



UKRAINIAN NATIONAL
BAR ASSOCIATION

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**Open Letter of Ukrainian National Bar Association
to President of Ukraine,
International Bar Association
and Council of Bars and Law Societies of Europe**

Ukrainian National Bar Association (UNBA) avails itself this opportunity to address its international partners in regard of the following counts of violations of attorneys' rights and professional guarantees in Ukraine.

In the year 2015, Ukrainian National Bar Association documented 66 submissions in connection with violations of attorneys' rights and professional guarantees, of which 54 we redirected to law enforcement authorities. Regional Bar Councils documented 95 submissions requesting protection of rights and guarantees of attorney profession. In January 2016, UNBA has already received more than 10 such requests, including an address of three attorneys on the count of violation of their professional rights and guarantees and illegal interference with practice of law on the part of Kyiv City Prosecutor's Office. In their petition they informed us that a detective of Kyiv City Prosecutor's Office summoned the said attorneys as witnesses in a criminal investigation against their client – a Ukrainian businessman and politician.

Ukrainian National Bar Association maintains that rights and professional guarantees, honor and dignity of an attorney are guaranteed and protected by the Constitution of Ukraine, Law of Ukraine 'On the Bar and Practice of Law' and other relevant provisions of Ukrainian legislation.

Thus, as provided by law, any information, that attorney learned about his client, including issues that the client requested guidance on, content of advice, consultations, clarifications made by attorney, the documents prepared by attorney, information on electronic means of storage, other documents and information that attorney got a hold of in the course of his practice are covered by attorney-client privilege. An attorney, in turn, is legally bound to observe it. Those guilty of allowing third-party access to the privileged information or its disclosure are to be held responsible under applicable legislation. It is prohibited to demand privileged information from an attorney. No witnesses can be questioned in connection with privileged information as well.

Actions of the law enforcement bodies, that came to attention of the UNBA, are of great threat to the most fundamental pillar of law practice attributable to the rule-of-law principle – an attorney-client privilege.

Besides that, the law forbids to identify an attorney as his/her client; to interfere with the legal stand of an attorney; to bring to or threaten an attorney with criminal or any other liability in

connection with the practice of law where he/she acted in accordance with law; etc. None of an attorney's statements made in the case including those reflecting the stand of the client, and none of his/her statements in mass media may serve the basis for bringing the attorney to

liability, as long as his/her statements are not in breach of the attorney's professional duties. Search operations or investigative actions that require special court permission shall be conducted in relation to an attorney on the basis of the respective court decision made upon the motion of the Prosecutor General of Ukraine, his/her deputies, prosecutor of the Autonomous Republic of Crimea, the region or the cities of Kyiv and Sevastopol.

State bodies, bodies of local self-government, their officials and employees in their relations with attorneys must adhere to provisions of the Constitution and other Ukrainian legislation, European Convention on Human Rights and Protocols thereto, international obligations of Ukraine before PACE relating to independent attorney profession, practice of European Court of Human Rights.

As Thorbjørn Jagland, Secretary General of the Council of Europe, put it:

'When individual states ignore their obligations, or when there are attempts to pick and choose which rules should be followed and which should not, it pulls at the very fabric of the Convention...'

Thus, UNBA deems actions of Kyiv City Prosecutor's Office detective to be unlawful and oppressing in regard to attorneys that provide legal services to their client. UNBA has already petitioned Prosecutor General of Ukraine with a request of immediate reaction and launching a probe on the facts stated and to take all the action necessary to prevent violation(s) of attorneys' rights.

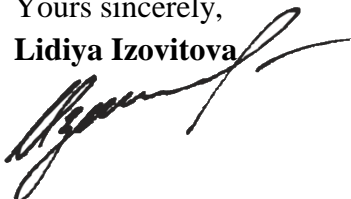
The incidents that UNBA was informed about seriously undermine professional guarantees of practice of law, discredit Ukrainian justice and the State of Ukraine as a member of European and international human rights organizations.

Given the above, and with respect to the fact that protection of professional rights and guarantees, prescribed with Constitution and laws, is a priority, by means of present letter the UNBA would like to draw the attention of its partners to the facts of violations of professional rights and guarantees of attorneys in Ukraine. UNBA hopes for support in promoting truly independent Bar of Ukraine, free from any pressure or interference of the State.

UNBA will concentrate on monitoring further developments and progress and will exert every effort to normalize the situation. Observance of guarantees of practice of law is paramount for independent and professional Bar, that provides defense, representation and other types of legal services.

Yours sincerely,

Lidiya Izovitova



President

Ukrainian National Bar Association