign Advocates.

The administrator of such register is the authorized central executive body.

The document which proves the right of the foreign advocate to practice advocacy is an excerpt from the registry of foreign advocates that can be obtained for a fee.

When providing legal assistance in Ukraine, the foreign advocate uses the same rules and bears same responsibilities as an Ukrainian advocate, with the exception of rights and responsibilities regarding the provision of legal aid at the expense of the state, or by assignment, and with the exception of participation in the bodies of the Bar self-governance and other circumstances as foreseen by the law.

For the violation of the terms of this Law, and other legislative acts of Ukraine that regulate the practice of the Bar, Rules of advocate’s ethics the decisions taken by the disciplinary commission could include the following disciplinary penalties:

1) a warning;
2) exclusion from the Unified Register of Foreign Advocates.

The order and terms of the disciplinary penalties for the foreign advocate are determined by Part IV of this Law, the Statute on disciplinary penalties for the advocate, which is ratified by the Congress of Advocates of Ukraine, while considering the peculiarities as defined by this Article.

Part IX. Concluding and transitional positions

1. This law goes into effect from the day of its publication.

2. The advocate’s status is reserved for the persons who currently, at the moment of this Law going into effect, have the Licence on the right to practice advocacy and practice advocacy.

If the Licence on the right to practice advocacy and the advocate’s Licence are valid at the time when this Law goes into effect, they are valid as such and do not need a replacement.

The individuals, mentioned in part one of this point, within one month from the day of this Law going into effect are required to provide information as foreseen by par. 1-6 of part five Article 18 of this Law to the qualification and disciplinary commissions of advocates.

Non-fulfilment of the noted requirements can become a basis for the suspension of the Licence on the right to practice advocacy up until the information is provided to the qualification and disciplinary commission of advocates (when formed- to the regional council of advocates).

3. If other is not concluded by the international agreement of Ukraine, which effectively gained force, the higher legal education in this Law is considered to be the education acquired in the educational establishment of Ukraine, and also in the educational establishment of the USSR up until 23 May 1991.
4. The person who did not hold an internship, but fulfills the requirements of points 1-3 of part one and two of Article 6 of this Law at the moment of this Law going into effect, has the right to acquire the advocate's status:

1) during the last five years works in the positions that require the possession of a complete higher legal education, in the association of advocates, in the advocate’s office or at the enterprise whose main type of activity is the provision of services in the field of law and these positions require completion of higher education in legal field;

2) during the last five years systematically provides services in the field of law as a physical person— as a subject of entrepreneurial activity, if legal services are the main type of its activity.

The individuals who wish to acquire the advocate’s status according to the requirements of this point are obliged during six months after this Law goes into effect to provide, according to the place of the residence, to the regional council of advocates, but before its creation to the qualification and disciplinary commission of advocates:

1) the application on the issuance of the advocate’s status;

2) the documents, which confirm the circumstances foreseen by the subpar. 1 or 2 of part one of this point;

3) the documents foreseen by part two of Article 11 of this Law.

The consideration of documents and grant of a advocate’s status is carried out in a procedure as noted by the articles 11, 13 of this Law.

5. For the purposes of this Law, the period of a systematic provision of services in the field of law by a physical person – a subject of entrepreneurial activity, in case of the legal activity being its main type of occupation, is counted as the experience in the field of law. On termination of the six months period from the date the present Law comes into force, it is prohibited to carry out entrepreneurial activity in providing legal assistance.

6. With the purpose of election of bodies of the Bar self-governance, the constitutive assemblies of advocates in the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol are held, and also the constitutive Congress of Advocates of Ukraine is convened. The constitutive assemblies of advocates and constitutive Congress are conducted not later than one year since the moment of this Law coming into force.

With the purpose of organization of assemblies of advocates, the qualification and disciplinary commission of advocates of the given region:

1) forms the lists of advocates of the region;

2) notifies all advocates of the region about a date and place of assemblies by publishing of the appropriate advertisement in the mass media, and also by a written invitation to all associations of advocates registered on territory of the given region;

3) notifies advocates of the tentative assembly’s agenda;

The information as foreseen by the subpar. 2, 3 of part two of this point, is to be sent to the advocates of the region not later than ten days prior to the date of the assembly by recommended mail with the confirmation receipt.

Whether an advocate belongs to the given region is determined by the location of the workplace of the advocate.
The date, time and place of the assembly, and also the agenda of the assembly are concluded in accordance with the provisions of this Law by the qualification and disciplinary commission of advocates of the given region.

The assembly is considered official when at least half of the advocates of the given region are present.

The opening of the constitutive regional assembly of advocates is bestowed upon the Head of the given qualification and disciplinary commission of advocates. The mandate and returning commissions are elected as to provide for the appropriate conducting of the constitutive assembly of advocates.

7. The constitutive regional assembly of advocates elects the delegates for the constitutive Congress of Advocates of Ukraine. The representational norm is determined by the quantity of the advocates in the given region: one delegate per fifty advocates. The preparations for the convocation of the constitutive Congress of Advocates of Ukraine are bestowed upon the High Qualification and Disciplinary Commission of the Bar of Ukraine at the Cabinet of Ministers of Ukraine.

All of the decisions regarding the organization of the constitutive Congress of Advocates of Ukraine are taken by a simple majority of votes of members of the High Qualification and Disciplinary Commission of the Bar of Ukraine.

With a purpose of preparations for the constitutive Congress of Advocates of Ukraine, the High Qualification and Disciplinary Commission of the Bar of Ukraine:

1) forms organizational commission of the constitutive Congress of Advocates of Ukraine;

2) notifies the delegates of the first Congress of Advocates of Ukraine about the date and place of the Congress and provides them with the tentative agenda of the meeting.

The information as foreseen by the subitem 2 of part four of this point, is to be sent to the delegates of the constitutive Congress of Advocates of Ukraine not later than ten days prior to the date of the meeting by recommended mail with the confirmation receipt.

The Ministry of Justice of Ukraine, Main administration of Justice of the Ministry of Justice in the Autonomous Republic of Crimea, oblasts, regional administrations of justice of Kyiv and Sevastopol are required to provide informational and organizational support to the High Qualification and Disciplinary Commission of the Bar of Ukraine at the Cabinet of Ministers of Ukraine, in conducting of the constitutive Congress of Advocates of Ukraine.

If at least half of the elected delegates of the constitutive Congress of Advocates of Ukraine are present, the Congress is considered official.

The opening of the constitutive Congress of Advocates of Ukraine is bestowed upon the Head of the High Qualification and Disciplinary Commission of the Bar of Ukraine. The mandate and returning commissions are elected as to provide for the appropriate conducting of the constitutive Congress.

8. To bring the constitutive documents and organizational forms of associations of advocates that are operating when this Law comes into force in line with the provisions of this law, they must be reorganized (by reformation, division, separation) into one or several organizational forms of advocate’s practice foreseen by this Law, or must be liquidated within six months of this Law coming into force.

Organizational forms of advocate’s practice, created due to the reorganization of associations of advocates, entrepreneurial entities, economic associations, are their assignees.
9. Amendments to the following legislative acts of Ukraine shall be made:


In paragraph 14 article 11 the word “luggage” shall be supplemented by words “(apart from professional documents of advocates)”;

paragraph 15 article11 shall be supplemented by a new paragraph six of the following contents:

“The militia officer shall be eligible to enter the advocate’s (organizational form of advocate’s practice) premises where he practices advocacy only in cases related with saving person’s life or property or with direct persecution of persons that are suspected of committing a crime”


a) article 8 after part two shall be supplemented by a new part three of the following content:

“Secret operational and search measures regarding advocate’s practice shall be taken following a resolution of the head or deputy head of a relevant Court of Appeal approved by the submission of the head of a relevant operational unit or his deputy and shall be applied exclusively with the aim to prevent from committing the crime”.


a) paragraph „б” part two of article 12 the words “legal entities” shall be supplemented with the words (“apart from information that makes advocate’s secret”);

б) paragraph „а” part two of article 12 the words “information and documents” shall be supplemented with the words (“apart from information and documents that make the advocate’s secret”);

в) paragraph „а” part four of article 12 the words “forms of ownership: shall be supplemented by the words “apart from premises where the advocate pursues his professional activity”;

г) paragraph „б” part four of article 12 the words “other storages” shall be supplemented with the words “apart from those premises where the advocate practices advocacy”, words “objects and documents” shall be supplemented with the words “(apart from documents that make the advocate’s secret)”;

д) paragraph „а” part one of article 15 shall be supplemented with the words (“apart from conversations and other actions related to the advocate’s practice”);

л) paragraph “б” part one of article 15 shall be supplemented with the words (“apart from conversations, letters, telegraph messages related to the advocate’s practice”.

4) In the Law of Ukraine “On Constitutional Court of Ukraine” (Vedomosti of Verkhovna Rada of Ukraine, 1992, p.126
a) article 55 shall be supplemented with a new part five of the following contents:

„The authority of representatives of persons participating in the case shall be confirmed by a power of attorney in line with legislation. The authority of representatives that are advocates can be confirmed by the warrant or by power of attorney. According to the warrant, an advocate shall be eligible to act from behalf of the person he represents within the scope of all eligible actions of this person. Restrictions on advocate’s authority, as a representative, to execute certain actions shall be restricted by the power of attorney


article 12 shall be supplemented with part six of the following contents;

„Advocates can act as representatives of the parties, legal entities and physical persons, when providing bailiff services. The authority of an advocate as a party representative in proceedings shall be confirmed by a warrant or by power of attorney. According to the warrant, advocate shall be eligible to perform during the proceedings all eligible actions from behalf of the person he represents. Restrictions on advocate’s authority, as a representative, to execute certain actions shall be restricted by the power of attorney

6) In the Law of Ukraine “On protection of economic competition” (Vedomosti of Verkhovna Rada of Ukraine) 2001, #12, p. 64):

article 39 shall be supplemented by a new part four of the following contents:

„The authority of persons’ representatives participating in the case shall be confirmed by a power of attorney in line with law requirements. The authority of representatives that are lawyers shall be confirmed by a warrant or by power of attorney. According to the warrant, during case consideration, the lawyer shall be eligible to perform all eligible actions on behalf of the person he represents. Restrictions on advocate’s authority, as a representative, to perform certain actions shall be restricted by the power of attorney

7) In the Law of Ukraine “On protection of rights on inventions and useful models” (Vedomosti of Verkhovna Rada of Ukraine, 1994, #7, p.32):

part two of article 5 the words “in line with law” shall be supplemented by the words “or advocates”.

8) In the Law of Ukraine “On protection of rights on trade signs for goods and services” (Vedomosti of Verkhovna Rada of Ukraine, 1994, #7, p.36):

Part two of article 4 the words “Cabinet of Ministers of Ukraine” shall be supplemented by the words “or advocates”.

9) In the Law of Ukraine “On protection of rights for industrial specimens” (Vedomosti of Verkhovna Rada of Ukraine, 1994, #7, p.34):
Part two of article 4 the words “Cabinet of Ministers of Ukraine” shall be supplemented by the words “or advocates”.


Part two of article 3 the words “intellectual property” shall be supplemented “or advocates”.


In part 1 of paragraph 13 Chapter XV „Final provisions” the words “On Prosecution office” shall be supplemented with the words “On the Bar”.


Paragraph two of part four article 43 the words “on positions of prosecutors and investigators” shall be supplemented with the words “practicing advocacy”.


