28/05/2018

**Reply of Lithuania to the Questionnaire on the role, composition and functions of bar associations**

**1. Please provide information on the way the legal profession is organised and regulated in your country.**

According to the article 35 of the Constitution of the Republic of Lithuania, citizens are guaranteed the right to freely form societies, political parties and associations. Regarding regulated profession of advocate, all conditions and the procedure for the pursuit of activities of an advocate are established in the Law on the Bar of the Republic of Lithuania (hereafter – the Law). Article 7 of the Law determines specific requirements for a person seeking to practice law as an advocate in Lithuania and to be admitted to Lithuanian Bar. According to article 3, part 1 of the Law, Lithuanian bar is an independent part of the Lithuanian legal system. The Law establishes only one self-governing organization for advocates – the Lithuanian Bar Association (article 56 of the Law).

It should be noted that legal services (for example, legal advice) may be provided by any lawyer (a person without the status of an advocate) and no special requirements are set for the activities of lawyers. The Law is not applicable to these lawyers and they have a right to set up organizations (associations) according to the Law of the Republic of Lithuania on Associations (hereafter – the Law on Associations). Some examples of such associations are Lithuanian Lawyers Society, Association of Corporate and Public Sector Lawyers, etc.

**2. Does a professional association of lawyers play a role in the regulation of the profession?**

Yes, professional association of advocates plays a role in the regulation of the profession.

(a) The title of the self-governing organization of advocates is the Lithuanian Bar Association;

(b) According to the article 56 of the Law, the Lithuanian Bar Association is a public legal person. The activities of the Lithuanian Bar Association is regulated by the Law, by the Law on Associations in the areas determined by the Law and by the statute of the Lithuanian Bar Association;

(c) The Lithuanian Bar Association is a self-governing organization;

(d) The bodies of the Lithuanian Bar Association are:

1. the general meeting of advocates. The highest body of the Lithuanian Bar Association.
2. the Council of the Lithuanian Bar. The managing (executive) body of the Lithuanian Bar Association. The Council of the Lithuanian Bar is elected from advocates for a term of four years. Advocates having a record of at least ten years of practice as an advocate may be members of the Council of the Lithuanian Bar.
3. the Court of Honour of Advocates. The body responsible for disciplinary actions against advocates.
4. the Auditing Commission. The supervisory body, which reviews the financial activities of the Lithuanian Bar Association.

**3. Please provide information on the relationship between the association of lawyers and the Executive, Legislative and Judiciary powers.**

As it was already mentioned, Lithuanian bar is an independent part of the Lithuanian legal system. According to the article 57 part 3 of the Law, the Lithuanian Bar Association has a right to draft legal acts on matters relating to the practice of advocates and submit them to the Ministry of Justice, which has a right of legislative initiative. Furthermore, the Lithuanian Bar Association provides opinions on draft legislation, submitted for public consultations (article 56, part 8 of the Law).

The Ministry of Justice has no role in the establishment or functioning of the Lithuanian Bar Association. However, the Minister of Justice has certain rights (functions) regarding the profession of advocates, for example, the programme of the advocate’s examination, the procedure of examination is established by the Minister of Justice, upon agreement with the Lithuanian Bar Association (article 14, part 1 of the Law). The Minister of Justice approves Advocate’s Examination Commission and, on the nomination of the Lithuanian Bar Association, it’s Chairman (article 15, part 2 of the Law). The advocate’s oath is also administered by the Minister of Justice (article 19, part 1 of the Law). According to the article 52 part 2 of the Law, the Minister of Justice has a right to take a decision to institute a disciplinary action against an advocate. The Minister of Justice also appoints two members from advocates to The Court of Honour of Advocates (article 61, part 2 of the Law).

