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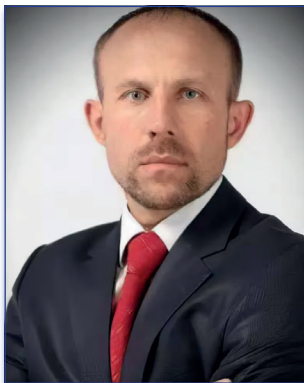
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The Lawyer's Role In Ensuring Pro Bono Human Rights During Marital State In Ukraine

Abstract. The article states that the issue of human rights in Ukraine today is relevant and urgent, especially in the conditions of martial law; it is indicated that according to Art. 131-2 of the Constitution of Ukraine for the provision of professional legal assistance in Ukraine there is a Bar whose independence is guaranteed; it is emphasized that a person's right to legal aid in accordance with Art. 59 of the Constitution of Ukraine is one of the inalienable human rights, and the main institution that provides such assistance is the Institute of Advocacy; attention is drawn to the fact that since the armed conflict on the territory of Ukraine continues and the number of IDPs is increasing, the need to provide free legal aid only increases; it is indicated that the possibility of access to free legal aid for IDPs, by combining the state system and public initiatives, is of particular importance in the context of ensuring the right of access to court and protection of human rights; it is noted that the provision of legal aid on pro bono terms in Ukraine, especially in the conditions of a full-scale invasion of the Russian Federation, is a widespread and popular phenomenon, especially for those categories of persons who do not have the funds to pay for these services; it is emphasized that the functioning of free legal aid for categories of citizens who need it is of special and important importance in the context of ensuring the right of access to court and protection of human rights.

This Article Purpose is to form a renewed view of the “pro bono” institution from the standpoint of ensuring a balance between serving the interests of an individual client and society in general; disclosure of the peculiarities of the professional activity of a lawyer and the Ukrainian legal profession in the conditions of martial law. The authors set the main tasks: to analyze the activities of the self-governing bodies of lawyers, in particular the National Association of Lawyers of Ukraine, in the conditions of armed aggression by Russia; to reveal some features of advocacy activities in wartime conditions; to analyze the activities of the Board of Trustees of the National Association of Lawyers of Ukraine and foreign partners regarding assistance to Ukrainian lawyers.

It was concluded that free legal aid is a socially useful phenomenon. “Pro bono” is a kind of indicator of ensuring the equality of human rights and their protection. For the further development of this institute, it is necessary to find effective mechanisms for stimulating the provision of pro bono legal



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services. Now, more than ever, Ukraine needs a high-quality system of providing legal assistance to vulnerable sections of the population.

Key words: lawyer, human rights, pro bono, martial law, internally displaced person, full-scale invasion of the Russian Federation, Law of Ukraine, free legal aid.

Formulation of Research Problem. Today, the Ukrainian legal profession relies more than ever on internal unity, consolidation and support from the authorities, as well as, accordingly, on the level of permanent trust from citizen-clients. Currently, those who are in Ukraine and have not changed their place of residence, as well as internally displaced persons and refugees, need protection of their rights. It is hardly possible to exaggerate the role of lawyers in ensuring human rights, both in Ukraine and abroad¹. Therefore, the issue of human rights in Ukraine today is more relevant and urgent than ever, especially in the conditions of martial law, also because someone may mistakenly believe that they have the right to disregard the parameters of the rule of law.

Analysis of Essential Researches and Publications. A sufficient number of scientific publications have been devoted to pro bono advocacy in the provision of human rights: L. Izotova's "The role of lawyers in the provision of human rights during martial law in Ukraine cannot be exaggerated"²; "The UBA, by its decision, provided for the possibility for lawyers to indicate in the UUBA the provision of pro bono services for the military"³; "Lawyers in online offices will be able to add notes regarding Pro Bono services for the Armed forces of Ukraine: the decision of the Ukrainian Bar Association"⁴; "The Military Committee of UNBA prepared two memos on providing legal assistance to the military of the Armed Forces of Ukraine"⁵; M. Stefanchuk "Crimes of the Russian Federation in Ukraine: Challenges of Bringing the Perpetrators to Responsibility"⁶; N. M. Bakaianova, I. O. Bylytsia "Advocacy in the system of providing free legal aid"⁷; T. Podorozhna, V. Vdovichen "Pro bono institute in the professional activity of a lawyer: national trends and foreign experience"⁸; A. Buharenko, "Free legal assistance in some foreign countries"⁹; Pro Bono Declaration¹⁰; E. Riabtseva. "Forms of free legal aid in international law and practice of foreign countries"¹¹; T. Vilchuk, "Advocacy

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Contributors

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Declaration of Competing Interest

The author declare that they have no conflict of interest.

¹ Роль адвокатів у забезпеченні прав людини під час воєнного стану в Україні неможливо перебільшити – Лідія Ізовітова під час засідання ССБЕ. URL: <https://unba.org.ua/news/7365-rol-advokativ-u-zabezpechenni-prav-lyudini-pid-chas-voennogo-stanu-v-ukraini-nemozhlivo-perebil-shiti-lidiya-izovitova-pid-chas-zasidannya-ssve.html>.