In part five article 50-1 the words “draft military service” shall be supplemented with words “practicing advocacy”.


supplement paragraph 5.3. article 5 with a sub-paragraph 5.3.7 of the following contents:

„5.3.7. the amount of costs of a self-employed person to income (profit) from entrepreneur activity or independent professional activity, if such a person has not chosen a special (simplified) system of taxation of such type of income (profit) according to the law”.


a) sub-paragraph 7.11.1 shall be supplemented with a paragraph „a” of the following contents:

„a) by legal entities established in line with the Law of Ukraine “On the Bar”;”

b) sub-paragraph 7.11.7 shall be supplemented with a paragraph of the following contents:

„income of non-profit organizations mentioned in paragraph „a” of sub-paragraph 7.11.7, shall be exempted from tax, obtained in the form of one time or periodical fees of founding-advocates or member-advocates (partners) that come to such non-profit organizations as a result of their main activity as well as in the form of passive income”;

в) paragraph one of sub-paragraph 7.11.8 shall be edited in the following wording:

„7.11.8. Income or property of non-profit organizations apart from non-profit organizations mentioned in paragraphs „а” and „в” of sub-paragraph 7.11.1. shall not be subject to distribution among the founders, participants or members; it shall not also be used for the benefit of a certain founder, participant or member of such non-profit organization and its executives (apart from their wages, premiums, deductions and expenditures on social events)”;

g) part one of sub-paragraph 7.11.11. shall be supplemented with the following sentence:

„In case of liquidation of a non-profit organization mentioned in paragraph „а” of sub-paragraph 7.11.1, its assets shall be subject to distribution in line with the law regulating the advocate’s activity in Ukraine”;

r) first sentence of paragraph three sub-paragraph 7.11.13 shall be supplemented with the words “as well as providing legal assistance”.

16) In the Economic code of Ukraine (Vedomosti of Verkhovna Rada (BBP), 2003, N 18, N 19-20, N 21-22, p.144):

Part one of article 4 shall be supplemented with a new paragraph six of the following contents:

„relations regarding practicing advocacy.”

17) In Economic procedural code of Ukraine (Vedomosti of Verkhovna Rada (BBP), 1992, N 6, p.56):

а) article 28 of the Code shall be supplemented by a new part six of the following contents:

„Advocates can also be the representatives of legal entities and physical persons in the economic court. The authority of the advocate as a representative shall be confirmed with the warrant or by power of attorney. According to the warrant, advocate shall be eligible to act from behalf of the person he represents in court, perform any eligible actions. Restrictions of the advocate’s authority
as a representative that is eligible to perform certain procedural actions shall be restricted by his power of attorney.

6) article 44 of the Code shall be edited as follows:

"Article 44. Contents of trial costs

Trial costs shall consist of state duty, sums of money subject to payment for legal expertise established by the economic court, costs related to study and investigation of material evidence at the place where they were found, interpreter fee, expenditures for legal assistance, for information and technical support of the proceedings and other costs related with the consideration of the case."

b) the Code shall be supplemented with a new article 481 of the following contents

"Article 481. Expenditures for legal assistance

Legal expenditures shall include expenditures for legal assistance, including advocate’s fee and costs as well as payment for legal assistance provided by an organizational form of advocate’s practice and other types of expenditures for legal assistance. The law can establish the maximum amount of expenditures for legal assistance that are related to trial costs."

18) the Code of Ukraine on administrative wrongdoings (Vedomosti of Verkhovna Rada of Ukraine (BBP) N 51, p.1122):

a) supplement the Code with a new article 18512 of the following contents:

"Article 18512. Failure to give information following the advocate’s inquiry.

The ungrounded failure to give information or documents following the advocate’s inquiry or failure to give a motivated answer following the advocate’s inquiry shall:

cause the imposition of penalty on executives of an enterprise, institution or organization irrespective of the form of property and entrepreneurship activity of a person in amount of ten non-taxable minimums of citizens’ income; and on the persons who conduct entrepreneurial activity – up to twenty non-taxable minimums of citizens’ income.

Actions envisaged by part one of this article performed by a person that was subject to administrative punishment over the year shall lead to penalty from fifty to one hundred and twenty non-taxable minimums of citizens income."

b) in part one of article 221 of the Code, provisions of “articles 184 – 18511” shall be changed by provisions of “articles 184 – 18512”

b) part one of the article 255 shall be supplemented by a new paragraph 13 of the following contents:

"13) Heads of the Council of Advocates of the Autonomous Republic of Crimea, oblast, the cities of Kyiv and Sevastopol (article 18512)"
Article 271. Defender

When considering the case on administrative wrongdoing, the advocate can participate as a defender. The advocate shall have a right to familiarize with case materials, submit the case, file claims on a decision of the body (official) that is considering the case as well as other rights envisaged by laws of Ukraine.

The authority of an advocate to participate in case consideration shall be confirmed by the warrant or by power of attorney. According to the warrant, the advocate shall be eligible to act on behalf of the person he represents and also perform all eligible procedural actions of the person. The restriction of advocate’s authority as a representative to perform certain procedural actions shall be restricted in his power of attorney.”


a) part one of the article 374 the word “by prosecutor: shall be supplemented with the words “by an official of the facility of the previous imprisonment”;

b) title, the first part of the article 397 before the word “defender” shall be placed by the word “advocate”;

c) title, part one and part two of article 398 before the word “defender” shall be placed by the word “advocate”;

d) the title of article 399 before the word “defender” shall be placed by the word “advocate”;

e) part one of the article 399 before the word “to a defender” shall be placed the word “to an advocate”;

f) title and the contents of article 400 before the word “defender” shall be placed by the word “advocate”;

20) In the Criminal and procedural Code of Ukraine (Vedomosti of Verkhovna Rada (BBP), 1961, N 2 p. 15):

a) title of article 14 1 shall be edited in the following wording:

„Article 14 1. The immunity of housing, protection of citizens’ personal life, the secret of mailing, phone calls and telegraph messages, banking and advocate’s secret”

b) part two of article 14 1 shall be edited in the following wording:

„Personal life of citizens, the secret of mailing, phone calls and telegraph messages, banking and advocate’s secret shall be protected by law.

b) part one of article 43-1 shall be supplemented by paragraph 3 of the following contents:

„3) person against which the criminal case has been launched.”
1) part one of article 44 the word “juridical” shall be changed by the word “legal”.

2) in part two of article 44 words “experts in the area of law that according to the law are eligible to give legal assistance in person or by the order of a legal entity” shall be excluded;

c) paragraph 1 of part three article 44 shall be edited in the following wording:

„1) advocate – by the order of an established specimen”;

e) paragraph 2 part three of article 44 – shall be excluded.

3) in part four of article 44 words “or other expert in the area of law that that according to the law are eligible to give legal assistance in person or by the order of a legal entity” shall be excluded;

3) part three of article 47 shall be edited in the following wording:

„The Person that conducts investigation, investigator or court can appoint a defender according to the established procedure through the Regional Council of Advocates. A requirement of the person that conducts investigation, investigator or court on appointment of a defender shall be subject to compulsory execution by bodies of the Bar self-governance”.

4) part one and second of article 48 shall be edited in the following wording:

„A defender shall use means of defense envisaged by this Code and other laws with the aim to identify circumstances that overturn the suspicion or charge, mitigate the criminal punishment or exclude criminal liability of the accused person, defendant, convict and give them legal assistance. From the moment of access to participation in the case, the defender shall be eligible to do the following, namely:

1) have a confidential meeting with a suspect, defendant, convict before the first interrogation, and after the first interrogation, shall have confidential meetings – without any restrictions in their number and duration;

2) have meetings with a convict or with a person who was subject to enforced measures of medical or educational nature;

3) familiarize with all evidence that make a basis for apprehension or choice of a preventive measure or charge; and after the termination of a pre-trial investigation shall be eligible to familiarize with all case materials, make excerpts and copies and make comments.

4) participate in investigative actions that are conducted with the involvement of the suspect, defendant, as well as in investigative actions that are conducted on their application or on the application of a defender; when pursuing investigative actions, shall ask questions, make own comments and negations on the procedure of investigative actions that are subject to compulsory record;

5) use technical means including those for copying materials of the case to which the advocate gives legal assistance, make a statement of investigative, trial and other procedural actions that involve the advocate’s participation; a person in charge of inquest, investigator, judge, court shall be eligible to
prohibit defender from using technical means exclusively with the aim to prevent from dissemination of data on the intimate life of persons involved in the case and in case of security interests of the person under defense, as well as with the aim to keep a state secret.

6) collect and give evidence, declare applications and rejections;

7) participate in court proceedings during which shall put questions to a defendant, victim, witness, expert, specialist, civil plaintiff and civil respondent and take part in studying other evidence;

8) express opinion during the court proceedings on the issue of applications of other participants of the case consideration;

9) participate in court debates;

10) familiarize with the minutes of court proceedings and transcript of the trial, give own comments;

11) know about appeals of court decisions, prosecutor’s reversals of a judgment, cassation complaints and give own negations;

12) obtain copies of procedural documents and receive written messages in cases envisaged by this Code;

13) appeal judgments, actions or inactivity of the person conducting inquest, investigator, prosecutor, judge, court;

14) on the basis of availability of relevant circumstances, in order to provide security by way of using measures envisaged by this Code and other law of Ukraine.”

i) part six – eight of article 48 shall be edited in the following wording:

“A person conducting an inquest, an investigator shall timely inform the defender on the time and place of the execution of investigative actions that are performed with the participation of a suspect or defendant or following defender’s application.

After gaining an access to participation in the case, a defender shall be eligible to refuse from his duties only in the following cases, namely:

1) in the presence of circumstances that according to this Code exclude his participation in the case;

2) in case of disagreement with a suspect, charged, defendant regarding the way of defense chosen by him;

3) in case of deliberate failure by a defendant to perform terms and conditions of an agreement concluded between him and a defender on the issue of legal assistance;

4) in the presence of circumstances which the body of preliminary investigation, investigator, prosecutor, court consider to be important.
Documents related to a defender’s execution of his duties while being involved in the case shall not be subject to examination, dissemination or extraction by the inquirer, investigator, prosecutor or by court without client’s agreement.”

i) article 52 shall be supplemented with a new part four of the following contents:

„The authority of the victim’s representative, civil plaintiff or civil respondent who is an advocate shall be certified by a warrant or by power of attorney. According to the warrant, the advocate shall be eligible to act on behalf of the person he represents and perform all procedural actions that the person is eligible to perform. Restriction of authority of the advocate, as a representative, to perform certain procedural actions, shall be restricted by a power of attorney.”

ii) article 61 shall be edited in the following wording:

„Article 61. Circumstance that exclude participation of defender in the case

Defender shall not be a person:

1) that was involved in this case in the role of a person who performs inquest, investigator, prosecutor, legal secretary of the proceedings, person that recorded the trial with technical means, judge, expert, specialist, interpreter, jury, victim, civil plaintiff, civil respondent or their representative;

2) that according to this Code was interrogated as a witness to this case;

3) that is a close relative of a person that conducts a pre-trial investigation, of an investigator, prosecutor, any member of the court, victim, civil plaintiff;

4) that has an uncleared or an non-withdrawn criminal record for committing an intentional crime;

5) recognized as incapable or with a limited capability.

A person cannot participate in the case as a defender in the following cases:

1) when he provides legal assistance in a given case or used to give legal assistance to a person, the interests of whom contradict interests of a person that asked for legal assistance;

2) in case of suspension or termination of the Licence on the right to practice advocacy.

The same person shall not be a defender of two or more suspects, charged persons or defendants, convicted or acquitted if the interests of defense of one of them contradict the interests of defense of another one.

κ) article 611 shall be worded as follows:

„Article 611 Rejection of a defender

A defender can be rejected from participation in the case only after resolution of the judge or by court approval on the basis envisaged by this Code.”
Having established circumstances envisaged by article 61 of this Code, after access of a defender to participation in the case, a person conducting an inquest, investigator, with an agreement of a prosecutor, or prosecutor himself, shall submit an application on the rejection of a defender, whereas the victim or his representative submit an application on advocate’s rejection to the court at the place of case investigation or by location of the body of preliminary investigation. A defender shall be sent a copy of documents submitted to court. A judge, within the period of five days, shall consider the submitted application, study the submitted materials or materials that were ordered by him on victim’s request or by request of his legal representative, listen to a prosecutor and defender, should necessity arise, shall inquest the victim, suspect, defendant, their legal representatives, a person who conducts the case and after that shall give a motivated resolution on defender’s rejection or refusal. A copy of resolution on defender’s rejection shall be handed or sent to a defender as well as to his defendant over the period of 24 hours. A suspect, defendant, defender, prosecutor can submit an appeal over the period of three days from the moment of resolution adoption.

When the case is in the process of consideration in court, the issue on defender’s rejection on the basis envisaged by article 61 of this Code shall be considered by the court in charge of this case. The judge’s decision, court’s approval on defender’s rejection alongside with the appeal of the decision of the court of first instance which is the end of execution of procedure can be appealed by a defendant, a person the execution of criminal case of whom was closed, by the charged, an acquitted person, defender and by the prosecutor.

