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Self-governance structures in EU Nations: Drawing lessons for Ukraine's bar systems

Estructuras de autogobierno en naciones de la UE: Extrayendo lecciones para los sistemas de colegios de abogados en Ucrania

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Abstract

Objective: The objective of the study is to examine the experience of the organization of lawyers, the self-governance of lawyers, and the professional ethics of lawyers in the EU, to develop, from the analyzed material, practical recommendations aimed at strengthening the status of a lawyer and improve the Bar Association in Ukraine. Methodology: The methodological basis of the study is formed by general philosophical methods, and private legal methods of knowledge of the objective reality in the field of the organization of the bar association and the professional ethics of lawyers in the EU. Findings: The study found that the organization of lawyers and the professional ethics of lawyers in the EU are well developed and meet international standards. EU lawyers have a recognized professional status and play an important role in protecting human rights and justice. Conclusion: The findings of the study provide a solid basis for strengthening the status

Resumen

El objetivo del estudio es examinar la experiencia de la organización del Colegio de Abogados, el autogobierno del Colegio, la ética profesional de los abogados en la UE, para desarrollar, sobre la base del material analizado, recomendaciones prácticas destinadas a fortalecer la condición de abogado y mejorar el Colegio de Abogados en Ucrania. El objeto del estudio son los conceptos teóricos de las formas de organización y las cuestiones de ética profesional de los abogados en la UE; las normas nacionales e internacionales que proporcionan un mecanismo para prestar asistencia jurídica a los ciudadanos y sus asociaciones en una entidad supranacional. La base metodológica del estudio está formada por métodos filosóficos generales y jurídicos privados de cognición de la realidad objetiva en el ámbito de la organización del colegio de abogados, la ética profesional de los abogados en la UE. La conclusión del estudio es fundamentar la posición de que en la mayoría de los Estados miembros de la UE el término "colegio

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of lawyers in Ukraine. The Ukrainian government could improve the status of lawyers by adopting legislation that fully recognizes their autonomy and role in society.

Keywords: Western, Europe, legal, supranational, rule-making.

de abogados" abarca tanto toda la categoría de personas reconocidas como abogados en virtud de las leyes de ese país como la organización de abogados que tiene una base jurídica y su propia competencia, lo que corresponde a los artículos 24, 25 de los Principios Básicos sobre la Función de los Abogados adoptados por el VIII Congreso de las Naciones Unidas en agosto de 1990.

Palabras clave: Europa, Occidental, servicios, enormas jurídica.

Introduction

The subject of the study is the organization of the Bar Association and the professional ethics of lawyers in the EU. This research is relevant due to the reform of the legal aid sector in Ukraine.

The article is divided into three sections: the first section analyzes the legal regulation of the Bar Association in the EU; The second section analyzes the self-governance of Bar Associations in the EU; and the third section analyzes the evolution of the process of simplification of the procedure for the free provision of services by lawyers in the Common Market.

In 2013, the Law of Ukraine “On the Bar and Practice of Law” was adopted (Law of Ukraine No. 27, 2013) and in 2017, the Reporting and Election Congress The Reporting and Election Congress of Advocates of Ukraine adopted the Rules of Attorneys' Ethics (Rules of Attorneys' Ethics, 2012), which establish mandatory rules of conduct for each advocate in the practice of law based on moral criteria and traditions of the Bar, as well as international standards and rules of the legal profession.

As a result of the reforms that have brought about global changes in all spheres of state and society, a fundamentally new legal situation has been created that requires revision and legal clarification of the organizational foundations of the practice of law and the Bar as one of the main mechanisms for protecting human rights around the world. At the same time, Ukraine has the main subject of realization of the constitutional right to receive qualified legal aid - the Bar, which is of scientific research interest. Thus, in recent years, the role and place of the Bar, as well as the range of its tasks in protecting rights and legitimate interests have changed significantly. In addition, these legal acts have significantly changed the status of an advocate and the basis of the practice of law in Ukraine, in particular, expanded his or her procedural rights.

At the same time, there is currently no scientific research devoted to a comprehensive, comprehensive, conceptual understanding of the organization of the Bar and the professional ethics of attorneys in Western Europe.

However, it is particularly relevant for two reasons: from a theoretical point of view, it is necessary in the context of clarifying the new legal environment in which the Western European bar operates; from a practical point of view, knowledge of the achievements and shortcomings of the Western European bar could provide significant assistance in reforming the legal aid sector in Ukraine.