² URL: <https://advokatpost.com/rol-advokativ-u-zabezpechenni-prav-liudyny-pid-chas-voiennoho-stanu-v-ukraini-nemozhlyvo-perebilshyti-lidiya-izovitova-pid-chas-zasidannya-ssve/>

³ URL: <https://advokatpost.com/rau-svoim-rishenniam-peredbachyla-mozhlyvist-advokativ-poznachaty-v-ierau-nadannia-posluh-pro-bono-dlia-vijskovykh/>

⁴ URL: <https://advokatpost.com/advokaty-u-svoikh-osobytykh-onlajn-kabinetakh-zmozhot-dodavaty-vidmitky-shchodo-posluh-pro-bono-dlia-zsu-rau/>

⁵ URL: <https://advokatpost.com/komitet-z-vijskovoho-prava-naau-pidhotuvav-dvi-pam-iatky-z-nadannia-pravnychoi-dopomohy-vijskovym-zsu/>

⁶ URL: <https://unba.org.ua/publications/8055-zlochyni-rf-v-ukraini-vikliki-prityagnennya-vinnih-do-vidpovidal-nosti.html>

⁷ Бакайнова Н. М., Билиця І. О. Адвокатура у системі надання безоплатної правової допомоги : навчально-методичний посібник з навчальної дисципліни «Адвокатура у системі безоплатної правової допомоги» (галузь знань 08 «Право», другий (магістерський рівень) для студентів І курсу денної форми навчання / Н. М. Бакайнова, І. О. Билиця. Одеса : Фенікс, 2020. 84 с. URL: <http://dspace.onua.edu.ua/>

⁸ Подорожна Т., Вдовічен В. Інститут "pro bono" у професійній діяльності адвоката: національні тенденції та зарубіжний досвід. *Право України*. 2019. № 12. 179-195 DOI: 10.33498/1ouu-2019-12-179

⁹ Бугаренко А. «Бесплатная юридическая помощь в некоторых зарубежных странах» (2010) 5 Арбитражная практика

¹⁰ Pro Bono Declaration. Approved by the International Bar Association Council 16 October 2008

¹¹ Рябцева Е. Формулі безплатної юридическої допомоги в міжнародному праві і практиці зарубіжних стран. (2014). № 6. *Евразийская адвокатура*. 20-25.





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THE LAWYER'S ROLE IN ENSURING PRO BONO HUMAN RIGHTS DURING MARITAL STATE IN UKRAINE

The purpose of the article is to examine tactics of individual prevention and possibilities of their application for dealing with the drug-related crimes. Results of the study allow us to draw several conclusions. Firstly, we differentiate between individual prevention of drug consumption and individual prevention of the drug-related crimes. Secondly, individual prevention is a complex system of measures, including identifying persons who consume drugs, performing control of the lifestyle of said persons and taking measures to prevent them from further drugs abuse. Thirdly, individual prevention involves a wide variety of measures, including visits by the police officer, medical oversight, and pedagogical influence. Actual measures should be chosen according to the situation, personality of the person, nature and gravity of the offences, committed by him or her, information about his or her social connections, etc. Practical implications of the study lie in the recommendations for the activities of the police aimed at ensuring efficient individual prevention of the drug-related crimes. They involve fostering cooperation with the institutions that can provide the police with information about people who partake in drugs abuse, e.g. medical institutions, NGOs, etc. Furthermore, such cooperation is useful to ensure indirect, as well as direct control over their lifestyle, aimed at limiting their connections with the negative microsocium (i.e., drug users and traffickers). Besides those measures, we stress upon the necessity of criminological influence in order to ensure efficient individual prevention, especially towards those who commit drug-related crimes.

Value/originality. The paper provides practical pieces of advice for performing individual prevention of the drug-related crimes and drug consumption by the police officers. Additionally, it provides basis for the further research of the issues of drug-related delinquencies prevention.

Keywords: police, individual prevention, drug-related crimes, drug consumption

as an institution for the realization of the right to legal aid: a comparative legal analysis of the legislation of the countries of the European Union and Ukraine"¹²; S. Honcharenko, "Problems of providing free legal aid. A brief overview of the latest trends"¹³; M. Rishko, "Ensuring the right to free legal aid in Ukraine: a theoretical and legal study"¹⁴; Colorado Supreme Court Pro Bono Legal Service Commitment and Recognition Program¹⁵; Jr. Hobbs. «Judicial Support for Pro Bono Legal Service»¹⁶; O. Mihdal, "The future of the Ukrainian Bar — key values"¹⁷; Lawyers who defend free of charge can be included in a separate register¹⁸; The Colorado Rules of Professional Conduct As adopted by the Colorado Supreme Court¹⁹; As amended through Rule Change²⁰; Pro Bono"²¹; Yu. Haidai, "On pro bono. Why do lawyers do charity work"²²; D.Stelmashchuk, "Pro Bono as it is"²³; I. Pereverzaю, "General theoretical approaches to the modeling of advocacy"²⁴; Pro Bono Declaration²⁵; N. Bakaianova, "Functional and organizational foundations of the Bar of Ukraine"²⁶; Ethical aspects of providing pro bono legal assistance by a lawyer and quality standards for providing free secondary legal assistance²⁷; Zaborovskiy V. V., Orlova O.S., Manziuk V.V. "Peculiarities of the professional activity of a lawyer and the Ukrainian Bar under martial law"²⁸; Zaborovsky V.V. "Professional activity of a lawyer is legal or professional legal assistance?"²⁹; Zaborovskiy V.V. "Peculiarities of the legal status of a lawyer-representative in civil proceedings"³⁰, etc.

¹² Вільчик Т. Адвокатура як інститут реалізації права на правову допомогу: порівняльно-правовий аналіз законодавства країн Європейського Союзу та України (дис д-ра юрид наук, 2016) 203.

¹³ Гончаренко С. Проблеми надання безоплатної правової допомоги. Короткий огляд новітніх тенденцій (2011) 11 Адвокат 12-6.

¹⁴ Рішко М. Забезпечення права на безоплатну правову допомогу в Україні: теоретико-правове дослідження (дис канд юрид наук, 2019). 19

¹⁵ Colorado Supreme Court Pro Bono Legal Service Commitment and Recognition Program RPC 6.1.

¹⁶ Hobbs Jr. Judicial Support for Pro Bono Legal Service [2012] 89(4) Denver University Law Review 851.

¹⁷ Мігдаль О. Майбутнє адвокатури України – ключові цінності» (Юридична Газета online, 24.01.2018).

¹⁸ Адвокатів, які захищають безкоштовно, можуть включити до окремого реєстру» (Закон і Бізнес, 24.07.2017).

¹⁹ The Colorado Rules of Professional Conduct As adopted by the Colorado Supreme Court on May 7, 1992, effective January 1, 1993,

²⁰ As amended through Rule Change 2018(6), effective April 12, 2018.