In case of defender’s rejection, a person that conducts an inquest, an investigator, judge or court shall inform the Regional Council of Advocates (organizational form of advocate’s practice), explain the suspect, the charged, defendant his eligibility to invite another defender and give him twenty four hours when under inquest and pre-trial investigation, and when under trial not less than seventy two hours, which shall be a subject to compulsory record. If the suspect, the charged, defendant fails to invite another defender within the mentioned time limits, a person that conducts an inquest, an investigator, a judge by power of his resolution and court by power of its approval, shall appoint a new defender in line with the procedure established by law.

A) article 63 shall be edited in the following wording, namely:

„Article 63. Circumstances that exclude participation in the case of the victims’ representative, civil plaintiff and civil respondent.

The representative of a victim, civil plaintiff and civil respondent shall not be a person that was involved in this case as an investigator or inquirer, prosecutor, public prosecutor, judge, legal secretary, expert, specialist, defender, person that was subject to interrogation or shall be subject to interrogation as a witness on the issues that became known to him before launching criminal litigation as well as a relative of the person that conducts inquest, of the investigator, prosecutor or any person from the body of court.

A person shall not be a representative of the victim, civil plaintiff, civil respondent under circumstances mentioned in paragraphs 4, 5 part one article 61 of this Code.

Under the circumstances mentioned in part one and two of this article, the representative of a victim, civil plaintiff and civil respondent shall declare their rejection without waiting for an application on rejection. On the basis of these circumstances the rejection of a representative can be
declared by a person conducting an inquest, by an investigator or prosecutor, by the suspect, the charged person, defendant, defender, victim and its representative, civil plaintiff, civil respondent or their representatives.

At the stage of inquest and pre-trial investigation, the issue on rejection of the representative following the submission of persons mentioned in part three of this article shall be decided by the judge according to the place of execution of pre-trial investigation. The judge shall consider an application on rejection of the representative, study materials substantiating the application on rejection, communicate with a prosecutor and defender, and if the advocate acts as a representative – the representative of the Regional Council of Advocates as well as the person who is the subject to rejection and shall make a motivated judgment on defender’s rejection or a refusal.

In the process of case consideration in court, the issue on rejection of the representative shall be decided by court in charge of this case. The judge’s decision, court’s approval on defender’s rejection alongside with the appeal of the decision of the court of first instance which is the end of execution of procedure can be appealed by a defendant, a person the execution of criminal case of whom was closed, by the charged, an acquitted person, defender and by the prosecutor.”

м) article 66 following part one shall be supplemented by a new part of the following contents:

„A defender shall have a right to collect evidence in the form of written inquiry of physical persons, with their agreement, on the circumstances related to the case, receiving objects and documents or their copies requested from physical persons and legal entities, written opinion of experts on the issues requiring special knowledge (in particular those that were subject or may be subject to expertise) and also request certificates, characteristics other documents from state authorities, local government and unions of citizens.”

Due to this fact, parts two-three of article 66 shall be considered respectively part three-four.

н) paragraph 2 part one of article 69 the words “respondent” shall be supplemented with the words “as well as advocate’s assistant, intern that is a defender or a representative, officials and technical workers of organizational form of advocate’s practice where the advocate practices advocacy, that is a defender or a representative”.

о) in paragraph one of part one article 69 words “and other experts in the area of law that according to the law are eligible to provide legal assistance in person or on the order of a legal entity” shall be excluded”.

п) part one of article 69¹ shall be supplement with paragraph 10 of the following contents:

„10) for advocate’s legal assistance”

п) article 167 shall be supplemented with part five of the following contents:

„The advocate can be present during witnesses’ interrogation, invited by the witness to provide legal assistance. The advocate shall be eligible to give advice to the witness regarding his legal rights and freedoms, make a declaration in case of their violation. The above mentioned declarations shall be subject to compulsory entering them into the interrogation minutes of the witness”. 

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c) in the title of article 93 words “advocate’s wages” shall be changed for the words “payment for advocate’s legal assistance”.

τ) in part six of article 93 words “wages of defender” shall be changed for the words “payment for defender’s legal assistance”.

γ) part one of article 112 words “by law enforcement officers” shall be supplemented with the words “advocates”.

ϕ) the Code shall be supplemented with a new article 128 of the following contents:

„Article 128 Involvement of a representative of the body of the Bar self-governance.

When pursuing the process of inquiry regarding the advocate, the presence of a representative of the body of local self-governance shall be required.

The representative of the body of the Bar self-governance, present during the execution of such investigative actions, shall certify with his signature the compliance of records of performed actions within the minutes.

Comments made by the representative of the body of the Bar self-governance regarding inquiry actions shall be subject to compulsory record in the minutes.

Under relevant circumstances, the representative of the body of the Bar self-governance shall have a right to provide for security by applying measures envisaged by laws of Ukraine”.

χ) sentence first part one of article 240 the words “prosecutor” shall be supplemented with the words “and a defender”.

ν) part two of article 240 shall be edited in the following wording:

„A previous consideration of the case shall begin with listening to the opinion of the prosecutor and defender regarding the possibility of forwarding the case to court for consideration. If other participants of court consideration have come, they shall express their opinion on the issues mentioned in article 237 of this Code and by their applications. The prosecutor and the defender shall express their opinion on applications made by other participants to court consideration. The judge’s resolution shall be passed in the chamber.”

μ) in part one article 266 the words “expresses his opinion on application of other participants to court consideration” shall be supplemented with the words “on any other issues that arise in the course of court consideration”.

ν) supplement article 266 with a new part three of the following contents:

„In case of changing the defender, the court shall give the defender, that entered into the case, a certain period of time to familiarize with case materials and prepare for participation in court consideration. The change of defender shall not entail the reiteration of actions that took place during the change. Following the defender’s application, court can repeat interrogation of witnesses, victims, experts or other court actions.”

a) part one of article 367 paragraph 1 shall be supplemented with a new paragraph 2 of the following contents:

„2) advocates on the basis of the warrant or power of Attorney. In line with the warrant, the advocate shall be eligible to perform all actions on behalf of the person he represents. Restrictions of advocate’s authority as a representative able to perform certain procedural actions shall be restricted by his power of attorney.”

Due to this, paragraph two shall be considered paragraph three.

b) part one of article 368 the words “persons that are experts in the area of law and according to the law have a right to give legal assistance in person or by order of a legal entity” shall be changed by the word “advocates”.

22) In the Civil procedural Code of Ukraine (Vedomosti of Verkhovna Rada), 2004, N 40-41, 42, p.492):

a) in article 12 words “or by other experts in the area of law”

b) part four of article 42 shall be edited in the following wording:

”4. The authority of an advocate as a representative shall be certified by a warrant issued by an organizational form of advocate’s practice or by power of attorney. According to the warrant, the advocate shall gain the right to act on behalf of the person he represents, all procedural actions eligible to a person he represents. The restriction of advocate’s authority as a representative to perform certain procedural actions shall be restricted by a power of attorney”;

v) in article 56 words “person that is an expert in the area of law and eligible to give legal assistance” shall changed for the word “advocate”;

g) in article 84 words “or other expert in the area of law” shall be excluded;

h) article 92 of the Code shall be supplemented by part three of the following contents:

“Eviction from the court room shall not be applied to advocates as representatives. In case the advocate reiterates actions mentioned in part one of this article, court shall inform about it the Disciplinary Commission of Advocates.”


a) part two of article 16 shall be edited in the following wording:

„2. The Bar of Ukraine shall give legal assistance when considering cases in court of Ukraine. The procedure and terms and conditions of providing legal assistance, rights and duties of advocates shall be determined by this Code and other laws.

b) part five of article 58 shall be edited in the following wording:
”5. The authority of an advocate as a representative shall be certified by a warrant issued by the organizational form of advocate’s practice or by power of attorney. According to the warrant, the advocate shall be eligible to act on behalf of a person he represents, all procedural actions eligible to the person. The restrictions of advocate’s authority as a representative to perform certain procedural actions shall be restricted by his power of attorney.”

v) paragraph 2 part two of article 65 shall be edited in the following wording:

„2) advocates, representatives in trial, defenders in criminal cases – the circumstances of which became known to them through providing by them legal assistance, performing functions of a representative or defender;

r) article 270 of the Code shall be supplemented with part three of the following contents:

“Eviction from the court room shall not be applied to advocates as representatives. In case of a reiteration of the advocate’s actions, mentioned in part one of this article, court shall inform about it the Disciplinary Commission of the Bar.

24) In the Criminal and Executional Code of Ukraine (Vedomosti of Verkhovna Rada ) (BBP), 2004, N 3-4, p. 21 )

a) part two of article 8 of the Code shall be edited in the following wording:

“2. The charged person shall be guaranteed the right to obtain legal assistance.”

β) in paragraph one part three of article 51 of the Code the words “or other experts in the area of law that according to the law have a right to provide legal assistance in person or by order of a legal entity” shall be excluded.

β) in part five or article 73 of the Code the words “or other experts in the area of law that according to the law have a right to provide legal assistance in person or by order of a legal entity” shall be excluded.

γ) in paragraph fourteen part one or article 107 of the Code the words “or other experts in the area of law that according to the law have a right to provide legal assistance in person or by order of a legal entity” shall be excluded.

λ) part three of article 110 of the Code shall be edited in the following wording:

“3. In order to obtain the legal assistance following a written application of the charged person, their close relatives, public organizations, the charged persons shall have a meeting with an advocate. Following the wish of a charged person, their close relatives, public organizations, the charged persons shall be given an appointment with an advocate in private. The appointment shall be provided by the administration of a colony after the advocate shows his identification document that identifies his person. The number and duration of such meetings shall not be limited”.

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c) part fifteen of article 137 shall be edited in the following wording:

“15. When imposing a punishment on a charged person, the administration of the colony shall provide him in line with an established procedure with a possibility to inform his relatives and the advocate”.


a) article 8 shall be supplemented with part three of the following contents:

„Persons that practice advocacy, the aid due to their pregnancy and child birth shall be given on the basis of a copy of the Licence on the right to practice advocacy certified by a notary public”;

b) article14 shall be supplemented by part two of the following contents:

„Persons that practiced advocacy as self-employed persons, the child care aid till the age of three years, shall be provided on the basis of a certificate from the state employment service”.

26) In the law of Ukraine “On the High Council of Justice” (Vedomosti of Verkhovna Rada (BBP), 1998, N 25, p.146 )

a) part two of article 11 shall be excluded.

b) part three of article11shall be edited in the following wording:

”The procedure of summoning and holding the Congress of Advocates of Ukraine shall be established by the Law of Ukraine ”On the Bar”.

27) In the Law of Ukraine “On Social Services” ” (Vedomosti of Verkhovna Rada (BBP), 2003, N 45, p.358)

Paragraph seven part four of article 5 words “the advocate’s assistance” shall be excluded;


a) paragraph 5part one of article 8 shall be edited in the following wording:

„use the advocate’s legal assistance, services of representatives of the trade collective of the organization that provides legal assistance by arranging this authority in line with the procedure established by the law;”


a) second sentence part two of article 8 shall be excluded.

30) In the law of Ukraine “On previous imprisonment” Vedomosti of Verkhovna Rada (BBP), 1993, N 35, p.360 )
a) part four of article 12 shall be edited in the following wording:

“Person under custody shall have a right to have a meeting with an advocate in private without any limitations of the number of the meetings and their duration.

An appointment shall be provided after the defender shows his warrant as well as an identification document. The institutions’ administration shall provide conditions necessary for the meeting, including the presence of the third persons and their possibility to have an access to information that is given during the meeting”.


11. Provisions on the Qualification and Disciplinary Commission of Advocates and provisions on the High Qualification Commission of Advocates approved by Presidential Decree of May 51993 #15/93 shall be valid with taking into consideration provisions of this Law up to the moment of forming bodies of the Bar self-governance.

12. Laws and other normative and legal acts shall be valid in part that does not contradict the norms of this Law.

13. The Cabinet of Ministers of Ukraine within the period of three months from the moment of gaining validity by this Law shall adopt normative and legal acts envisaged by this law as well as provide their execution by ministers and other central bodies of state authority".
Appendix I

(Draft Law No. 2421 of November 8, 2006)

Law on the Bar - Onischuk Draft
Verkhovna Rada (Parliament) of Ukraine hereby decrees:


This Law establishes the basis of organization and activities of the Bar in Ukraine.