The legal regulation of the Bar in the European Union has peculiarities related to the integration process that has determined the direction of development of the European continent in recent decades. The formation of the Common Market in the European Economic Community was accompanied by the proclamation of new rules for conducting business activities. The Treaty of Rome in 1957 laid the foundation for the formation of the Common Market by eliminating all obstacles to the free movement of people, goods, services, and capital.

However, despite these positive trends, the current state of the legal aid sector in Ukraine can be considered ineffective both from the point of view of the legal community and public authorities, as well as the majority of the population. In today's Ukraine, there is a dichotomy of entities providing legal aid to citizens and their associations, and there are double standards of regulation of the legal profession: one part of practicing lawyers is subject to the requirements of corporate law, while the other is completely free from them.

Unlike Ukraine, which has adopted a specialized law on the Bar and the Practice of Law, the EU did not provide for a special rule regulating the

legal status of the Bar in the Rome Treaty. However, its provisions imply that the activity of a lawyer in providing legal services (the activity of persons of free professions, Article 60) is a type of economic activity. Based on this provision, the institution of the bar is subject to the legal regime of the Common Market freedoms, and lawyers can provide legal services in any member state of the European Economic Community.

The prolonged absence of proper legal regulation of the organizational foundations of the practice of law and the Bar in Ukraine, the lack of reference to the positive experience of historical development, and the formation of the legal framework for the exercise of professional activities by lawyers in foreign countries (e.g., the EU) caused significant shortcomings in the activities of the recently reformed Ukrainian Bar.

Foreign and domestic law firms and consulting companies operate in more favorable conditions than advocates, and the current legislation on the Practice of Law and the Bar does not contribute to the improvement of organizational and legal forms of the Bar; the cases of free legal aid provided for by Ukrainian legislation do not cover the current social needs related to the development of civil turnover and its legislative regulation; approaches to defining activities incompatible with the status of an advocate need to be changed. Undoubtedly, this is the case with the Western European bar, which has deep historical roots. Based on the comprehensive experience of Ancient Greece and Ancient Rome, European nations gave this legal institution a new meaning, turning it into a universal tool for providing legal assistance to citizens and their associations.

The lack of proper legal regulation of the status of the bar self-government institution and the Ukrainian bar itself caused significant shortcomings in its activities. Therefore, the adoption of new codes, primarily the Criminal Procedure Code of Ukraine, which came into force on April 13, 2012, also significantly affected the status of the bar, Judicial reform in Ukraine has been going on for over a decade, and the reform of the bar has only recently begun. The adoption of the relevant specialized law legally formalized the attribution of the Bar to civil society institutions and the assignment of certain public legal functions to it. These changes have removed the obstacles which hindered the growth of the Bar as a corporation of professionals in the field of legal aid.

The purpose of the article is to study the European Union legislation in the field of regulation of the Bar and Bar self-government, and also the evolution of the process of simplification of the procedure for free provision of services by attorneys in the Common Market.

Theoretical Framework or Literature Review

The deep integration processes taking place in various spheres of EU life have directly influenced the creation of a system of legal norms related to the activities of lawyers in the pan-European space, which provide for the creation of the necessary conditions for the free provision of services (freedom of movement of services), freedom of institutions, recognition of a common system of higher education diplomas, elimination of protectionist instruments restricting the free movement of lawyers.

"Respect for all common civilizational values such as rights, freedoms, and legitimate interests of a person and a citizen are the foundations on which a legal and democratic state rests" (Rezvorovych, 2022: 163). The institution of the Bar is the guarantor of their protection, since "justice and democracy have become among the most important affairs of mankind that public institutions must achieve and enforce" (Kumar, 2021: 19).

The main areas of development of the Bar in Ukraine at the present stage are the implementation of international legal standards relating to the provision of legal aid and the activities of the Bar in the domestic legal system; reform of procedural legislation aimed at improving the independence of lawyers, increasing guarantees of their protection, ensuring the equality of the parties in court and at the pre-trial stage; further reform of Ukrainian legislation to formulate a comprehensive legal framework for the provision of legal aid. The magnitude of the tasks facing the institution of the Bar in Ukraine at the present stage is primarily due to the fact that "today's information society faces open challenges with hidden opportunities and risks in further evolution" (Gevorgyan & Baghdasaryan, 2021: 37).