²¹ Pro Bono» (Українська фундація правової допомоги).

²² Гайдай Ю. Про pro bono. Навіщо юристам займатися доброчинністю» (Закон і Бізнес, 27.09.2013).9

²³ Стельмашук Д. «Pro Bono як воно є» (Персональний сайт адвоката Дмитра Стельмашука).

²⁴ Стельмашук Д. «Pro Bono як воно є»; І. Переверза. «Загальнотеоретичні підходи до моделювання адвокатської діяльності» (дис канд юрид наук, 2016) 155. 4

²⁵ Pro Bono Declaration. Approved by the International Bar Association Council 16 October 2008.

²⁶ Бакаянова Н. Функціональні та організаційні основи адвокатури України» (дис д-ра юрид наук, 2017) 13.

²⁷ URL: <https://legalaid.gov.ua/novyny/etychni-aspekty-nadannya-advokatom-pravovoyi-dopomogy-pro-bono-ta-standativ-yakosti-nadannya-bezoplatnoyi-vtorynnoyi-pravovoyi-dopomogy/>

²⁸ Заборовський В. В., Орлова О.С., Манзюк В.В. Особливості професійної діяльності адвоката та української адвокатури в умовах воєнного стану. Електронне наукове видання «Аналітично-порівняльне правознавство». Електронне наукове видання «Аналітично-порівняльне правознавство». URL: <http://app-journal.in.ua/wp-content/uploads/2022/09/51.pdf>

²⁹ Заборовський В.В. Професійна діяльність адвоката – це правова, юридична чи професійна правнича допомога? Науковий вісник Ужгородського національного університету. Серія: Право. 2016. Вип. 38. Т. 2. С. 140-145.

³⁰ Заборовський В. В. «Професійна діяльність адвоката – це правова, юридична чи професійна правнича допомога?»; Заборовський В.В. «Особливості правового статусу адвоката-представника в цивільному судочинстві». Науковий вісник Ужгородського національного університету. Серія: Право. 2015. Вип. 35. Ч. 2., Т. 3. С. 161-168.



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LE ROLE D'UN AVOCAT DANS LA GARANTIE DES DROITS DE L'HOMME PRO BONO PENDANT LA LOI MARTIALE EN UKRAINE

This Article Purpose is to form a renewed view of the “pro bono” institution from the standpoint of ensuring a balance between serving the interests of an individual client and society in general; disclosure of the peculiarities of the professional activity of a lawyer and the Ukrainian legal profession in the conditions of martial law. The authors set themselves the main tasks: to analyze the activities of the self-governing bodies of lawyers, in particular the National Association of Lawyers of Ukraine, in the conditions of armed aggression by Russia; to reveal some features of advocacy activities in wartime conditions; to analyze the activities of the Board of Trustees of the National Association of Lawyers of Ukraine and foreign partners regarding assistance to Ukrainian lawyers.

Main Content Presentation. After the beginning of the full-scale invasion of the Russian Federation into Ukraine on February 24, 2022, many citizens were forced to leave their homes in search of safety, protection and assistance (in particular, in the first month of the war, more than 4 million Ukrainian citizens and refugees in Ukraine (as of the beginning of May 2022 — more than 6.5 million people), as well as asylum seekers), went abroad to neighboring countries, and were also displaced within the borders of Ukraine³¹, and at the same time became extremely vulnerable in the legal field.

On February 24, 2022, in connection with the military aggression of the Russian Federation against Ukraine, the Decree of the President of Ukraine No. 64/2022 introduced martial law from 05:30 on February 24, 2022 for a period of 30 days. The term of martial law in Ukraine was extended by Decrees of the President of Ukraine dated March 14, 2022 No. 133, dated April 18, 2022 No. 259, dated May 18, 2022 No. 341, dated August 12, 2022 No. 573, dated November 7, 2022 No. 757, as well as No. 58 of February 6, 2023 (the period of martial law in Ukraine was extended from 05:30 on February 19, 2023 for a period of 90 days).

It should be noted that justice in the territory where martial law has been imposed is administered only by the courts. Courts established in accordance with the Constitution of Ukraine operate on this territory, shortening or speeding up any forms of judicial proceedings is prohibited. According to Art. 26 of the Law of Ukraine “On the Legal Regime of Martial Law”, if it is not possible to administer justice by the courts operating in the territory where martial law has been imposed, the laws of Ukraine may change the territorial jurisdiction of court cases considered in these courts, or the location of the courts may be changed in accordance with the procedure established by law. In accordance with clause 29 of Art. 15 of the mentioned Law, Military administrations of settlements in the relevant territory exercise their powers, in particular, to facilitate the activities of the court, prosecutor's office, justice, security services, National Police bodies, the Bar and the State Criminal Enforcement Service of Ukraine³².

According to Art. 20 of the Law of Ukraine “On the Legal Regime of Martial Law”, the legal status and limitations of the rights and freedoms of citizens and the rights and legal interests of legal entities under martial law conditions are determined in accordance with the Constitution of Ukraine³³ [4] and this Law. In accordance with Part 2 of Art. 64 of the Constitution of Ukraine, in conditions of war or a state of emergency, separate restrictions of rights and freedoms may be established with an indication of the period of validity of these restrictions. The rights and freedoms provided for in Art. 24 (equal constitutional rights), 25, 27, 28, 29, 40, 47, 51, 52, 55 (the rights and freedoms of a person and citizen are protected by the court), 56, 57, 58, 59 (everyone has the right to professional legal assistance), 60, 61, 62, 63 of this Constitution cannot be limited.