Part 1. General provisions
Article 1. Definition of key terms

In this Law the key terms carry the following meaning:

advocate – physical person, which has acquired a special status defined by this Law and has the right to practice advocacy

The Bar of Ukraine – non-governmental self-governing professional remedial institution, which includes all of the advocates;

advocate’s practice – independent, professional activity that provides legal assistance;

advocate’s secret – type of confidential information, content, scope, method of acquisition, safekeeping and usage of which is defined by this Law;
association of advocates – organizational form of advocate’s practice exercised jointly by two or more advocates;

The Bar self-governance — a state- guaranteed right of the advocates to independently resolve problems of organization and activities of the Bar in accordance with procedures defined by this Law;

Appeals Commission of Advocates of Ukraine – national, collegial institution of The Bar self-governance which is a part of the National Council of Advocates of Ukraine and which reviews decisions of disciplinary and qualification commissions of advocates;

advocate’s fee – monetary remuneration of the advocate (association of advocates) for provision of legal assistance;

disciplinary commission of advocates – regional, collegial, Bar self-governing institution, which is a part of the regional council of advocates and aims to review and resolve issues of disciplinary responsibilities of advocates;

agreement on the provision of legal assistance – civic and legal contract according to which one party - the advocate (association of advocates) takes on its behalf the authorization from the other party – the client, or individual who acts in the interest of the client to provide legal assistance, and the other party- the client, or the individual who acts in the interest of the client takes responsibility to pay the advocate’s (association of advocates) fee and also expenses associated with the fulfillment of the contract;

individual advocate’s practice – organizational form of advocate’s practice by one advocate without the creation of a legal entity;

foreign advocate – an individual, who has been authorized to practice advocacy according to the laws of a foreign state;

qualifying examination – assessment of the theoretical and practical levels of knowledge of individuals, who wish to acquire the advocate’s status;

qualification commission of advocates – regional, collegial, Bar self-governing institution that is a part of the regional council of advocates and is meant to determine the level of professional knowledge of individuals, who wish to practice advocacy;

client – physical or legal entity, to whom the advocate provides legal assistance;

National Council of Advocates of Ukraine – national, collegial, executive institution of The Bar self-governance;

warrant of advocate – a written document that verifies advocate’s authority in the provision of legal assistance;
advocate’s assistant – person, who is adequate in accordance with this Law and works for the advocate or association of advocates on the basis of an employment contract;

advocate’s Card – a written document, which certifies the identity and the advocate’s status;

legal assistance – steps aimed at fulfilling and defending the rights, freedoms and lawful interests of the client, which are taken by the advocate on basis, according to order and in manner as defined by this Law;

region – Autonomous Republic of Crimea, oblast’, cities of Kyiv and Sevastopol’;

regional council of advocates – regional collegial executive institution of the Bar self-governance;

advocate’s workplace – building, which is regularly used by the advocate for the provision of legal assistance, and which is located at the address that is used to correspond with the advocate;

Licence on the right to practice advocacy – a written document that certifies the right of the advocate to practice advocacy;

advocate’s intern – an individual who in accordance with requirements of this Law is gaining practical experience for the practice of advocacy;

advocate’s status – a special status determined by this Law that can be achieved by acquiring the right to practice advocacy.

Article 2. Field this Law effects
This Law regulates the relationship of acquisition and termination of the advocate’s status, practice of advocacy, organization and functioning of the system of Bar self-governance in Ukraine.

Article 3. Objectives and principles of organization and functioning of the Bar
The Bar of Ukraine acts to provide the right to defend against a charge and to provide legal assistance.

Organization and functioning of the Bar is based on the principles of the rule of law, humanism, democracy, voluntarism, legitimacy, confidentiality, corporatism, independence, self-governance.

Article 4. Legal regulation of organization and functioning of the Bar in Ukraine
The principles of organization and functioning of the Bar are established by the Constitution of Ukraine, this Law and also by other laws of Ukraine that do not contradict this Law.

Organization and functioning of the Bar is also regulated by other laws of legislation of Ukraine, by decisions of the Bar self-governing bodies.

Article 5. The Bar and the State
The Bar is not a part of the governmental system or of the local self-governance.
The state creates appropriate conditions for the functioning of the Bar and ensures that advocate’s guarantees are safeguarded.

The advocate (association of advocates) has a possibility to choose the system of taxation, accounting and auditing according to the law.

Governmental entities and institutions of local self-governance are obliged to seek consent from the Bar self-governing institutions on the normative-legal bills that relate to issues of organization and functioning of the Bar in Ukraine.

Authorized central executive body:
1) gathers statistical information about the organization and functioning of the Bar;
2) organizes the granting of legal aid at the expense of the state;
3) provides payment of the advocate’s fee and compensation of the advocate’s expenses in case legal aid is provided at the expense of the state budget in accordance to this Law;
4) performs organizational, methodological and informational support of the Unified Register of Associations of Advocates of Ukraine and Unified Register of Foreign Advocates.

Part II. Terms of acquiring, suspending and terminating the advocate’s status

Article 6. Terms of acquiring advocate’s status

Individual acquires advocate’s status if he/she:
1) has fully completed higher legal education;
2) commands the national language;
3) has at least three years of working experience in the field of law;
4) successfully completed the internship;
5) successfully passed the qualifying examinations;
6) took the Oath of an Advocate of Ukraine;
7) received Licence on the right to practice advocacy.

Individual cannot acquire the advocate’s status if he/she:
1) is designated as incapable or partially incapable;
2) performs activities which are incompatible with the advocate’s status;
3) was convicted for premeditated grave or especially grave crime, regardless of the criminal record being suspended or fulfilled;
4) has a closed case where he/she has been accused of premeditated grave or especially grave crime, except if the case has been closed because the crime has not happened, the case has been closed due to the lack of criminal action in the activity of the person or if the person has not been proved guilty of the crime;
5) has an unfulfilled or active criminal record due to committed premeditated crime;
6) has due to the disciplinary penalty her/his Licence for the right to practice advocacy suspended and is dismissed from the position of legal, police and other governmental institutions based on the lack of professional responsibility, violation of the Oath for the duration of three years from the day of such disciplinary penalty.

Article 7. Activities which are incompatible with the advocate’s status

Incompatible with the advocate’s status is:
1) work on a full-time basis in elected or appointed positions in the state or local institutions;
2) military or alternative (non-military) service;
3) activity of a notary;
4) activities of the court expert;

Article 8. Experience in the field of law

The legal work experience needed to acquire the advocate’s status can include the work of:
1) a judge, prosecutor, investigator, notary;
2) judge’s assistant, prosecutor’s assistant, advocate’s assistant, notary’s intern;
3) lawyer (jurist), jurisconsult, head jurisconsult, head of the legal department and other positions in the governmental, municipal, firm or organization irrespective of the form of ownership as long as the position requires the Certificate of higher legal education;
4) employees who teach, train and provide professional preparation in vocationally-technical, higher or post-graduate institutions, if those positions require higher legal education;
5) employees of the research institutions if those positions require higher legal education.

Article 9. Internship

The person who decides to acquire the advocate’s status must go through the internship period of six months with an advocate who has work experience of not less than seven years.

Released from the internship are persons who have been working as an advocate’s assistant for more than one year.

An advocate mustn’t have more than two interns at one time.

The contract of the internship is signed between the individual wanting to acquire advocate’s status and the advocate who will be providing the internship or an association of advocates.

When the contract is signed with the association of advocates for the internship, it must note the name of the advocate who will provide the internship.

The contract for the internship has to be registered with the regional council of advocates within five days of its signing.

The provision on order of the internship and the Programme of the internship is approved by the National Council of Advocates of Ukraine.

The advocate (association of advocates) creates appropriate conditions for the intern to achieve practical experience for the practice of advocacy and ensures the fulfilment of the internship Programme by the intern.

Based on the results of the internship, the advocate (association of advocates) issues to the person who successfully completed the internship a report on the achievement of practical experience necessary for the practice of advocacy. The results of the internship and the conclusion on the achievement of practical experience are valid for three years following the completion of the internship.

Article 10. Advocate’s intern

The intern of the advocate must be a person who has completed higher legal education, has command of the national language and who also meets the requirements of Part Two of Article 6 of this Law.

An advocate’s intern follows the instructions of the advocate, who in turn provides the internship, and the intern cannot carry out any activities, which according to the law are strictly in the competency of an advocate.

The advocate’s intern must keep advocate’s secret and act according to the Rules of advocate’s ethics.
Article 11. Qualifying Examination

The person who fulfils the requirements of par. 1-4 of Part One, Part Two of Article 6 and who expresses the wish to acquire the advocate’s status must submit to the regional council of advocates at his/her place of residence an application to take a qualifying examination.

The following must be attached with the application for taking a qualifying examination:
1) a passport or other document that verifies the individual’s identity;
2) a biographical statement;
3) a copy of employee’s record or other documents that prove the work experience in the field of law;
4) a notarized copy of the higher legal education diploma;
5) a conclusion on the achievement of practical experience necessary for the practice of advocacy;
6) a document certifying the place of residence (if absent in the identification document);
7) a receipt that verifies the payment for the qualifying examination;
8) a certification which confirms non-conviction record;

The regional council of advocates considers the application and makes a decision:
1) on approval for the candidate to take the qualifying examination;
2) on refusal to give permission to take the qualifying examination;

The regional council of advocates makes a decision to refuse the candidate to take the qualifying examination in case of:
1) inadequacy of information provided by the applicant as to the requirements of par. 1-3 of first part and second part of Article 6 of this Law;
2) falsehood of the information provided;

In case of the partial provision of the required supporting documentation, the regional council of advocates suspends the consideration of the application and gives an applicant a term for the fulfillment of the application’s shortcomings.

The period for considering an application shall not exceed one month from the day of its arrival.

In case the additional review is needed to verify the information provided by the applicant, the regional council of advocates can increase the term of consideration of the application to two months.

The order of standing and the Programme of the qualifying examination are confirmed by the National Council of Advocates of Ukraine.

The organization and the carrying out of the qualifying examinations are undertaken by the qualification commission of advocates.

The qualifying examination is held at minimum once per three months.

The qualifying examination is taken in the national language.

The applicant who did not pass the qualifying exam is allowed to retake it not sooner than six months after the first examination.
Article 12. Acquisition of the advocate status

The decision on the issuance of the Licence on the right to practice advocacy is taken by the qualification commission of advocates no later than ten days since the standing of the qualifying examinations by the applicant.

The individual is granted a advocate’s status from the moment of receiving the Licence on the right to practice advocacy and upon taking of the below Oath:

“I________________________, solemnly swear to honestly and diligently defend the rights, freedoms and lawful interests of the client, to provide legal assistance in accordance with the Constitution of Ukraine and the laws of Ukraine, to adhere to the rules of the advocate’s ethics, to value and to keep the name of the advocate of Ukraine and to be loyal to the Oath”.

The wording of the Oath is kept in the individual file of the advocate.

To receive the Licence on the right to practice advocacy one must pay the amount and in order as defined by the National Council of Advocates.

Article 13. Licence on the right to practice advocacy

The advocate’s status is confirmed by the Licence on the right to practice advocacy.

Licence on the right to practice advocacy is issued for the indefinite term.

The validity of the Licence on the right to practice advocacy can be suspended or terminated only on the occasions provided for by this Law.

The format of the Licence on the right to practice advocacy is approved by the National Council of Advocates of Ukraine.

Article 14. Suspension of the Licence on the right to practice advocacy

The valid Licence on the right to practice advocacy is suspended in cases of:

1) an advocate, based on his/her own wishes, applying to suspend the Licence on the right to practice advocacy;
2) an advocate being engaged in activities that are incompatible with the advocate’s status;
3) an advocate gone missing;
4) a disciplinary penalty being imposed on the advocate and his/her Licence on the right to practice advocacy suspended.

The valid Licence on the right to practice advocacy is suspended on the terms noted in part one of this Article.