The experience of organizing the Bar was studied on the basis of epistemological, ontological, and socio-historical approaches. The use of these approaches makes it possible to study the object of research, following the logic of its development through its immanent characteristics. «The latest advances in science and technology demonstrate the need for

transformation in social life, particularly in jurisprudence» (Filipova et al., 2021). As one of the main mechanisms for the protection of human rights in a law-based democratic state.

Methodology

To achieve the aims and objectives of the study, the author used general scientific methods (systemic, structural and functional, object-subject, logical (deduction and induction), and private scientific methods (formal legal, comparative legal). The use of a particular method depended on the solution of a particular research task. Thus, in the process of collecting and evaluating factual material, the method of comparative legal research was used; in the process of processing and studying factual material, the following methods were used: specific sociological, normative and dogmatic, statistical processing methods, special legal, comparative legal methods; at the stage of preparing conclusions and findings, logical research methods (formal legal method, deduction and synthesis, induction and analysis) were used.

In the process of collecting and evaluating factual material, sociological methods, such as surveys, interviews and focus groups, were used. In the process of processing and studying factual material, normative and dogmatic methods were used, such as the analysis of EU and Ukrainian legislation and jurisprudence. In the stage of drawing conclusions and findings, statistical methods were used, such as descriptive statistics and statistical inference.

Results and Discussion

In its evolutionary development, the Western European Bar has passed through certain stages of historical formation, each of which had distinct forms of existence (antiquity, the Middle Ages, the Modern period, and the contemporary period), which determined the specifics of the institution the modern period of development of the Western European bar is characterized, on the one hand, by a great variety of manifestations of its individual institutions (models of bar self-government, organizational and legal forms of practice of law, attitude to the bar monopoly), and, on the other hand, by universal features and attributes. In all Western European countries, deontological codes of attorneys-at-law (codes of professional ethics of attorneys-at-law) have been adopted and are in force, which are a mechanism for controlling the performance of professional duties by attorneys-at-law. The moral and ethical rules that guide Western European attorneys go back to the long-standing legal traditions in Western Europe and are correlated with the conditions and nature of the tasks performed by attorneys. Western European states recognize the legal profession as an institution of civil society and therefore promote the institutional independence of the bar.

At present, when the debate between scholars and practicing lawyers on possible ways to reform the legal aid sector in Ukraine has intensified, legal knowledge of the organization of the bar and the ethics of professional activity of lawyers in Western European countries is needed, as it will allow to perceive a significant part of the legal experience gained in Western Europe.

The institution of the bar in the EU is subject to the legal regime of the Common Market freedoms, so lawyers can provide legal services in any member state of the European Union. In this context, it is necessary to distinguish between two fundamentally different ways of providing legal services. The first is the possibility for an attorney to permanently practice in one Member State and occasionally provide legal services in another EU Member State (e.g., representation of a client in court). The second method involves the relocation of an attorney to another EU member state with the subsequent permanent practice in its territory.

The successful functioning of the Common Market at the initial stage in the field of legal services depended on the readiness of states to create equal conditions for both national lawyers and those coming from other EU countries. The main problems were the differences in the national legislation of the EU member states, the legal unification of the profession, and the professional requirements for persons applying for the status of an attorney. The requirements for future attorneys are quite strict in the EU member states. The applicant must have high moral qualities, the required level of legal education, and successfully pass the bar admission procedure: courses, qualification exam, internship, etc.

The rights of a foreign advocate are almost fully consistent with the rights of a national advocate (membership in the bar association, the right to vote in decision-making), but they can provide legal services with some restrictions compared to national advocates. According to Art. 5 of Include Directive 98/5/EC of February 16, 1998 Directive 98/5/EC of the European Parliament

and of the Council, 1998 (Legislation, 1998), Member States retain the right to restrict foreign lawyers from representing clients independently in national courts (only together with a national lawyer). However, some countries have abandoned this approach to restricting the rights of foreign lawyers acting in the host country, such as France.

At the same time, foreign attorneys have certain privileges: there is no need to be proficient in the national language of the receiving state, as well as to be an expert in its legal system. The novelty of Directive 98/5/EC of February 16, 1998 is an alternative mechanism for obtaining the status of an advocate in an EU member state. While the 1989 Directive provides for the acquisition of the status of an advocate on the basis of legal education and recognition of diplomas, the 1998 Directive provides for the possibility of acquiring the status of an advocate for permanently practicing foreign advocates.

In order to obtain equal rights and status with local attorneys of the host country, a foreign attorney must meet the following criteria: to practice law in the host country under a professional title for three years; to practice law continuously; the practice of law must relate to the national law of the host country, as well as the law of the European Union and international law. If the foreign advocate meets these requirements, he or she shall apply to the relevant institution of the host state for the status of a national advocate. The facts of the practice of law in the receiving state shall be proved by any documentation that testifies to the following.