L'article affirme que la question des droits de l'homme en Ukraine est aujourd'hui pertinente et urgente, en particulier dans le contexte de la loi martiale; il est indiqué que selon l'art. 131-2 de la Constitution de l'Ukraine pour la fourniture d'une assistance juridique professionnelle en Ukraine, il existe un barreau dont l'indépendance est garantie ; il est souligné que le droit d'une personne à l'aide judiciaire conformément à l'art. 59 de la Constitution ukrainienne fait partie des droits de l'homme inaliénables, et la principale institution qui fournit une telle assistance est l'Institut de plaidoyer; l'attention est attirée sur le fait que, étant donné que le conflit armé sur le territoire de l'Ukraine se poursuit et que le nombre de personnes déplacées augmente, la nécessité de fournir une aide juridique gratuite ne fait qu'augmenter ; il est indiqué que la possibilité d'accéder à une aide juridique gratuite pour les personnes déplacées, en combinant le système étatique et les initiatives publiques, revêt une importance particulière dans le contexte de la garantie du droit d'accès aux tribunaux et de la protection des droits de l'homme; il est à noter que la fourniture d'une aide juridique à titre bénévole en Ukraine, en particulier dans le contexte d'une invasion à grande échelle de la Fédération de Russie, est un phénomène répandu et populaire, en particulier pour les catégories de personnes qui n'ont pas les moyens financiers payer pour ces services ; on a fait remarquer que le fonctionnement de l'aide juridique gratuite pour les catégories de citoyens qui en ont besoin revêt une importance particulière et importante dans le contexte de la garantie du droit d'accès au tribunal et de la protection des droits de l'homme.

L'objectif de l'article est de donner une vision renouvelée de l'institution « Pro Bono » du point de vue d'assurer un équilibre entre le service des intérêts du client individuel et celui de la société en général ; divulgation des particularités de l'activité professionnelle d'un avocat et de la profession juridique ukrainienne dans les conditions de la loi martiale. Les auteurs se sont fixés

³¹ Біженці та шукачі притулку. URL: https://www.unhcr.org/ua/refugees-asylum-seekers_ua.

³² Закон України «Про правовий режим воєнного стану» № 389-VIII від 12 травня 2015 року. URL: <https://zakon.rada.gov.ua/laws/show/389-19#Text>.

³³ Конституція України. URL: <https://www.president.gov.ua/documents/constitution>.



les tâches principales : analyser les activités des organismes autonomes d'avocats, en particulier l'Association nationale des avocats d'Ukraine, dans les conditions d'agression armée de la Russie ; révéler certaines caractéristiques des activités de plaidoyer dans des conditions de guerre ; analyser les activités du conseil d'administration de l'Association nationale des avocats d'Ukraine et des partenaires étrangers en matière d'assistance aux avocats ukrainiens.

Il a été conclu que l'aide juridique gratuite est un phénomène socialement utile. Le « Pro Bono » est une sorte d'indicateur permettant d'assurer l'égalité des droits de l'homme et leur protection. Pour le développement ultérieur de cet institut, il est nécessaire de trouver des mécanismes efficaces pour stimuler la fourniture de services juridiques Pro Bono. Aujourd'hui plus que jamais, l'Ukraine a besoin d'un système d'assistance juridique de haute qualité pour les couches vulnérables de la population.

Mots-Clés : avocat, droits de l'homme, Pro Bono, loi martiale, personne déplacée à l'intérieur du pays, invasion à grande échelle de la Fédération de Russie, loi ukrainienne, aide juridique gratuite.

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DIE ROLLE DES RECHTSANWALTS BEI DER GEWÄHRLEISTUNG PRO BONO- MENSCHLICHER RECHTE WÄHREND DES EHSTANDS IN DER UKRAINE

ZUSAMMENFASSUNG: In dem Artikel heißt es, dass die Frage der Menschenrechte in der Ukraine heute relevant und dringend sei, insbesondere unter den Bedingungen des Kriegsrechts; Es wird darauf hingewiesen, dass gemäß Art. Gemäß Artikel 131-2 der Verfassung der Ukraine gibt es für die Bereitstellung professioneller Rechtshilfe in der Ukraine eine Rechtsanwaltskammer, deren Unabhängigkeit garantiert ist; Es wird betont, dass das Recht einer Person auf Prozesskostenhilfe gemäß Art. 59 der Verfassung der Ukraine ist eines der unveräußerlichen Menschenrechte, und die wichtigste Institution, die diese Unterstützung leistet, ist das Institute of Advocacy; Es wird darauf hingewiesen,

According to Art. 131-2 of the Constitution of Ukraine for the provision of professional legal assistance in Ukraine, the Bar acts. The independence of the Bar is guaranteed. The Constitution of Ukraine and the Law of Ukraine "On the Legal Regime of Martial Law" do not provide for any changes to the application of this provision of the Constitution during martial law.

Therefore, the right of a person to legal aid in accordance with Art. 59 of the Constitution of Ukraine, is one of the inalienable human rights, and the main institution that provides such assistance is the Institute of Advocacy. Lawyers are entrusted with the constitutional function of protecting the rights of citizens, which cannot be limited under any conditions according to the Constitution of Ukraine. On the other hand, lawyers sometimes also demonstrate heroism, which makes them similar to doctors who follow the "Hippocratic Oath", because they tirelessly work in the professional field, ignoring the financial side, and sometimes also for charity. Therefore, the study of the role of lawyers in ensuring human rights (pro bono) (from the Latin Pro bono publico "for the public good" — Author) during martial law is important and relevant.

Lawyers who work in the system of providing free legal aid carry out their activities in accordance with the Law of Ukraine "On Free Legal Aid", which defines the content of the right to free legal aid, the procedure for exercising this right, the grounds and procedure for providing free legal aid, state guarantees regarding provision of free legal assistance, etc³⁴; Quality standards approved by the Ministry of Justice of Ukraine in 2014 and 2017, which are a set of the main characteristics of the model of state-guaranteed protection, provided for by international legal acts, the legislation of Ukraine, within which and taking into account the agreed legal position of the defense party, the defender is independent in choosing a strategy and defense tactics in criminal proceedings for active and reasonable protection of the client's rights, freedoms and legitimate interests by all means not prohibited by law³⁵.