During the term of suspension of the Licence on the right to practice advocacy, the individual cannot practice advocacy or take part in the activities of the Bar self-governing bodies.

The Bar self-governing institution which took the decision to suspend the Licence on the right to practice advocacy renews the validity of the document within ten days of the receipt of an appropriate application, if determined that the circumstances of part one of this Article have disappeared.

Article 15. Termination of the Licence on the right to practice advocacy

The valid Licence on the right to practice advocacy is terminated in cases of:

1) the advocate, based on his/her own wishes, applying to suspend the Licence on the right to practice advocacy;
2) death of an advocate or an advocate being proclaimed as deceased;
3) the advocate being designated as incapable or partially incapable;
4) the court decision determining the advocate guilty of a premeditated crime gains legal force;
5) a court case being closed where the advocate was accused of premeditated grave or especially grave crime, except if the case has been closed because the crime has not happen, the case has been closed due to the lack of criminal action in the activity of the person or if the person has not been proved guilty of a crime;

6) disciplinary penalty being imposed on the advocate and his/her Licence on the right to practice advocacy terminated;

7) the information based on which the Licence to practice advocacy was issued is determined as false.

Part III. Advocate’s practice

Article 16. The right to practice advocacy

The right to practice advocacy belongs exclusively to the advocates.

Advocate’s practice is carried out in organizational manners determined by this Law.

Advocate’s practice is not considered to be entrepreneurial.

Advocate’s practice takes place across the territory of Ukraine and beyond its borders, if it is provided by the international agreement or by the law of the foreign country.

The term „advocate” can only be used to name the association of advocates and Bar self-governing bodies.

Article 17. Unified Register of Advocates of Ukraine

The Unified Register of Advocates of Ukraine is created to register, collect, keep and to provide verifiable information about advocates who practice advocacy in Ukraine.

The maintenance of the Unified Register of Advocates of Ukraine is done according to this Law and Provision on the Unified Register of Advocates that is approved by the National Council of Advocates of Ukraine.

The administrator of the Unified Register of Advocates of Ukraine is the National Council of Advocates of Ukraine that performs organizational, methodological and informational support of the Unified Register of Advocates of Ukraine and controls the activities of the registration bodies.

The registration bodies of the Unified Register of Advocates of Ukraine are the regional councils of advocates who are authorized to make entries to the Unified Register of Advocates of Ukraine.

The following information is included in the Unified Register of Advocates of Ukraine:

1) surname, name and middle name (patronymic name) of the advocate;

2) registration number and date when the decision to issue the Licence on the right to practice advocacy was taken;

3) name of the institution, which took the decision to issue the Licence on the right to practice advocacy;

4) registration number and date when the Licence on the right to practice advocacy was issued;

5) postal code, address and telephone number of the advocate’s workplace;

6) the manner in which advocacy is practiced; in case it is practiced as the association of advocates- its name and location;

7) information about the suspension or termination of the valid Licence on the right to practice advocacy;

8) information about the disciplinary penalty being imposed on the advocate;
9) date when the information was entered into the Unified Register of Advocates of Ukraine;
10) surname, name and middle name (patronymic name) of the person who entered the
information into the Unified Register of Advocates of Ukraine.

The information of the Unified Register of Advocates of Ukraine is open to all and is placed on
the official web site of the National Council of Advocates of Ukraine for general use.

**Article 18. Advocate’s Card**

Advocate’s Card is issued by the regional council of advocates of Ukraine on the basis of the
Licence on the right to practice advocacy after the information about the advocate has been entered
into the Unified Register of Advocates of Ukraine.

The form of advocate’s card is determined by the National Council of Advocates of Ukraine.

The advocate’s Card contains:
1) surname, name and middle name (patronymic name) of the advocate;
2) advocate’s registration number in the Unified Register of advocates of Ukraine;
3) number of the Licence on the right to practice advocacy;
4) name of the institution, which took the decision to issue the Licence on the right to practice
advocacy;
5) advocate’s photograph;
6) issuance date of the advocate’s Card.

Advocate’s Card is signed by the Head of the appropriate regional council of advocates that
issued the Card and stamped by the seal of the regional council of advocates.

**Article 19. Types of advocate’s practice**

While practicing advocacy, the advocate grants legal assistance by means of:
1) verbal and written consultations, inquiries or explanations of legal questions;
2) drafting of conclusions on legal questions;
3) drafting of statements, complaints, agreements and other documents of legal character;
4) defending the rights, freedoms and legal interests of a suspect, accused individual, defendant,
acquitted person in the criminal legal proceeding;
5) representation and defence of rights, freedoms and legal interests of the client:
   o in constitutional, civil, economic, administrative and criminal legal proceeding;
   o in execution and implementation of a sentence;
   o in a tribunal, international commercial arbitration (court) and other organs for the
decision of disputes;
   o in foreign or international judicial and other bodies;
   o before public and local self-government authorities, legal or physical entities;
6) the provision of legal economic activity of a client, including external economic sphere.

An advocate has the right to provide legal assistance in other manners, not forbidden by the law.

**Article 20. Reasons for providing legal assistance**

An advocate gives legal assistance on the basis of an agreement on the provision of legal
assistance or law.

The powers of an advocate for the provision of legal assistance are proved by the order or the
legal authorization from the client.
Article 21. An agreement on the provision of legal assistance

In an agreement on the provision of legal assistance, the type of legal assistance provided, the advocate's fee, and the order of payment along with other terms are specified at the discretion of the parties involved.

The agreement on the provision of legal assistance is made in written form. The agreement on the provision of verbal or written consultations, inquiries or explanations of legal questions can be made in verbal form with a condition that it is fulfilled immediately during the drafting of the agreement.

The conclusion of the agreement on the provision of legal assistance can be completed by a third person acting on behalf of a client.

Civil legislation of Ukraine, including the peculiarities defined by this Law, is used when concluding an agreement on the provision of legal assistance.

Article 22. Premature termination of the agreement on the provision of legal assistance

The client can singularly terminate the agreement on the provision of legal assistance, immediately informing the advocate about it.

The advocate (association of advocates) can singularly prematurely terminate the agreement on the provision of legal assistance if:
1) a client is deliberately using advocate's assistance for the illegal purposes;
2) a client violates duties foreseen in the agreement on the provision of legal assistance;
3) a proper provision of a legal assistance becomes impossible due to the actions of a client that are taken contrary to the advocate's advice;
4) a client refuses to pay advocate’s expenses as concluded in the agreement and if the expenses are necessary for further provision of legal assistance;
5) in other circumstances foreseen by the law.

In case the agreement on the provision of legal assistance according to positions of this Article is terminated, the advocate (association of advocates) has the right to receive advocate’s fee for practically having provided legal assistance and also be compensated for the expenses associated with the provision of legal assistance, unless otherwise has been concluded in the agreement.

Article 23. Advocate’s fee

The advocate’s (association of advocates) remuneration for the provision of legal assistance is carried out in the form of a fee.

The form of a fee and the order of its payment have to be defined in the agreement on the provision of legal assistance.

Principles of calculation of the fee (fixed sum, per hour, etc) are determined by an agreement between the advocate (association of advocates) and the client and have to be defined in the agreement on the provision of legal assistance.

The agreement on the provision of legal assistance can foresee the possibility of a future change in the fee, defined in fixed sum, due to a substantial growth or reduction of the volume of legal assistance that has to be provided and the consequences if the agreement on this question is not concluded.
Article 24. Payment of the expenses associated with the provision of legal assistance
The advocate’s expenses, associated with the provision of legal assistance, are not included in the advocate’s fee unless otherwise determined by the agreement on the provision of legal assistance.

Types of foreseen expenses, associated with the provision of legal assistance (payment of telephone services, copying and other technical tasks, translation and notarization of documents, transportation costs, etc), and the order of their payment are concluded in the agreement on the provision of legal assistance.

Article 25. Responsibility for a damage inflicted on a client
An advocate (association of advocates) compensates for the damage inflicted on a client when violating the obligation to provide legal assistance.

The size of the material liability of an advocate (association of advocates) cannot exceed the size of actual damages inflicted on the client unless otherwise determined by the agreement on the provision of legal assistance.

If the damage on a client was inflicted by the intern, advocate’s assistant or other employee of the advocate (association of advocates), the advocate (association of advocates) is held responsible.

The association of advocates compensates for the damages its associate has inflicted when providing legal assistance on behalf of the association of advocates.

Article 26. Provision of legal aid by assignment
The order of advocate’s assignment for the protection against a charge is defined by the criminal and procedural legislation of Ukraine.

The advocate’s assignment for the protection against a charge is carried out through the regional councils of advocates.

The payment of the advocate’s fee and compensation for the expenses of the advocate, who provides legal aid by assignment, is carried out by the authorized executive body at the expense of the state budget of Ukraine.

The size and order of payment of advocate’s fee and compensation for the expenses of the advocate, who provides legal aid by assignment, is defined by the Cabinet of Ministers of Ukraine with the approval of the National Council of Advocates of Ukraine.

Article 27. Legal aid at the expense of the state
In cases determined by the law, an advocate provides legal aid to physical entities at the expense of the state.

The organization of the provision of legal aid at the expense of the state is carried out through the regional councils of advocates.

The payment of the advocate’s fee and the compensation of advocate’s expenses in case of provision of such legal aid are carried out by the authorized executive body at the expense of the state budget of Ukraine.

The size and order of payment of the advocate’s fee and compensation for the expenses of the advocate, who provides legal aid by assignment, is defined by the Cabinet of Ministers of Ukraine with the approval of the National Council of Advocates of Ukraine.
Part IV. Organization of advocate’s practice

Article 28. Organizational types of advocate’s practice

An advocate has the right to practice advocacy individually or as a part of association of advocates (a Council, society, firm).

An advocate who individually practices advocacy determines his working place, opens current and other bank accounts, has a round seal and a stamp.

Article 29. Association of advocates

Only advocates can be participants (founders, partners, members) of the association of advocates.

The association of advocates acts on the basis of voluntarism, collective efforts, corporatism and self-governance.

The association of advocates can be created with the status of legal entity or without.

The association of advocates acts on the basis of a statute and (or) partner’s agreement (simple partner agreement).

The agreements on the provision of legal assistance on behalf of the association of advocates (legal entity) are concluded by its authorized representative. On behalf of all of the participants of the association of advocates, established without the status of a legal entity, the agreements on the provision of legal assistance are concluded by one of the participants, granted he possesses appropriate authorization given by other participants, unless otherwise agreed in the partner’s agreement.

The association of advocates is a non-for-profit organization and is maintained by the contributions from advocates- members of the association of advocates, and by other financial sources that are not forbidden by law.

The association of advocates opens current and other bank accounts, has a round seal and a stamp.

Article 30. Registration of association of advocates

An association of advocates, created with the legal status is subjected to the state registration in accordance with the legislation of Ukraine and is considered founded from the moment of the state registration.

The information on the association of advocates is to be entered into the Unified Register of associations of advocates of Ukraine within the period and in order as defined by the Cabinet of Ministers of Ukraine.

Article 31. Unified Register of Associations of Advocates of Ukraine

The Unified Register of Associations of Advocates of Ukraine is created to register, collect, keep and provide verifiable information about acting associations of advocates in Ukraine.

The organization and maintenance of the Unified Register of Associations of Advocates of Ukraine is carried out according to this Law and Provision on the Unified Register of Associations of Advocates which is confirmed by the Cabinet of Ministers of Ukraine.
The administrator of the Unified Register of Associations of Advocates of Ukraine is an authorized executive institution that performs organizational, methodological and informational support of the Unified Register of Associations of Advocates of Ukraine.

The Unified Register of Associations of Advocates of Ukraine must contain the following information:
1) name of the association of advocates;
2) location of the association of advocates;
3) surname, name and middle name (patronymic name) of the members of the association of advocates;
4) registration code of the Unified National Register of Enterprises and Organizations of Ukraine— for association of advocates – legal entities; identification number – for the members of the association of advocates, created without the status of a legal entity;
5) date of entry of the information into the Unified Register of Associations of Advocates of Ukraine;
6) surname, name and middle name (patronymic name) of the person who entered the information into the Unified Register of Associations of Advocates of Ukraine.

The information to the Unified Register of Associations of Advocates of Ukraine should be provided no later than ten days since the moment of founding of the association of advocates.