This mechanism for acquiring the status of a national advocate, which does not require either an examination or an internship, has been implemented in the national legislation of almost all EU member states. For example, by 2002, 378 attorneys from other EU member states had been employed in Belgium using the system established by Directive 98/5/EC. For comparison, in 1997-1998, in accordance with the provisions of Directive 89/48/EEC, 155 applications were received from applicants, of which 20 passed the test, 44 failed, and the remaining applications were under consideration or appeal or were automatically rejected. In France, no foreign lawyers were admitted in 1997-1998, while after the adoption of Directive 98/5/EC, their number increased to 33. In Italy, in 1997-1998, 64 applications were received, of which in 57 cases the applicants passed the test, 7 were rejected; after the adoption of Directive 98/5/EC, 47 lawyers were admitted.

The European Union of Lawyers (Union des Avocats Européens, UAE), a general professional organization of lawyers practicing in the European Union, also contributes to the development of the freedom of legal services. Any lawyer who is a member of a national professional organization of lawyers in an EU member state can become a member of the UAE, and there is a possibility of associate membership for other lawyers. The UAE declares the main purpose of its activities to be the promotion of the free flow of legal services throughout the EU, the development and adaptation of common EU professional standards of practice in order to unify legal services within the EU, and the introduction of the practice of applying the Convention for the Protection of Human Rights and Fundamental Freedoms.

Thus, the pan-European regulation of admission to the practice of law shows a significant evolution with a tendency to simplify the procedure for advocates to exercise the right to practice law in a state other than the one in which they received their professional education and the status of an advocate. It is thanks to supranational rulemaking that this opportunity is practically realized.

Acquisition, suspension, and termination of the status of an advocate in the EU are fully within the competence of the national self-governing body of advocates (national bar association). Based on a direct analysis of the EU legislation regulating the acquisition, suspension, and termination of the status of an advocate, it is possible to distinguish the following models of bar self-government (Table 1):

Table 1.
Models of bar self-government in the EU

The model of bar self-government	The EU member state that represents the bar self-government model
Classical. Membership in the Bar is associated with affiliation with a chamber of advocates. The members of the chamber (collegium) are advocates who are assigned to the Supreme Court of the same land, region, or territory.	France, Italy, Greece, Spain, Holland, Belgium.
Territorial. It is characterized by the fact that the chambers are formed on a territorial basis and unite all advocates entered in the Register of the authorized body of a particular subject of the federation of an administrative-territorial unit). The jurisdiction of each chamber of advocates extends to the territory of the federal subject (administrative-territorial unit) in which this chamber was founded, and even to all advocates included in the list of this chamber of advocates.	Austria.
Associative. It provides for self-governance of the bar through associations and unions, and membership in an association is not mandatory.	The Swedish Bar Association and the Swiss Bar Association.
Corporate. Management with the help of the legal community.	With certain reservations Switzerland (Bar Association), Sweden (Bar Association).

*Author's development**

In the UK, a country that was a member of the EU, another model of bar self-governance is characteristic - management through judicial inns and barristers. The first and second models are united by the fact that they involve membership in a chamber or panel. All of these models strictly distinguish between the forms of bar self-government and the organizational and legal forms of the practice of law.

National legislation in the EU is aimed at encouraging the practice of law in various organizational and legal forms, which provides for the introduction of restrictions for non-attorneys in order to weaken their influence on decision-making in the bar associations. The main organizational and legal form for bar associations in the EU is a non-profit partnership (civil law association): GB-Gesellschaft of German law; "Advokaterselskab" of Danish law; "association" or "societe civile professionelle" of French, Belgian and Luxembourg law; "maatschap" of Dutch law; "sociedades civis" of Portuguese law; "despachos collectivos" of Spanish law.

In the Netherlands and France, the organizational and legal form of the practice of law is a business partnership. Also in these countries, bar associations may be established in the form of bar holdings; in Denmark, it is possible to establish the legal profession in the form of a limited liability company, joint stock company, or bar joint stock company.