Adherence to the Standards is mandatory for lawyers when they provide free secondary legal aid, and their violation entails responsibility on the part of pro bono system lawyers to the extent established by the law and the terms of the contract (agreement) with the center for providing free secondary legal aid.

The issue related to the role and place of the Ukrainian legal profession in the mechanism of realization of a person's right to legal aid became the subject of scientific investigations by both domestic and foreign legal theorists. In particular, it should be noted the defense in 2015 of the candidate's thesis "The Institute of Advocacy in the mechanism of realization of the human and citizen's right to legal aid: constitutional and legal aspect", in which the research methodology of the Institute of Advocacy in the mechanism of realization of the human and citizen's right to legal aid is substantiated and formulated³⁶ and publication in 2018 with the support of the European Commission of the Best Practice Manual 'Problems of refugee rights and modern challenges', which examines legal issues related to human rights, protection of the rights of small groups, among which are groups of forced migrants and displaced persons, which has become an existing problem in Ukraine and constitute the main trends in the world due to migration, displacement due to armed conflicts, discrimination and rights violations³⁷.

The Head of the Ukrainian National Bar Association (hereinafter referred to as "the UNBA"), Ukrainian Council of Attorneys (hereinafter referred to as UCA) Lidiia Izovitova, emphasizing the complexity of the situation in Ukraine,

³⁴ Закон України «Про безоплатну правову допомогу» № 3460-VI від 2 червня 2011 року URL: <https://zakon.rada.gov.ua/laws/show/3460-17#Text>.

³⁵ Про затвердження стандартів якості надання безоплатної вторинної правової допомоги у кримінальному процесі: Наказ Міністерства юстиції України № 386/5 від 25.02.2014. URL: <https://zakon.rada.gov.ua/laws/show/z0337-14#Text>.

³⁶ Там само.

³⁷ Свящук А. Л. Проблеми прав біженців та виклики сучасності : навч. посіб. Харків, 2018. С. 9.



repeatedly emphasized that the self-governing organization of the Bar must work continuously and efficiently during martial law³⁸.

As it is known, from the very beginning of the full-scale invasion of the Russian Federation into Ukraine, the representative offices of the Ukrainian Councils of Attorneys of the UNBA regions, together with the lawyers of the western region — the outpost of legal aid — provide free legal assistance to displaced persons, military personnel and volunteers, working pro bono on a 24-hour basis, as well as to provide assistance to all those who suffered from military actions were engaged on a free basis by the representative office of UNBA abroad. Together with the Heads of the Councils of Attorneys of the regions, the UNBA supports the chain of assistance of the Western region for lawyers and their families who are traveling from the regions where the Russian invasion of Ukraine is currently the most dangerous. Regional councils provide free legal aid to displaced persons, military personnel and volunteers, working pro bono continuously.

Citizens of Ukraine who, due to the armed conflict and its consequences, namely — due to danger or risk to life, health, existence in Ukraine, were forced to leave the country, seeking refuge in states of relative stability, due to ignorance of the laws of those states to which they are moving, face legal problems in determining their status and protecting their rights and legitimate interests, and here again the role of a lawyer in providing legal aid to those who need it comes to the fore³⁹.

At the beginning of June 2022, the conference “Protection of the Rights and Freedoms of temporarily displaced citizens of Ukraine who are in the territory of EU member states and other countries” was held at the initiative of the All-Ukrainian Public Association “Human Rights Union of the Disabled”, the Ukrainian National Bar Association, Ukrainian Civil Society Hub in the European Parliament in Brussels and NGO «Promote Ukraine», which emphasized the important mission of NAAU and its representative offices abroad, because it was thanks to them that a broad campaign was launched to provide free legal aid, protect the rights and freedoms of our citizens outside of Ukraine. which emphasized the important mission of the UNBA and its representative offices abroad, because it was thanks to them that a broad campaign was launched to provide free legal aid, and protect the rights and freedoms of our citizens outside of Ukraine. The UNBA closely interacts with the self-governing bodies of lawyers of the countries of the world, international partners, charitable and volunteer organizations, cooperates with the MFA of Ukraine, embassies of Ukraine in various countries in order to identify and arrange places for providing free legal assistance, solving issues of crossing the border, obtaining refugee status and etc., and thanks to the assistance of EU member states, citizens of Ukraine have the right to medical care, access to education for children and adolescents, monthly financial assistance and the possibility of simplified employment⁴⁰.

From October 01 to 05, 2022 in Tbilisi (Georgia), the International Human Rights Organization “Centre de la protection internationale” (Strasbourg, France) held a round table dedicated to the discussion of problematic issues faced by lawyers and human rights defenders in carrying out their activities in armed conflicts, at which human rights lawyers of Georgia, Armenia and Ukraine shared their experience in armed conflict and reported on the current

dass der Bedarf an kostenloser Rechtshilfe nur noch zunimmt, da der bewaffnete Konflikt auf dem Territorium der Ukraine anhält und die Zahl der Binnenvertriebenen zunimmt. Es wird darauf hingewiesen, dass die Möglichkeit des Zugangs zu kostenloser Prozesskostenhilfe für Binnenvertriebene durch die Kombination des staatlichen Systems und öffentlicher Initiativen im Zusammenhang mit der Gewährleistung des Rechts auf Zugang zu Gerichten und dem Schutz der Menschenrechte von besonderer Bedeutung ist; Es wird darauf hingewiesen, dass die Bereitstellung von Prozesskostenhilfe von unentgeltlichen Bedingungen in der Ukraine, insbesondere unter den Bedingungen einer umfassenden Invasion der Russischen Föderation, ein weit verbreitetes und beliebtes Phänomen ist, insbesondere bei Personengruppen, die nicht über die entsprechenden Mittel verfügen um diese Dienstleistungen zu bezahlen; Es wird betont, dass das Funktionieren der kostenlosen Prozesskostenhilfe für Kategorien von Bürgern, die diese benötigen, im Zusammenhang mit der Gewährleistung des Rechts auf Zugang zum Gericht und dem Schutz der Menschenrechte von besonderer und wichtiger Bedeutung ist. Der Zweck des Artikels besteht darin, eine neue Sicht auf die „Pro Bono“-Institution unter dem Gesichtspunkt der Gewährleistung eines Gleichgewichts zwischen der Betreuung der Interessen eines einzelnen Kunden und der Gesellschaft im Allgemeinen zu entwickeln; Offenlegung der Besonderheiten der beruflichen Tätigkeit eines Rechtsanwalts und des ukrainischen Anwaltsberufs unter den Bedingungen des Kriegsrechts. Die Autoren stellen sich die Hauptaufgaben: Analyse der Aktivitäten der Selbstverwaltungsorgane der Rechtsanwälte, insbesondere des Nationalen Anwaltsverbandes der Ukraine, unter den Bedingungen der bewaffneten Aggression Russlands; einige Merkmale von Interessenvertretungsaktivitäten unter Kriegsbedingungen aufzudecken; Analyse der Aktivitäten des Kuratoriums der Nationalen Anwaltsvereinigung der Ukraine und ausländischer Partner hinsichtlich der Unterstützung ukrainischer Anwälte.