The association of advocates acquires rights as defined by this Law since the moment of its entry into the Unified Register of Associations of Advocates of Ukraine.

In case of changes to the information contained in the Unified Register of Associations of Advocates of Ukraine, the association of advocates (members of the association of advocates) have to inform the authorized executive institution of such changes within ten days.

The information for the Unified Register of Associations of Advocates of Ukraine and changes of information are carried out by the authorized executive institution within ten days since its receipt, of which the association of advocates is informed by being issued a reference of a set format.

The information of the Unified Register of Associations of Advocates of Ukraine is open to all and is placed on the official web site of the authorized executive institution for general use.

Part V. Rights and duties of an advocate.
Guarantees of advocate’s practice

Article 32. Professional rights of an advocate

While practicing advocacy, the advocate has the right:
1) to choose the organizational form for the practice of advocacy and working place;
2) to choose specialization;
3) to represent and defend the rights and interests of clients in relations with the governmental entities and authorities of local-self governance, legal entities in all forms of ownership and physical entities;
4) to collect and present evidence for cases in which the advocate is providing legal assistance;
5) to receive information or documents, or their copies from state institutions, bodies of local self-governance, legal and physical entities within ten days since the receipt of inquiry (subpoena) with exception of the documents or information whose secrecy is protected by the law;
6) to express his/her view on the actions of other participants of the court case during the court proceeding;
7) to read without obstacles all documents and materials and make copies of them from state institutions, bodies of local self-governance and legal entities, needed for the provision of legal assistance;

8) to familiarize himself/herself with the judicial practice, in particular decisions, sentences and decrees that gained legal force, and with the practice of institutions that resolve disputes in extrajudicial manner;

9) to receive written conclusions of experts on questions that require specialized knowledge;

10) to certify copies of documents in cases where the advocate provides legal assistance, except those which according to the law have to be certified by a notary;

11) to have confidential meetings with a client, including when the latter is detained, retained under guard in the correction facility, without the limit of the quantity and duration of the meetings;

12) to familiarize with all the evidence and procedural documents that constitute the basis for the detention of a client or the basis for implementing a preventive mechanism against the client or for presenting a charge against the client, and at the end of the pre-court investigation – with all of the documents of the case, take notes and copies of them and remark on them;

13) to take part in the investigations when the client is present and also in investigations that are requested by the client or by the advocate himself/herself; while conducting investigation to ask questions, remark and protest the order of investigation that must be noted in the protocol;

14) to use technical means, including copying of materials of the case where advocate is providing legal assistance, to record investigative, judicial and other procedural actions in which the advocate takes part; an individual, who carries out the investigation, detective, judge and court have the right to forbid the use of technical means by the advocate as to prevent the disclosure of private information of individuals who take part in the case and when such measures are needed to help guarantee safety of the people under protection, and also to protect a state secret;

15) to question individuals (with their consent), who know the circumstances important for the case that advocate is assisting with; to record the results of questioning;

16) to declare and report petitions and complaints when received by public servants and also to receive well-reasoned written answers to these petitions and complaints;

17) to be present on board meetings when his/her petitions and complaints are under consideration and give explanations about the nature of petitions and complaints;

18) to familiarize with the protocol (minutes) of the court proceeding and its record, to remark on them;

19) to promptly receive information presented in the case of appeal, prosecutor’s appeal statements and complaints, and give objections to them;

20) to take part in court proceedings;

21) to receive copies of the procedural documents and receive written notifications in cases foreseen by the law;

22) to complain on the decision, actions or inactions of the individual who carries out the investigation, detective, prosecutor, judge, court and other public servant or body in cases where advocate is legally aiding;

23) to protection according to the laws of Ukraine;

24) to employ assistants and other personnel;

25) to pursue other actions that do not violate the laws of Ukraine.

An advocate has the right to take part in the activity of bodies of the Bar self-governance, to elect and be elected for any position in these institutions.
The advocate’s rights under this Law, cannot be repealed, limited or restricted by other laws. The exercise of these rights by an advocate immediately on the basis of this Law is guaranteed.

**Article 33. Advocate’s assistant**

The advocate’s assistant can be a person who has higher (complete, basic, incomplete) legal education, commands the state language and who also corresponds to the requirements of Part Two of Article 6 of this Law. Advocate’s assistant works with the advocate (association of advocates) on the basis of an employment contract.

The advocate’s assistant fulfils responsibilities in cases given by the advocate and cannot fulfil tasks which according to the law are in the sole authority of the advocate.

The advocate’s assistant is required to maintain advocate’s secret and act according to the Rules of advocate’s ethics.

**Article 34. Professional duties of an advocate**

When practicing advocacy, the advocate is required:

1) to professionally and diligently defend the rights, freedoms and legal interests of the client;
2) to adhere to the requirements of the acting legislature, Rules of advocate’s ethics, advocate’s Oath;
3) to execute decisions of the Bar self-governing bodies;
4) to pay annual contributions for the maintenance of the Bar self-governing bodies;
5) to insure, according to the law, civil responsibility for the damage inflicted on a client when providing legal assistance;
6) to advance his/her professional qualifications;
7) to defend an assigned client and provide legal assistance at the expense of the state in cases and order foreseen by the law;
8) to keep advocate’s secret;
9) within ten days inform in written form the regional council of advocates on the changes of advocate’s information that is contained in the Unified Register of Advocates of Ukraine.

The Advocate does not have the right:

1) to use his authority to damage the client;
2) to publicize information without the client’s consent that is a part of the advocate’s secret and use this information in advocate’s interests or interests of third parties;
3) to take position in a case that contradicts the will of the client, except at times when the advocate is not sure of the self-defamation of the client;
4) to regard the client guilty if he/she denies the guilt;
5) to confidentially cooperate with bodies that carry out searches and pre-court investigation;
6) to refuse the prior accepted responsibility to provide legal assistance, except in the cases determined by the law.

**Article 35. Guarantees of practice of advocacy**

Professional rules, honour and dignity of the advocate are protected by the law.

Guarantees of practice of advocacy are:

1) the provision of equal rights of the defender and representative with all of the other participants of the court proceeding;
2) establishment of an administrative responsibility for unjustified provision of information or information by advocate’s request (by subpoena);

3) establishment of a criminal responsibility for the interference in the activities of the advocate, for the actions that threaten life, health, property of the advocate or of his close relatives due to the provision by the advocate of legal assistance;

4) special procedure of opening a criminal case against the advocate (only by decree of the Prosecutor General of Ukraine, his deputies, prosecutors of the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol);

5) obligatory immediate notification of the regional council of advocates on the detention of the advocate or the implementation of a preventive mechanism against the advocate;

6) carrying out of the investigation on the advocate with the obligatory presence of the representative from the regional council of advocates.

Forbidden:

1) any interferences with advocate’s practice and impediments to its execution;

2) the conducting of a search and an examination of the advocate, rooms where the advocate provides legal assistance or lives, the search and confiscation of documents and possessions connected with the advocate’s practice;

3) monitoring and retrieval of the data from informational systems and communication services of the advocate (association of advocates), interception and copying of advocate’s (association of advocates) correspondence, and also the use of special methods of observation and collection of the information on the advocate during his practice of advocacy;

4) to demand from the advocate the presentation of the agreement on the provision of the legal assistance as a proof of the authority to take part in the case;

5) to demand from the advocate, intern, advocate’s assistant and other employees of the advocate (association of advocates) publicizing of the information that is a part of the advocate’s secret and to take any actions for its disclosure;

6) interrogation of the advocate, intern, advocate’s assistant or other employee of the advocate (association of advocates) as a witness in relation to the information that is a part of the advocate’s secret;

7) presentation of the statement by the investigative body, detective, prosecutor and also presentation of a separate judgement of the court (decision of the judge) in regards to the legal position of the advocate in the case;

8) bringing of the advocate to criminal, administrative, civil, financial and other responsibility, or a threat of its use due to advocate’s practice, except in cases as foreseen by the law;

9) forcing into confidential cooperation with institutions that carry out searches and pre-court investigation;

Article 36. Advocate’s secret

The advocates, interns, advocate’s assistants and other employees of the advocate (association of advocates) are obliged to keep advocate’s secret, do not use it in their personal interests or interests of third parties, and also use all possible measures for its safety.

The public and local self-governing bodies, legal and physical entities are obliged to refrain from actions whose effect will cause the disclosure of the advocate’s secret.

The subject of the advocate’s secret is:
1) information about the client or about third parties that became known to the advocate while providing legal assistance (including the notification of the client of his/her crime or other offence);

2) the fact of client’s (individual acting in the interests of a client) appeal to the advocate (association of advocates);  
3) the nature of the case or question that the client (the individual acting in the interests of the client) appealed to the advocate (association of advocates) about; 
4) the content of the agreement on the provision of legal assistance; 
5) the content of legal assistance, granted to the client and any documents (materials), compiled (prepared) by the advocates or received from the client or third parties due to the provision of legal assistance, including those kept in the electronic carriers; 
6) other data, connected to the provision of legal assistance by the advocate (association of advocates). 

Advocate’s secret is not restricted by time.

**Article 37. Social rights of an advocate**

The advocate has the right to all types of aid of social state support on the level of self-employed individual.

The advocates, association of advocates and Bar self-governing bodies can create non-state pensions and social support funds.

**Article 38. International, national and regional associations of advocates**

Advocates and associations of advocates can create and take part in local, regional, national and international guilds, associations, and charitable funds.

**Part VI. Disciplinary responsibility of an advocate**

**Article 39. Disciplinary responsibility of an advocate**

If the requirements of this Law and other legislatives acts of Ukraine that regulate organization and practice of advocacy, advocate’s Oath, Rules of advocate’s ethics are breached, the decision of the disciplinary commission of advocates can use the following measures against the advocate:

1) a warning; 
2) a suspension of the Licence on the right to practice advocacy for the term of one year; 
3) a termination of the Licence on right to practice advocacy.

**Article 40. Examination of cases on disciplinary penalties of an advocate**

The order and terms of the use of disciplinary penalties are defined by this Law and the Decree on the disciplinary action in regards to the advocate, which is ratified by the Congress of Advocates of Ukraine.

The disciplinary penalty can be used against the advocate within the month of the disciplinary breach, but no later than six months since the day of its commitment.

The decision to impose disciplinary penalty can be appealed at the Appeals Commission of Advocates of Ukraine within the month of the decision or at the court.

The decision on the imposition of the disciplinary penalty on the advocate takes legal force following the moment when the term for its appeal ends. The issuance of the advocate’s complaint suspends the execution of the decision.
Part VII. The Bar self-governance

Article 41. The system of organs of the Bar self-governance

The system of organs of the Bar self-governance in Ukraine is created by the Congress of Advocates of Ukraine, National Council of Advocates of Ukraine, assemblies of the regional advocates and regional councils of advocates.

The Appeals Commission of Advocates of Ukraine, qualification, disciplinary and audit commissions of advocates are part of the system of bodies of the Bar self-governance.

Article 42. Participation in the bodies of the Bar self-governance

The right to elect and be elected to the bodies of the Bar self-governance belongs exclusively to advocates.

An advocate cannot be elected to be a part of the same body of the Bar self-governance two consecutive terms in a row and be in elected positions in several institutions of the Bar self-governance at the same time.

The work while in elected positions is public. In cases foreseen by this Law, such work can be performed on the basis of employment contract when the decision is made by the Congress of Advocates of Ukraine or by the assembly of regional advocates.

The advocate is compensated for the expenses incurred while fulfilling the responsibilities while working for the bodies of the Bar self-governance.

Article 43. Assembly of regional advocates

The assemblies of regional advocates are held in the Autonomous Republic of Crimea, oblasts, cities Kyiv and Sevastopol no less than once in three years. Extraordinary assemblies of regional advocates are called by the regional council of advocates:

1) based on its own initiative;
2) based on the demand of one third of advocates of the region.

If the demand of advocates about the convention of an assembly is not fulfilled, these advocates have the right to call the assembly on their own.

The assembly of regional advocates is considered official if in their proceedings participate no less than half of advocates whose working location is in the region.

The notification on the time and place of the regional assembly of advocates is sent out by the regional council of advocates as a recommended letter with a confirmation receipt or by a messenger.