The mechanism of control over the performance of the advocate's professional duties is the professional ethics of advocates (deontology), which provides for strict compliance with its provisions by those to whom they apply, as is customary in any civilized society. Most of the national deontological codes (codes of professional ethics for lawyers) of the EU member states are regulatory rather than legal acts, as they are adopted by corporate self-government bodies rather than legislative or other authorized state bodies. However, in some EU member states, deontological codes (codes of professional ethics for lawyers) are by their nature legal acts, as they are approved by laws or decrees of the heads of state. Some of the codes supplement the provisions of the legislation regulating the activities of lawyers with their guidelines.

The legal regulation of the practice of law and the status of an attorney in Ukraine is carried out in accordance with the provisions of national legislation and internal principles, in addition to international legal acts, which "... can be classified by the object of regulation and divided into three main groups of international acts: those regulating the organisational and legal framework of the activities of attorneys (Basic Principles on the Role of Lawyers, 1990, "The Common Code of Practice for Lawyers of the European Community of 1988, etc.); those regulating the procedural basis of the activities of advocates (the International Covenant on Civil and Political Rights of 1966, the Universal Declaration of Human Rights of 1948 "The Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, etc.); those that define the role of lawyers (attorneys) in

society (Standards of Independence of the Legal Profession of the International Bar Association, etc.)" (Mozhaikina, 2020: 31).

Thus, the institution of the Bar and bar self-government must take into account the positive experience, "the European vector of Ukraine's development has caused the emergence of new mechanisms of interaction between the state, the individual, and society" (Bakalinska et al., 2022: 146). It provided a clear definition of the term "lawyer", according to which in each EU member state it covers only the profession of lawyer. Therefore, when it comes to the provision of services, as well as freedom of movement, it means only a lawyer, who, in addition, in the process of providing legal services, must indicate in the language used in the country from which he came, the name of his profession (title) and the professional organization that issued him such a diploma. At the same time, the receiving country has the right to request documents confirming his/her qualifications. According to the direct provision of Art. 4 of the said Directive, the practice of law in the exercise of the freedom of movement of services cannot be conditioned by the need for an advocate to be a resident of the receiving state, as well as the need to join the professional community of lawyers of that state.

When rendering legal services, the foreign advocate shall be subject to the rules of practice of law of the receiving state. National legislation may stipulate that a foreign attorney shall represent a client's rights jointly with a local attorney and may be subject to professional restrictions similar to those applied to local attorneys.

"The legal sphere, like any other sphere of public activity, requires transformation; however, jurisprudence has its own peculiarities in terms of updating the organization and principles of work" (Paryzkyi, 2021: 27). Thus, the further development of integration within the European Community required mutual recognition of the professional qualifications of representatives of various professions, including the legal profession. At the moment, an attorney who wishes to move to another EU Member State and practice law there has two options for acquiring the attorney's status: one can use the general system of recognition of diplomas based on the 1988 Directive, or the special procedure introduced in 1998. During this period, it is also worth noting such important processes that influenced the adoption of these directives as the fact that "while new activities developed for a part of the legal profession, most notably lobbying and mediation activities, lawyers contributed to blurring the border between the public and the private sphere at the European level" (Avril, 2018: 859).

To eliminate these restrictions, a special Directive 98/5/EC of February 16, 1998, was adopted on simplifying the procedure for the permanent exercise of the legal profession in a Member State other than the one in which the qualification was obtained. This legislative reform was in line with the needs of the labor market and the rule of law, which is "...as a well-established and well-defined principle whose core meaning is further shared as a common value among all Member States" (Pech, 2022: 107).

The Directive is intended for practicing lawyers and provides for an alternative procedure for their admission to practice law in the receiving state. The Directive provides for the right of an advocate to practice in another EU state while retaining the professional title obtained in the state of which he or she is a citizen. Art. 3 of the Directive stipulates that an advocate must register with the competent authority of the receiving state by providing evidence of permanent professional legal activity in the state of origin, and after registration, the advocate is granted the status of a foreign advocate.

Thus, with the formation of a special supranational association of the EU, the modern institution of the bar in the territory of its member states begins to take shape, which, in particular, provided for the possibility of "...providing opportunities for advocates to connect and share experiences" (Antone et al., 2021: 585). The institution of the Bar in the EU is becoming, on the one hand, an institution of civil society, and on the other hand, a means of implementing state guarantees of the constitutional right to legal aid (the right of citizens to seek the assistance of a lawyer in case of any form of restriction of liberty (Spain), the right to defense (Switzerland, Portugal), the right to defense and legal representation (Italy), the institution of a trustee (Germany). Thus, "advocates are a critical component in the search for material truth in the judicial process, particularly in criminal cases. From the client's perspective Protection is another goal of the settings" (Alatas & Santiago, 2022: 1).