Es wurde der Schluss gezogen, dass kostenlose Prozesskostenhilfe ein gesellschaftlich nützliches

³⁸ Роль адвокатів у забезпеченні прав людини під час воєнного стану в Україні неможливо перебільшити - Лідія Ізовітова під час засідання ССБЕ. URL: <https://unba.org.ua/news/7365-rol-advokativ-u-zabezpechenni-prav-lyudini-pid-chas-voennogo-stanu-v-ukraini-nemozhливо-perebil-shiti-lidiya-izovitova-pid-chas-zasidannya-ssve.html>.

³⁹ Права українців за кордоном під час війни. URL: <https://www.prostir.ua/?library=prava-ukrajintiv-za-kordonom-pid-chas-vijny>.

⁴⁰ Адвокати долучилися до обговорення питання захисту прав тимчасово переміщених громадян України за кордоном. URL: <https://unba.org.ua/news/7459-advokati-doluchilisya-do-obgovorennya-pitannya-zahistu-prav-timchasovo-peremisheni-h-gromadyan-ukraini-za-kordonom.html>.



Phänomen ist. „Pro bono“ ist eine Art Indikator für die Gewährleistung der Gleichberechtigung der Menschenrechte und ihres Schutzes. Für die weitere Entwicklung dieses Instituts ist es notwendig, wirksame Mechanismen zur Förderung der Bereitstellung unentgeltlicher Rechtsdienstleistungen zu finden. Die Ukraine braucht heute mehr denn je ein qualitativ hochwertiges System zur Rechtshilfe für gefährdete Bevölkerungsgruppen.

SCHLÜSSELWÖRTER: Anwalt, Menschenrechte, Pro Bono, Kriegsrecht, Binnenvertriebene, groß angelegte Invasion der Russischen Föderation, Recht der Ukraine, kostenlose Prozesskostenhilfe.

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ROLA PRAWNIKA W ZAPEWNIENIU PRAW CZŁOWIEKA PRO BONO W STANIE MAŁEŹŃSKIM NA UKRAINIE

W artykule stwierdzono, że problematyka praw człowieka na Ukrainie jest dziś aktualna i pilna, zwłaszcza w warunkach stanu wojennego; wskazuje się, że zgodnie z art. 131-2 Konstytucji Ukrainy w zakresie świadczenia profesjonalnej pomocy prawnej na Ukrainie istnieje adwokatura, której niezależność jest gwarantowana; podkreśla się, że prawo osoby do pomocy prawnej zgodnie z art. 59 Konstytucji Ukrainy jest jednym z niezbywalnych praw człowieka, a główną instytucją udzielającą takiej pomocy jest Instytut Adwokatury; zwraca się uwagę, że w związku z trwaniem konfliktu zbrojnego na terytorium Ukrainy i zwiększaniem się liczby osób wewnętrznie przesiedlonych, wzrasta jedynie potrzeba zapewnienia bezpłatnej pomocy prawnej; wskazuje się, że możliwość dostępu do bezpłatnej pomocy prawnej dla osób wewnętrznie przesiedlonych, poprzez połączenie ustroju państwa i inicjatyw publicznych, ma szczególne znaczenie w kontekście zapewnienia prawa dostępu do sądu i ochrony praw człowieka; należy zauważyć, że świadczenie pomocy prawnej na zasadach pro bono na Ukrainie, zwłaszcza w warunkach inwazji na Federację Rosyjską na pełną skalę, jest zjawiskiem powszechnym i popularnym, zwłaszcza dla tych kategorii osób, które nie dysponują środkami finansowymi zapłacić

problems of the Bar in their countries. In particular, at the mentioned event, the issue of the practice of lawyers of the Free Legal Aid (FLA -Author) during the war was highlighted and the problem of moral choice during the protection of persons suspected of treason or collaboration was touched upon. In particular, centers for the provision of FLA have been operating in Ukraine since 2013. At first, the emergence of such centers was prompted by the desire to help the population of Ukraine, who need legal assistance, but due to financial incapacity do not have access to justice, which led to the restriction of their socio-economic, political, cultural and other rights. In addition, illegal actions could be applied to detainees, suspects and accused persons who also did not have the financial opportunity to hire a lawyer, so recently all detained persons, regardless of what criminal offense they committed, have a lawyer from the moment of detention.

In the conditions of the new reality, provoked by the act of military aggression of the Russian Federation against Ukraine, the activity of lawyers continues, but now it is complicated by the presence of these specialists in dangerous and very dangerous regions, a paralyzed judicial system, the outflow of a large number of lawyers from abroad, accordingly, overtime workload of those specialists who remained and carry out their professional activities in Ukraine, in situations in which they have to compromise with their own conscience, when the matter concerns the protection of supporters of the "Russian peace", because in cases about collaborationism, lawyers are usually appointed from among those who provide free legal assistance, etc.⁴¹.