The powers of the assembly of advocates include:

1) the election of the Head and other members of the regional council of advocates, deciding on the premature termination of their powers;
2) the election of the members of the qualification and disciplinary commissions of advocates, deciding on the premature termination of their powers;
3) certification of provisions for the regional council of advocates, qualification commission of advocates, disciplinary commission of advocates, audit commission of advocates of regional council of advocates;
4) approval of the order of the regional assembly of advocates;
5) the election of delegates to the Congress of Advocates of Ukraine;
6) approval of the budget estimate of the regional council of advocates;
7) approval of the report of the regional council of advocates;
8) the election of the audit commission of the regional assembly of advocates and approval of its annual report;
9) the creation of special funds to provide for the advocate’s practice;
10) the resolution of any other questions connected to the organization and the activity of the Bar of the region.

The decisions of the regional assembly of advocates are made by a simple majority of votes who participate in the assembly.

The decision of the regional assembly of advocates on the questions foreseen in par. 1, 2, 3, 6, 7 of part five of this Article, is made by no less than two thirds of the advocates who participate in the assembly.

Article 44. Regional councils of advocates

The regional councils of advocates which are elected through the assembly of advocates of the appropriate region for three years in quantity of nine advocates of the region, operate in the period between the assemblies of advocates in Autonomous Republic of Crimea, oblasts, cities Kyiv and Sevastopol.

The regional council of advocates is a legal entity and acts on the basis of provision on the regional council of advocates, which is approved at the Congress of Advocates of Ukraine.

The regional council of advocates is a non-for-profit organization.

The powers of the regional council of advocates can be prematurely terminated according to the decision of the regional assembly of advocates.

The proceedings of the regional assembly of advocates are considered official if more than two thirds of its members are present at the assembly, and decisions are made by majority of the votes who participate in the proceeding.

The Head of the regional council of advocates is elected by the regional assembly of advocates from the regional council of advocates for three years. The secretariat of the regional council of advocates is responsible for the provision of organizational and technical support of the regional assemblies of advocates.

Article 45. Powers of the regional council of advocates

Powers of the regional council of advocates include:
1) the representation of interests of advocates in relations with state bodies, institutions of local self-government, legal and physical entities;
2) the organization and provision of legal aid at the expense of the government;
3) the organization and provision of legal aid by the advocates by assignment;
4) the convention of a regional assembly of advocates;
5) the execution of decision taken at the regional assembly of advocates, disciplinary and qualification commissions of advocates;
6) organizational, financial and technical support of the regional assembly of advocates, activities of the disciplinary and qualification commissions of advocates according to the budget of the regional council of advocates;
7) the disposal of property of the regional council of advocates according to the budget and function of the property;
8) the creation of special funds for the provision of advocate’s practice;
9) the decision-making on the qualifying examinations;
10) the organization of carrying out of the internship;
11) conducting and keeping of individual files of advocates of the region;
12) the issuance of the Licence on the right to practice advocacy; taking of an advocate’s Oath;
13) organizing of the events for the advancement of qualifications of regional advocates (organization of seminars, forums, conferences, etc);
14) entering of the data to the Unified Register of Advocates of Ukraine;
15) the resolution of other issues that are in the powers of the regional council of advocates as determined by this Law, by decision of the Congress of Advocates of Ukraine or by the regional assembly of advocates that are within the assembly’s competencies.

Article 46. Congress of Advocates of Ukraine

The Congress of Advocates of Ukraine is the highest body of the Bar self-governance in Ukraine.

The Congress of Advocates is convened at least once per three years.

Extraordinary Congress of Advocates of Ukraine can be convened on the initiative of the National Council of Advocates or on the demands of the five regional councils or one fifth of the advocates registered in the Unified Register of Advocates of Ukraine.

The Congress of Advocates of Ukraine is considered official if at least half of the elected delegates take part in its proceeding.

The delegates to the Congress of Advocates of Ukraine are elected by the regional assembly of advocates according to the representational norm, defined by the National Council of Advocates of Ukraine.

The order of work and authority of the Congress of Advocates of Ukraine is determined by this Law and by the Regulations of Congress of Advocates of Ukraine.

Article 47. Authority of Congress of Advocates of Ukraine

The exceptional plenary powers of the Congress of Advocates of Ukraine include:

1) the election of the Head and members of the National Council of Advocates of Ukraine, members of the audit commission of the National Council of Advocates of Ukraine, decision-making on the premature termination of their powers;
2) the election of members of the Appeals Commission of Advocates of Ukraine and decision-making on the premature termination of their powers;
3) the appointment of the members of High Council of Justice of Ukraine, and decision-making on the premature termination of their powers;
4) the ratification of the annual report of the National Council of Advocates of Ukraine, the audit commission of the National Council of Advocates of Ukraine, and of the appointed members of the High Council of Justice of Ukraine;
5) the ratification of the Rules of advocate’s ethics;
6) the ratification of the Provision on the disciplinary penalty for the advocate;
7) the ratification of the Regulations of Congress of Advocates of Ukraine;
8) the ratification of the Provision on the National Council of Advocates of Ukraine and the Provision on the Appeals Commission of Advocates of Ukraine;
9) the ratification of the Standard statute on the regional councils of Ukraine;
10) the ratification of the Provision on the qualification and disciplinary commissions of the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol;
11) the ratification of the budget of the National Council of Advocates of Ukraine;
12) the determination of the yearly contribution for the maintenance of the Bar self-governing bodies;
13) the determination of the order and norms of deductions of costs for the implementation of resolutions of the National Council of Advocates of Ukraine by the regional councils of Ukraine;
14) the resolution of other issues, connected with the organization and activity of the Bar of Ukraine.

The decisions of the Congress of Advocates of Ukraine are made by a simple majority of votes of the delegates present of the convention. The decisions on the issues foreseen by points 1, 2, 3, 4, 11 of the first part of this article are taken by the majority of the elected delegates to the Congress of Advocates of Ukraine.

Article 48. National Council of Advocates of Ukraine

The National Council of Advocates of Ukraine acts in the period between the meetings of Congress of Advocates of Ukraine.

The National Council of Advocates of Ukraine is composed of the twenty one advocates who are elected by the Congress of Advocates of Ukraine.

The term of office of the members of the National Council of Advocates of Ukraine is three years.

The National Council of Advocates of Ukraine is a legal entity and acts on the basis of the Statute on the National Council of Advocates of Ukraine, which is ratified by the Congress of Advocates of Ukraine.

The National Council of Advocates of Ukraine is a non-for-profit organization.

The plenary powers of the National Council of Advocates of Ukraine can be terminated by the decision of the Congress of Advocates of Ukraine.

The powers of the National Council of Advocates include:

1) the representation of the interests of the Bar of Ukraine in relations with the state institutions, local self-government bodies, legal and physical entities;
2) the convocation and organization of the Congress of Advocates of Ukraine;
3) the determination of norms of representation of regional advocates at the Congress of Advocates of Ukraine;
4) the ratification of the statute on the Unified Register of Advocates of Ukraine;
5) the ratification of the format of the Certification on the right to practice advocacy, advocate’s Licence and warrant of advocate;
6) the consideration of complaints on the decisions by the regional councils of advocates;
7) the maintenance of the Unified Register of Advocates of Ukraine;
8) the determination of the size of the payment for the qualifying examinations, and the payment for the issuance of the Licence on the right to practice advocacy;
9) the ratification of the Order and the Programme of the qualifying examination;
10) the ratification of the Statute on the order and the Programme of the internship;
11) the organizational, material and technical support of the Congress of the Advocates of Ukraine, the activities of the Appeals Commission of Advocates of Ukraine, the audit commission of the National Council of Advocates of Ukraine, and other institutions created by the Congress;
12) the resolution of other issues, related to the powers of the National Council of Advocates of Ukraine by this Law or by decision of the Congress of Advocates of Ukraine that is within the competency of the latter.

The session of the National Council of Advocates of Ukraine is considered official if at least two thirds of the members of the National Council of Advocates of Ukraine are present at the session. The decisions are taken by the majority vote of the members of the National Council of Advocates of Ukraine present at the session.

The secretariat is created for the organizational and technical support of the National Council of Advocates of Ukraine.

**Article 49. Head of the National Council of Advocates of Ukraine**

The Head of the National Council of Advocates of Ukraine is elected by the Congress of Advocates of Ukraine from the members of the National Council of Advocates of Ukraine for the duration of three years.

The powers of the Head of the National Council of Advocates of Ukraine include:

1) the representation of the National Council of Advocates of Ukraine in relations with the state institutions, bodies of local self-governance, legal and physical entities;

2) the organizational leadership of the National Council of Advocates of Ukraine;

3) the employment and the termination of employment of workers of the secretariat of the National Council of Advocates of Ukraine;

4) chairmanship during the session of the National Council of Advocates of Ukraine;

5) the signing of decisions and other documents of the National Council of Advocates of Ukraine;

6) the execution of other tasks as foreseen by this Law, by the decision of the Congress of Advocates of Ukraine or by the National Council of Advocates of Ukraine that is within the competency of the latter.

The powers of the Head of the National Council of Advocates can be prematurely terminated by the decision of the Congress of Advocates of Ukraine.

The Head of the National Council of Advocates of Ukraine carrying out his responsibilities on the terms of an employment contract.

**Article 50. Qualification commissions of advocates**

For the implementation of the plenary powers foreseen by Part Three of this Article, the qualification commissions of advocates are elected in the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol at the regional councils of advocates during the regional assembly of advocates. The elected members to qualification commissions of advocates must consist of nine advocates whose advocate's experience is at least seven years.

The qualification commission of advocates elects the Head of the qualification commission of advocates from its members for the term of three years.

The qualification commission of advocates acts on the basis of this Law and on the basis of the Statute on the qualification and disciplinary commissions of advocates of the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol, which is ratified by the Congress of Advocates of Ukraine.

The powers of the qualification commission include:
1) the organization and the conducting of the qualifying examinations;
2) the decision on the issuance of the Licence on the right to practice advocacy;
3) the decision-making in regards to suspension, renewal or termination of the Licence of the right to practice advocacy;
4) the resolution of other issues that are in the competency of the qualification commission of advocates in accordance with this Law, the decision of the Congress of Advocates of Ukraine or the decisions made by the regional assembly of advocates so long as it is within the competency of the latter.

The session of the qualification commission of advocates is considered official if no less than two thirds of the members of the qualification commission of advocates are present. The decisions at the session are made by a majority of votes of the present members of the commission.

On the invitation of the qualification commission of advocates, the representatives of the state and local self-governing authorities, employees of research institutes and educational establishments can take part in the commission’s session with the right of advisory vote.

The decision of the qualification commission of advocates must be sent to the person it concerns no later than five days following the decision by means of recommended letter with the confirmation receipt or by giving the envelope personally and requiring to sign it.

The decision of the qualification commission of advocates can be appealed at the Appeals Commission of Advocates of Ukraine following the moment of the decision being made or at the court.

Article 51. Disciplinary commission of advocates

For the consideration and resolution of issues relating to disciplinary responsibility of advocates, the disciplinary commissions of advocates are elected in the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol at the regional councils of advocates during the regional assembly of advocates. The elected members to disciplinary commissions of advocates must consist of nine advocates whose advocate's experience is at least seven years.

The disciplinary commission of advocates elects the Head of the disciplinary commission of advocates from its members for the term of three years.

The disciplinary commission of advocates acts on the basis of this Law and on the basis of the Statute on the qualification and disciplinary commissions of advocates of the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol, which is ratified by the Congress of Advocates of Ukraine.

The powers of the disciplinary commission include:
1) the examination of complaints on the advocate;
2) the examination and resolution of cases about the disciplinary penalties;
3) the use of the disciplinary penalty in regards to the advocate;
4) the resolution of other issues that are in the competency of the disciplinary commission of advocates in accordance with this Law, the decision of the Congress of Advocates of Ukraine or the decisions made by the regional assembly of advocates so long as it is within the competency of the latter.

The session of the disciplinary commission of advocates is considered official if no less than two thirds of the members of the disciplinary commission of advocates are present. The decisions at the session are made by a majority of votes of the present members of the commission.