**4. The role of professional associations of lawyers with regard to:**

***(a) the admission to the legal profession and the licencing of lawyers***

The Lithuanian Bar Association takes decisions on the recognition of a person as an advocate (article 10, part 2 of the Law), as well as decisions to enter the advocate on the List of Practising Advocates of Lithuania (article 18, part 1 of the Law) and decisions on the removal of an advocate from the List of Practising Advocates of Lithuania. According to article 17 part 3, of the Law the Lithuanian Bar Association issues licence to practise as an advocate;

***(b) the conduct of disciplinary proceedings against lawyers***

According to the article 52 part 2 of the Law, the Lithuanian Bar Association has a right to take a decision to institute a disciplinary action against an advocate;

***(c) the provision of legal aid***

According to the article 4 part 5 of the Law, advocates are entitled to provide legal services free of charge, i.e. to provide legal aid. The conditions and procedure for the provision of state – guaranteed legal aid is established by the Law on State – guaranteed Legal Aid (hereafter – the Law on Legal Aid). According to the article 17 of the Law on Legal Aid, only advocates and advocates’ assistants may provide secondary legal aid, which includes *inter alia* drafting of procedural documents, defence and representation in court or preliminary extrajudicial institutions. The Lithuanian Bar is one of the institutions involved in the state – guaranteed legal aid system. According to the article 10 part 1 of the Law on Legal Aid, in order to help to ensure effective provision of secondary legal aid, the Lithuanian Bar verifies the quality of activities of the advocates and advocates’ assistants providing secondary legal aid. Furthermore, the Lithuanian Bar provides an opinion, whether an agreement on the provision of secondary legal aid may be concluded with a particular advocate. In the area of state – guaranteed legal aid the Lithuanian Bar Association acts in close cooperation with State – guaranteed Legal Aid Service, which is responsible for the organisation of the provision of secondary legal aid;

***(d) the protection of individual lawyers against any form of intimidation, hindrance, harassment or improper interference in the exercise of their functions***

According to the article 57 part 1 of the Law, the Lithuanian Bar Association represents the interests of advocates before state institutions, international and foreign organisations. Article 46 of the Law sets specific guarantees of the advocate’s activities. An advocate may not be summoned as a witness or to give explanations as to the circumstances which came to his knowledge in the pursuit of his professional activities. In the pursuit of their professional activities, advocates cannot be identified with their clients and their cases. It is prohibited to examine, inspect or take the advocate’s practice documents or files containing information related to his professional activities, examine postal items, wiretap telephone conversations, control any other information transmitted over telecommunications networks and other communications or actions, except for the cases when the advocate is suspected or accused of a crime and only in relation to the documents connected to the allegations or charges made against the advocate. A search or seizure at the place of practice or residence or motor vehicle of an advocate entered in the List of Practising Advocates of Lithuania, a body search, an examination, inspection or seizure of documents and postal items may be conducted only in the presence of a member of the Council of the Lithuanian Bar Association or an advocate authorised by the Lithuanian Bar Association. The member of the Council of the Lithuanian Bar Association or the advocate authorised by the Lithuanian Bar Association present during such actions must ensure that documents not related to the allegations or charges made against the advocate are not taken. It is prohibited to familiarise, overtly or covertly, with the information comprising the advocate’s professional secret and use it as evidence. The Lithuanian Bar Association must be notified of the fact that the advocate has become a suspect or a defendant or procedural actions have been taken.

***(e) the development and implementation of legislation concerning free exercise of the legal profession and the administration of justice***

According to the article 57 part 3 of the Law, the Lithuanian Bar Association has a right to draft legal acts on matters relating to the practice of advocates and submit them to the Ministry of Justice of the Republic of Lithuania, which has a right of legislative initiative. Furthermore, the Lithuanian Bar Association provides opinions on draft legislation, submitted for public consultations (article 56, part 8 of the Law).

**5. Is membership in the professional association of lawyers mandatory to practice law in your country?**

The membership in the Lithuanian Bar Association is mandatory as article 56 part 4 of the Law states that every advocate is a member of the Lithuanian Bar Association. As regards the last part of question 5, we have no data which would indicate difficulties on access to justice or a lack of advocates in certain parts of Lithuania. However, as it was stated above, the provision of legal services (for example, legal advice) is not reserved only to advocates, any lawyer may provide such services with certain exceptions established by laws (for example, representation of natural persons in court proceedings is in general reserved to advocates (advocates’ assistants)).