Since the armed conflict on the territory of Ukraine continues, the number of IDPs is constantly changing, mostly in the direction of growth. It also affects the nature of IDPs' appeals and changes in the specifics of their requests. At first, these were questions related to restoration of lost, destroyed or forgotten documents, registration of IDP status, receipt of social benefits, humanitarian aid, search for housing, employment of IDPs who were not officially settled from the previous place of work, rights and obligations of IDPs, restrictions in the right to vote, the impossibility of obtaining a loan, not always an unambiguous attitude on the part of employers and/or the local population, crossing the border and subsequently a number of problems faced by citizens of Ukraine who lose their IDP status after crossing the border and instead receive status in the country of arrival (temporary protection or refugee status) with appropriate guarantees (temporary housing, financial assistance, etc.), etc.⁴².

According to information from open sources, there were difficulties in solving citizens' requests from the very beginning and they related to the imperfection of the legislation, the inconsistency of its individual provisions, the lack of experience of specialists, the mass of appeals, etc., but mostly thanks to lawyers who take on pro bono cases and volunteers, the issues were decided at the level of primary free legal aid.

However, due to the duration of the armed conflict, the specifics of IDP applications continued to change and currently it concerns the possibility of leaving the country for male persons who will turn 18 in 2-3 months; the departure abroad of full-time male students of European universities of conscription age who enrolled before the beginning of the full-scale invasion of the Russian Federation on the territory of Ukraine or immediately after graduation (on the basis of conducting an introductory campaign of the higher education institutions of the European country remotely); the possibility of traveling abroad for men of mobilization age who have a disability group established by the MSEC; subsequently, appeals regarding the organization/renewal/suspension/termination of labor relations, the participants of which

⁴¹ Наша місія в умовах війни – правозахист»: адвокати – випускники курсу УГСПЛ розповіли за кордоном про роботу в надзвичайних умовах. URL: <https://helsinki.org.ua/articles/nasha-misiia-v-umovakh-viyny-pravozakhyst-advokaty-vypusknky-kursu-uhspl-rozpovily-za-kordonom-pro-robotu-v-nadzvychnaynykh-umovakh/>.

⁴² Місяць В. Особливості перетину кордону для ВПО. URL: <https://www.ucla.org.ua/?p=1492>.



are IDPs, became more frequent; assignment of pensions; establishment of insurance experience; credit holidays during martial law, receiving compensation for destroyed housing, and later filing for divorce — when one is abroad; when both are citizens of Ukraine, but are temporarily abroad; when one of the spouses is a foreigner; when one of the spouses is in the occupied territory; when the marriage or divorce is fictitious; temporary protection in EU countries; the procedure for receiving assistance within the “eSupport” Program; acceptance of inheritance during martial law, etc.

At the same time, the complexity of incoming appeals sometimes violates the limits of the primary legal aid format, and since persons in need of legal protection currently have financial problems, they need access to secondary free legal aid or search for other free alternatives.

It should be noted that the Law of Ukraine “On Free Legal Aid” refers to subjects of the right to free secondary legal aid for IDPs.

The subjects of providing free secondary legal aid are centers for providing such assistance (their extensive network operates in Ukraine) and lawyers included in the Register of Lawyers as providers of free secondary legal aid⁴³.

The Coordinating Center for the Provision of Legal Assistance of the Ministry of Justice of Ukraine has determined a single phone number for free legal assistance and email addresses of centers providing free secondary legal assistance, in addition, the Contact Center of the FLA system, the Telegram bot “Free Legal Assistance”, mobile applications are currently operating in Ukraine. Free legal aid” or “Your right”, WikiLegalAid, a reference and information platform for legal consultations, where you can familiarize yourself with ready-made legal consultations, Legal Aid “Right to Defence”, which consults online in Telegram: <http://legalaid.gov.ua/telegram.html> and Viber: <http://legalaid.gov.ua/viber.html>; in the client's office on the FLA system website: <https://cabinet.legalaid.gov.ua/>; Facebook page of the FLA system; Telegram chat “Legal Assistance Against Violence” (for victims of domestic violence), etc.

IDPs who have moved to small or remote settlements may be unaware or uninformed about the presence of FLA centers in their region, as well as those displaced persons who do not officially have the status of IDPs also do not have access to secondary FLA, here it is possible to use only alternative options for obtaining FLA, such as working with ready-made questions and answers or using freely available sample documents (such, for example, are the resources of the chatbot “Legal Advisor for IDPs”); five PRAVOKATOR legal clubs were created (the first communication platform among state institutions, created for professional training and development of FLA system personnel, legal community and other interested parties; exchange of experience, generation and implementation of innovative practices in the field of law) — in Dnipro, Kyiv, Lviv, Odesa, Kharkiv⁴⁴.

Thus, charitable foundations (CF), public associations (PA) and volunteer projects provide FLA today to victims of the armed conflict, including IDPs. In particular, the Ukrainian Helsinki Union for Human Rights provides free legal aid through a network of public reception centers, and the Association of Lawyers of Ukraine introduced free legal aid to citizens on issues related to military aggression, its consequences and martial law, lawyers of Ukraine also joined the initiative to provide FLA, by offering pro bono services through the website of the Unified Register of Advocates of Ukraine.

The possibility of access to free legal aid for IDPs, through a combination of the state system and public initiatives, is of particular importance in the context of ensuring the right of access to court and the protection of human rights⁴⁵.

za te usługi; podkreśla się, że funkcjonowanie bezpłatnej pomocy prawnej dla kategorii obywateli jej potrzebujących ma szczególne i istotne znaczenie w kontekście zapewnienia prawa dostępu do sądu i ochrony praw człowieka. Celem artykułu jest odnowienie spojrzenia na instytucję „pro bono” z punktu widzenia zapewnienia równowagi pomiędzy służeń interesom indywidualnego klienta i ogółu społeczeństwa; ujawnienie specyfiki działalności zawodowej prawnika i ukraińskiego zawodu prawniczego w warunkach stanu wojennego. Autorzy postavili sobie za główne zadania: analizę działalności samorządowych organów prawników, w szczególności Krajowego Stowarzyszenia Prawników Ukrainy, w warunkach zbrojnej agresji Rosji; ukazanie pewnych cech działalności rzeczniczkiej w warunkach wojennych; analiza działalności Rady Nadzorczej Krajowego Stowarzyszenia Prawników Ukrainy i partnerów zagranicznych w zakresie pomocy ukraińskim prawnikom.

