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## **The 47th European Presidents' Conference 2019 in Vienna**

Throughout the year 2018, the Ukrainian National Bar Association and the legal community of Ukraine as a whole endured increasing institutional pressure of the State, hence mobilised all their resources towards countering encroachments against advocates' rights.

Also, On January 1<sup>st</sup> 2019, the judicial reform in Ukraine reached another milestone. Finally, only licensed advocates are allowed to represent clients in court. That marks the entry into force of the last provisions of recent constitutional reform, that significantly boosted the status of an advocate in Ukraine and meant to ensure that only professional, licensed advocates provide legal aid and thus protect human rights and strengthen the rule-of-law in Ukraine. The only unresolved point remains whether public officers will represent the State in court, or there will be some other arrangement in place.

Ukrainian Bar, being independent from state authorities managed to fence off the threat to it's very existence on the floor of Ukrainian Parliament. Gladly, for the first time in a while, over 70 Members of Parliament were once advocates, and they like no other could relate to what UNBA had to say about the proposed presidential draft law #9055. The draft Law of Ukraine 'On the Bar and Practice of Law' sparked a controversy, that UNBA could not help addressing, as the vital constitutional interests of Ukrainian citizens and advocates were to be seriously undermined.

UNBA drew international attention and exposed highly questionable provisions of the proposed draft law, as well as non-transparent practices in connection with its drafting. In turn, UNBA's international partners expressed strong support to its cause and called on to the parties of the process to comply with the principles of transparency and the rule-of-law.

The text of the draft law was developed with significant violations of procedure, containing provisions aimed at severe undermining of the constitutional status of the Bar, based upon seriously doubtful findings of the two poorly prepared

reports, whose authors failed to even request UNBA for any information that could be used as the basis for analysis.

Nevertheless, in September 2018, this draft law was presented by the President of Ukraine to Verkhovna Rada Ukraine as 'urgent' (to be reviewed and voted within one month). Parliamentary Committees were highly critical of the Draft Law #9055, while Parliaments' Main Scientific and Expert Department called it 'corruptiogenic' in its conclusions upon its mandatory review. No wonder that Draft Law #9055 establishing suitable conditions for corruption has not garnered support from the MPs.

The situation even attracted attention of the UN Special Rapporteur on the Independence of Judges and Lawyers Diego García-Sayán. He stated, among other things, that the draft contained many provisions that may undermine the free and independent exercise of the legal profession, hinder the ability of national Bar association to protect its members, as well as independence of the profession as a whole.


Despite intervention on the part of the UN, CCBE, draft's apparent corruption risks, there remains a considerable threat of its adoption.

Our fellows in legal profession, the notaries of Ukraine also face unprecedented pressure from the government, that decided to basically erode the status of notariat in Ukraine. The Government wishes to allow common bystanders, possessing no specialized education, professional experience, subject to no liability or notarial privilege to have unrestricted access to property records and be able to amend them. Having no feedback and being kept out of the loop, the notarial community of Ukraine went on strike against unlawful moves of the Ministry of Justice just yesterday.

So far, the Bar of Ukraine managed to avoid the hardships, that the notarial community is having right now. That is a perfect example why professional communities must be independent. One way of ensuring this is to affix certain rights and professional guarantees in an internationally binding instrument, like the proposed Council of Europe Convention on the Profession of Lawyer.

I may say some overly apparent things, but such a convention is what will really help the legal profession to secure its independence for years to come. In this way, no politician with an itch to subject the Bar to his interests will ever succeed.

Despite certain impediments, UNBA is thriving. With over 42,000 members, UNBA successfully held the Congress of Advocates of Ukraine and delegated its representatives to the High Council of Justice and Higher Qualification



Commission of Judges of Ukraine and thus ensured smooth operation of the said bodies and independence of judicial system from executive branch of power.

These powers were exactly the reason why the Bar faced considerable pressure. It is our firm hope, that the colleagues present here will support and partake in further development of the said convention for the common good of the entire European legal profession.