



The legal profession in Belarus

I. GENERAL INFORMATION

Belarus has a population of approximately 9.5 million and 1991 lawyers (in 2016).

According to the Belarusian legislation, only advocates are entitled to provide professional legal assistance. Other legal degree holders are not permitted to be defenders or representatives in criminal, civil and administrative proceedings.

II. TRAINING

Initial training of lawyers: Law degree. Traineeship of 3-6 months (for those with work experience in the legal field of at least 3 years) or 6-12 months (for those with less than 3 years of work experience) followed by the qualification exam.

The activity of an advocate in Belarus is licensed. Licenses are issued by the Ministry of Justice upon the decision of the Ministry Board on the advice of the Qualification Commission.

Continuous training: The issue of further continuous training of advocates is administered by the National Bar Association, which organises qualification upgrade courses.

Regional bar associations also organise continuous training courses. In addition, there are courses for advocates in different fields of law organised at the level of legal consultations and law firms.

III. DISCIPLINE

The Ministry of Justice has the power to regulate the legal profession. In practice, the Ministry of Justice does not interfere with the activities of advocates except for licensing issues.

The Law determines the establishment and the competence of a separate body, which considers the advocates' disciplinary liability issues: the Disciplinary Commission. The Disciplinary Commission is created by the supreme body of advocates' self-management and is in charge of disciplinary proceedings.

Examples of disciplinary sanctions:

- admonition;
- written reprimand;
- expulsion from the regional bar association.

The list of grounds for expulsion from the regional bar association is specified by Law. For instance, "systematic (**2 and more times during 12 consecutive months**) violation of requirements and conditions for the exercising of advocate's professional activities, established by the legislation".

In addition to the disciplinary proceedings which could be initiated by the bar association, the Ministry of Justice as a licensing authority also has the power to impose sanctions on advocates. These sanctions

may be imposed after establishing the violations of licence requirements and conditions by the Ministry of Justice. The sanctions include an order of the Ministry on remedial action, suspension and termination of the licence to practice as an advocate.

IV. LEGAL AID

Free legal aid is provided on the basis of Art. 28 of the Law “On Advocacy and Advocatory Activities” and is funded by bar associations as well as from the budgets of the republican and (or) local authorities.

Examples of cases when free legal aid is provided:

- To all citizens in preparation of applications for pensions and allowances;
- To minors acting in their interests, to their parents (guardians) – acting in the interests of children;
- In case of failure to pay for advocates’ services in criminal proceedings, the legal assistance would be provided at the expense of advocacy.

There are certain days when bar associations provide legal assistance to citizens free of charge: March 14 – Constitution Day, June 26 – Day of Advocacy Establishment in Belarus, 1 October – Day of Older Persons, etc. Advocates hold charity events providing legal assistance for the disabled, families with children with disabilities, and others.

V. CURRENT CONCERNS OF THE BAR

Current concerns of the Bar and main challenges in the coming years: the status of a lawyer, legal aid and independence of the legal profession

Independence: One of the most fundamental issues in the work of an advocate is the regulation of relations between the profession and the state. An advocate needs to be independent so he or she can provide effective assistance.

An advocate, who feels the pressure, cannot provide adequate legal advice. For that reason, the question of the quality of work arises. If an advocate is not independent or is afraid to speak openly, the protection will be of poor quality.

Main issues to be improved in the national legislation:

- Receiving answers to advocates’ requests from public authorities: in most cases, advocates’ requests are not considered, and there is no statutory obligation on the public authorities to provide required information to an advocate. An advocate’s request should serve as an effective tool for the implementation of constitutional rights of citizens to legal assistance. Referring to the legislation on the informatisation and protection of information, public authorities refuse to grant advocates certain information and recommend to obtain the required information through courts and law enforcement agencies, which delays the process. As a result, the rights of citizens to receive quality legal assistance are infringed.
- Professional secrecy: The Law provides for professional secrecy for lawyers, but the mechanism of its protection is not regulated in detail.

For instance, the fact of addressing an advocate for legal assistance is not covered by professional secrecy. **For the purposes of the protection of professional secrecy, it is necessary:**

- to extend the legal regime of professional secrecy to other parties (technical staff and other employees of advocates), which will help to reduce unauthorised access to privileged information in the future;
- to ensure that there is a reliable legal mechanism to preserve and protect professional secrecy. Any information provided by the client shall be subject to professional secrecy.