Stwierdzono, że bezpłatna pomoc prawna jest zjawiskiem społecznie użytecznym. „Pro bono” jest swego rodzaju wyznacznikiem zapewnienia równości praw człowieka i ich ochrony. Dla dalszego rozwoju tego instytutu konieczne jest znalezienie skutecznych mechanizmów stymulujących świadczenie usług prawnych pro bono. Teraz bardziej niż kiedykolwiek Ukraina potrzebuje wysokiej jakości systemu udzielania pomocy prawnej bezbronnym grupom ludności.

Słowa kluczowe: prawnik, prawa człowieka, pro bono, stan wojenny, osoba wewnętrznie przesiedlona, inwazja na Federację Rosyjską na pełną skalę, prawo Ukrainy, bezpłatna pomoc prawna.

⁴³ Безоплатна правова допомога. URL: https://minjust.gov.ua/legal_aid.

⁴⁴ Там само.

⁴⁵ Мезенцова Н. Яка правова допомога потрібна ВПО: аналіз проблем від адвокати. URL: <https://helsinki.org.ua/articles/yaka-pravova-dopomoha-potribna-vpo-analiz-problem-vid-advokatki/>.

On August 2, 2022, the Decision of UCA No 59 "On the Approval of the New Version of the Regulation on the Representation of the Ukrainian National Bar Association Abroad" established the institute of UNBA representatives abroad instead of foreign representative offices, and the previously functioning UNBA representative offices were liquidated⁴⁶.

The UNBA representatives abroad carry out activities independently in the interests of UNBA and within the limits of the legislation of the country of residence (registration), appointed by the Decision of the Chairman of UNBA; directly represent the interests of UNBA in a specific state (...); cooperate with foreign diplomatic missions in the state of residence (registration) (...); establish and establish contacts with foreign partners of UNBA for the exchange of experience between lawyers, develop international relations, exchange of professional experience (...), encourage foreign bodies of self-government of the bar, foreign state bodies, enterprises, institutions and organizations to cooperate with the Ukrainian bar; promote the activities of encourage foreign bodies of self-government of the bar, foreign state bodies, enterprises, institutions and organizations to cooperate with the Ukrainian bar; promote the activities of NAAU abroad to create a positive image of the Ukrainian legal profession and Ukraine as a whole; abroad to create a positive image of the Ukrainian legal profession and Ukraine as a whole; carry out educational and scientific activities; carry out work on attracting grants and funds from foreign charitable funds (organizations) aimed at the development of the Ukrainian bar and raising the professional level of Ukrainian lawyers; maintain and develop relations with international organizations, etc⁴⁷.

In accordance with Part 1 of Art. 59 of the Constitution of Ukraine, everyone has the right to professional legal assistance, and in the cases provided for by law, this assistance is provided free of charge, also everyone is free to choose a defender of their rights and in accordance with part 1 of Art. 131-2 of the Constitution of Ukraine a Bar exists to provide professional legal assistance in Ukraine. Also, the Bar is a key human rights institution in the modern legal system of Ukraine.

Thus, it should be noted that the provision of legal aid on pro bono terms in Ukraine, especially in the conditions of a full-scale invasion of the Russian Federation, is a widespread and popular phenomenon, especially for those categories of persons who do not have the funds to pay for these services.

The UNBA, within the framework of international cooperation and with the aim of developing pro bono culture in Ukraine, supports such activities in every possible way and provides favorable conditions for lawyers who want to provide free legal services for free.

Conclusions. Free legal aid is a socially useful phenomenon. "Pro bono" is a kind of indicator of ensuring the equality of human rights and their protection. For the further development of this institute, it is necessary to find effective mechanisms for stimulating the provision of pro bono legal services. And this can be helped by the experience of a number of countries where such an institution is already historically rooted and without which access to justice is impossible. Now, more than ever, Ukraine needs a high-quality system of providing legal assistance to vulnerable sections of the population. And international experience can provide an answer to the question of how to organize it without the bureaucratic intervention of the state. In European countries, in Australia, in North and South America, the provision of services based on the principles of "pro bono" increases its scale and improves from year to year. The opportunity for domestic attorneys to learn from these examples can be a valuable incentive to expand pro bono practice locally.

⁴⁶ РАУ створила інститут представників за кордоном замість іноземних представництв. URL: <https://unba.org.ua/news/7562-rau-stvorila-institut-predstavnikiv-za-kordonom-zamist-inozemnih-predstavnictv.html>.

⁴⁷ Положення про представництво Національної асоціації адвокатів України за кордоном № 59 від 02.08.2022 року. URL: <https://zakon.rada.gov.ua/rada/show/v0059871-22#Text>; Представники НААУ за кордоном. <https://unba.org.ua/predstavniki-naau-za-kordonom>.

Pro bono is often considered a charitable or volunteer activity, but both can be carried out in a non-professional manner, and pro bono involves the provision of professional assistance using the skills of a lawyer. The introduction of the system of providing free legal aid pro bono is a kind of help to the state in order to save budget funds, a certain compensatory mechanism for persons who need professional legal aid and cannot pay for it.

Lawyers of Ukraine are active participants in the initiative to provide free legal aid by providing pro bono services through the website of the Unified Register of Lawyers of Ukraine. The functioning of free legal aid for categories of citizens who need it (currently it is primarily IDPs — Author) is of special and important importance in the context of ensuring the right to access to court and protection of human rights, especially in the conditions of the full-scale invasion of the Russian Federation in Ukraine and in martial law regime.

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