On the invitation of the disciplinary commission of advocates, the representatives of the state
and local self-governing authorities, employees of research institutes and educational establishments can take part in the commission’s session with the right of advisory vote.

The decision of the disciplinary commission of advocates must be sent to the person it concerns no later than five days following the decision by means of recommended letter with the confirmation receipt or by giving the envelope personally and requiring to sign for it.

The decision of the disciplinary commission of advocates can be appealed at the Appeals Commission of Advocates of Ukraine following the moment of the decision being made or at the court.

**Article 52. Appeals Commission of Advocates of Ukraine**

The Appeals Commission of Advocates of Ukraine is elected by the Convection of Advocates of Ukraine for the review of the decision made by the qualification and disciplinary commissions of advocates. The Appeals Commission of Advocates of Ukraine consists of fifteen advocates whose advocate’s experience is at least ten years.

The composition of the Appeals Commission of Advocates of Ukraine is elected by the Congress of Advocates of Ukraine for the term of three years.

The Appeals Commission of Advocates of Ukraine elects the Head of the Appeals Commission of Advocates of Ukraine from its members for the term of three years.

The Appeals Commission of Advocates of Ukraine acts at the National Council of Advocates of Ukraine and on the basis of the Law and the Statute on the Appeals Commission of Advocates of Ukraine that is ratified by the Congress of Advocates of Ukraine.

Appeals Commission of Advocate of Ukraine based on the results of the examination of the decisions made by the qualification or disciplinary commissions of advocates:

1) retains without changes the decision of the qualification or disciplinary commissions of advocates without changes;
2) changes the decision of the qualification or disciplinary commissions of advocates;
3) terminates the decision of the qualification or disciplinary commissions of advocates and issues a new decision.

The session of the Appeals Commission of Advocates of Ukraine is considered official if at least two thirds of the members of the Appeals Commission of Advocates of Ukraine are present. The decisions during the session are taken by a majority vote of the commission members present at the meeting.

**Article 53. Decisions of the Bar self-governing bodies**

The decision of the Congress of Advocates of Ukraine and the National Council of Advocates of Ukraine, made within the competencies of the former and the latter, as defined by this Law, are obligatory to be implemented by all of the advocates and associations of advocates of Ukraine.

The decisions of the regional assemblies of advocates and of the regional council of advocates made within the competencies of the former and the latter, as defined by this Law, are obligatory to be implemented by all of the advocates and associations of advocates of these regions.

The decisions of bodies of the Bar self-governance come into force from the moment of their adoption, unless otherwise stated in the decision.

**Article 54. Financial provision of bodies of the Bar self-governance**

Financing of the institutions of the Bar self-governance is carried out by:
1) the contributions for the conducting of the qualifying examinations;
2) proceeds from the issuance of the Licence on the right to practice advocacy;
3) annual contributions by the advocates for the support of the institutions of the Bar self-governance;
4) proceeds from the convocation of conferences, seminars and other events of the institutions of the Bar self-governance in regards to the advancement of the qualification of advocates;
5) voluntary contributions by the advocates and association of advocates;
6) charitable donations (offerings), that come from legal or physical entities;
7) other sources allowed by the legislation.

The amount of annual contribution by the advocate for the support for the bodies of the Bar self-governance cannot be determined proportionally to the advocate’s fee.

The funds must be placed on the accounts of the regional councils of advocates and be exclusively used by the councils according to the budget ratified by the regional assemblies of advocates.

The funds foreseen by points 4-6 of part one of this Article, can be directly placed on the account of the National Council of Advocates of Ukraine and be used according to the budget of the National Council of Advocates of Ukraine, ratified by the Congress of Advocates of Ukraine.

To control the use of funds of the National Council of Advocates Ukraine and of regional councils of advocates, the appropriate audit commissions are elected, consisting of five advocates, by the Congress of Advocates of Ukraine and by the regional assemblies of advocates for the period of three years. The audit commissions are accountable to the Congress of Advocates of Ukraine and to the regional assemblies of advocates respectively.

**Part VIII. Provision of legal assistance by a foreign advocate**

**Article 55. Legal assistance by a foreign advocate**

A foreign advocate can provide legal assistance in Ukraine only regarding legislative questions of the foreign state, which bestowed the advocate’s status to him/her, granted that the foreign country provides such opportunities to Ukrainian advocates.

A foreign advocate has the right to provide legal assistance on the territory of Ukraine from the moment of his registration with the Unified Register of Foreign Advocates.

The administrator of such register is the authorized central executive body.

The document which proves the right of the foreign advocate to practice advocacy is an excerpt from the registry of foreign advocates that can be obtained for a fee.

When providing legal assistance in Ukraine, the foreign advocate uses the same rules and bears same responsibilities as an Ukrainian advocate, with the exception of rights and responsibilities regarding the provision of legal aid at the expense of the state, or by assignment, and with the exception of participation in the bodies of the Bar self-governance and other circumstances as foreseen by the law.

For the violation of the terms of this Law, and other legislative acts of Ukraine that regulate the practice of the Bar, Rules of advocate’s ethics the decisions taken by the disciplinary commission could include the following disciplinary penalties:

1) a warning;
2) exclusion from the Unified Register of Foreign Advocates.

The order and terms of the disciplinary penalties for the foreign advocate are determined by Part IV of this Law, the Statute on disciplinary penalties for the advocate, which is ratified by the Congress of Advocates of Ukraine, while considering the peculiarities as defined by this Article.
Part IX. Concluding and transitional positions

1. This law goes into effect from the day of its publication.

2. The proposition of the Articles 6, 9, 10 of this Law about the importance of the internship and the status of the intern go into effect within three years of the publication of this Law.

3. The advocate’s status is reserved for the persons who currently, at the moment of this Law going into effect, have the Licence on the right to practice advocacy and practice advocacy.

   If the Licence on the right to practice advocacy and the advocate’s Licence are valid at the time when this Law goes into effect, they are valid as such and do not need a replacement.

   The individuals, mentioned in part one of this point, within one month from the day of this Law going into effect are required to provide information as foreseen by par. 1-6 of part five Article 17 of this Law to the qualification and disciplinary commissions of advocates.

   Non-fulfilment of the noted requirements can become a basis for the suspension of the Licence on the right to practice advocacy up until the information is provided to the qualification and disciplinary commission of advocates (when formed- to the regional council of advocates).

4. If other is not concluded by the international agreement of Ukraine, which effectively gained force, the higher legal education in this Law is considered to be the education acquired in the educational establishment of Ukraine, and also in the educational establishment of the USSR up until 23 May 1991.

5. The person who did not hold an internship and didn’t take qualifying examinations, but fulfils the requirements of points 1-3 of part one and two of Article 6 of this Law at the moment of this Law going into effect, has the right to acquire the advocate’s status:

   1) during the last five years works in the positions that require the possession of a complete higher legal education, in the association of advocates, in the advocate’s office or at the enterprise whose main type of activity is the provision of services in the field of law;

   2) during the last five years systematically provides services in the field of law as a physical person– as a subject of entrepreneurial activity, if legal services are the main type of its activity.

   The individuals who wish to acquire the advocate’s status according to the requirements of this point are obliged during six months after this Law goes into effect to provide, according to the place of the residence, to the regional council of advocates, but before its creation to the qualification and disciplinary commission of advocates:

   1) the application on the issuance of the advocate’s status;

   2) the documents, which confirm the circumstances foreseen by the subpar. 1 or 2 of part one of this point;

   3) the documents foreseen by part two of Article 11 of this Law.

   The consideration of documents and grant of an advocate’s status is carried out in a procedure as noted by the articles 11, 12 of this Law.
6. The bringing of constitutive documentation of associations of advocates and entrepreneurial societies, whose basic type of activity is providing services in the field of law and which operate at the time of this Law coming into effect, in line with the provisions of this Law is carried out within six months from the moment of this Law coming into effect.

7. For the purposes of this Law, the period of a systematic provision of services in the field of law by a physical person – a subject of entrepreneurial activity, in case of the legal activity being its main type of occupation, is counted as the experience in the field of law.

8. With the purpose of election of bodies of the Bar self-governance, the constitutive assemblies of advocates in the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol are held, and also the constitutive Congress of Advocates of Ukraine is convened. The constitutive assemblies of advocates and constitutive Congress are conducted not later than one year since the moment of this Law coming into force.

With the purpose of organization of assemblies of advocates, the qualification and disciplinary commission of advocates of a given region:

1) forms the lists of advocates of the region;
2) notifies all advocates of the region about a date and place of assemblies by publishing of the appropriate advertisement in the mass media, and also by a written invitation to all associations of advocates registered on territory of a given region;
3) notifies advocates of the tentative assembly’s agenda;

The information as foreseen by the subpar. 2, 3 of part two of this point, is to be sent to the advocates of the region not later than ten days prior to the date of the assembly by recommended mail with the confirmation receipt.

Whether an advocate belongs to a given region is determined by the location of the workplace of the advocate.

The date, time and place of the assembly, and also the agenda of the assembly are concluded in accordance with the provisions of this Law by the qualification and disciplinary commission of advocates of a given region.

The assembly is considered official when at least half of the advocates of a given region are present.

The opening of the constitutive regional assembly of advocates is bestowed upon the Head of a given qualification and disciplinary commission of advocates. The mandate and returning commissions are elected as to provide for the appropriate conducting of the constitutive assembly of advocates.

9. The constitutive regional assembly of advocates elects the delegates for the constitutive Congress of Advocates of Ukraine. The representational norm is determined by the quantity of the advocates in a given region: one delegate per fifty advocates. The preparations for the convocation of the constitutive Congress of Advocates of Ukraine are bestowed upon the High Qualification and Disciplinary Commission of the Bar of Ukraine at the Cabinet of Ministers of Ukraine.

All of the decisions regarding the organization of the constitutive Congress of Advocates of Ukraine are taken by a simple majority of votes of members of the High Qualification and Disciplinary Commission of the Bar of Ukraine.

With a purpose of preparations for the constitutive Congress of Advocates of Ukraine, the High Qualification and Disciplinary Commission of the Bar of Ukraine:
1) forms organizational commission of the constitutive Congress of Advocates of Ukraine;

2) notifies the delegates of the first Congress of Advocates of Ukraine about the date and place of the Congress and provides them with the tentative agenda of the meeting.

The information as foreseen by the subitem 2 of part four of this point, is to be sent to the delegates of the constitutive Congress of Advocates of Ukraine not later than ten days prior to the date of the meeting by recommended mail with the confirmation receipt.

The Ministry of Justice of Ukraine, Main administration of Justice of the Ministry of Justice in the Autonomous Republic of Crimea, oblasts, regional administrations of justice of Kyiv and Sevastopol are required to provide informational and organizational support to the High Qualification and Disciplinary Commission of the Bar of Ukraine at the Cabinet of Ministers of Ukraine, in conducting of the constitutive Congress of Advocates of Ukraine.

If at least half of the elected delegates of the constitutive Congress of Advocates of Ukraine are present, the Congress is considered official.

The opening of the constitutive Congress of Advocates of Ukraine is bestowed upon the Head of the High Qualification and Disciplinary Commission of the Bar of Ukraine. The mandate and returning commissions are elected as to provide for the appropriate conducting of the constitutive Congress.

10. The Statute on the Unified Register of Advocates of Ukraine, ratified by the decision of the High Qualification Commission of the Bar of Ukraine at the Cabinet of Ministers of Ukraine from October 1, 1999 № 6/2, and the Statute on the registration procedures of the associations of advocates, ratified by the Cabinet of Ministers of Ukraine dated April 27, 1993, are in force until the Statutes on the Unified Register of Advocates of Ukraine and the Unified Register of Associations of Advocates of Ukraine are ratified according to this Law.

11. The Statute on the Qualification and Disciplinary Commission of the Bar of Ukraine and the Statute on the High Qualification and Disciplinary Commission of the Bar of Ukraine, ratified by the Presidential Decree dated May 5, 1993 № 15/93, remain in force considering the provisions of this Law until the institutions of the Bar self-governance are created.

12. Laws and other normative-legal acts remain partially in force that does not contradict the norms of this Law.

13. The Cabinet of Ministers of Ukraine shall within three months following this Law coming into force, adopt normative-legal acts that are foreseen by this Law and also provide for their implementation by the Ministries and by other executive bodies.