The state considers the Bar to be a public legal institution and, by adopting special legislation, establishes certain criteria for the functioning of

the Bar, provides conditions that facilitate the training of advocates to provide citizens and their associations wiovth various types of legal aid. In particular, the institution that distinguishes the legal profession from the vast majority of other professions, is general in nature, absolute, and unlimited in time, "confidentiality is a cornerstone of the professional status of a lawyer and limitations of this principle should be strictly envisaged by law" (Nazarov et al., 2020: 603). Due to his or her status, a lawyer becomes a client's confidant, so the existence of the attorney-client privilege is in the public interest.

«The advantage of procedural legal personality in administrative and criminal proceedings, compared to the status of other subjects of procedural relations of a public nature, is the strict enshrining in the legislation of the procedural rights of participants in administrative-procedural relations and criminal-procedural relations and possibilities of their implementation» (Khalilov, 2023). The attorney-client privilege is a right and an obligation of the attorney. The right and obligation to maintain the attorney-client privilege extend to everything that became known to the advocate in the course of the performance of his or her assignment and continues to be maintained after its execution. EU member states have different approaches to the question of who can release an attorney from the obligation to maintain the attorney-client privilege. In some countries, it is generally accepted that the client has the right to release the lawyer from the obligation to keep the attorney-client privilege; in others, it is believed that the lawyer cannot be released from the obligation to keep the attorney-client privilege by his client, or by any authority, or by anyone at all.

"Lawyers, for example, are taught that they can retain unbiased beliefs while advocating for their clients and that they must do so to secure just outcomes" (Melnikoff & Strohminger, 2020: 1258). In the course of his or her professional activities, the advocate has legal and ethical obligations to clients, the court, and other public authorities with which the advocate enters into relations while performing the client's instructions, to the legal community as a whole, and to colleagues separately, to the society for which the existence of an impartial and independent legal profession is a prerequisite for the protection of the rights of citizens and their associations.

The highest legal guarantee of human and civil rights and freedoms is their judicial protection (Article 55 of the Constitution of Ukraine). Such judicial protection is provided through constitutional, civil, commercial, administrative, and criminal proceedings. The exercise of judicial protection in all types of proceedings is inextricably linked to one of the fundamental constitutional rights of a person and citizen in Ukraine, namely the right to legal aid.

It is undisputed that the main entity responsible for providing such assistance is the Bar, which in the civilised world serves as an indicator of the level of democracy in society. In addition, the proper functioning of the Bar is one of the main features of determining the level of human rights protection.

In this case, we should agree with the statement of the Committee of Ministers of the Council of Europe, which notes the important role of lawyers in ensuring the protection of human rights, considering their activities as one of the main components of the development of the rule of law in each country.

The new law on the Bar adopted in Ukraine provides that the scope of professional rights of advocates has been quantitatively increased, but mainly not through qualitative changes, but by actually artificially separating certain rights from the list of those guaranteed before. In addition, it should be noted that a number of such rights are only declarative in nature and cannot be properly used in the practice of law. Thus, the said law stipulates that the advocate has the right to collect information about facts that may be used as evidence in accordance with the procedure established by law, to request, receive, and seize things, documents, copies thereof, to get acquainted with them and to interview persons with their consent. In this case, the procedural procedure for the seizure of things and documents by the advocate from persons is not regulated at all, and therefore the mechanism for the exercise of this right and the procedural status of such documents (things), in particular in civil cases, remains unclear.

In addition, the advocate is deprived of the possibility of proper use of such a right as the right to conduct interviews with persons with their consent. Firstly, there is no procedural mechanism for the exercise of this right by the advocate, which may result in such actions being considered as pressure on a witness. Secondly, the legislator has not established the legal nature of the testimony of such persons, namely the possibility of their being classified as evidence.

It is undeniable that, in addition to a number of negative features, a significant number of positive characteristics have been enshrined. In particular, a fundamentally new system of formation of qualification and disciplinary commissions of the Bar has been established (their composition is elected and formed exclusively from among the advocates by the bar self-government bodies), which in a certain way increases the independence of the Bar as a whole.

The strengthening of guarantees for the protection of the advocate's activities is also positive, in particular, the obligation of the body or official who detained the advocate or applied a preventive measure to him/her to immediately notify the relevant regional bar council. The procedure for conducting searches and inspections of advocates is also described in some detail. As for the other guarantees, they are mostly declarative or duplicate the provisions of the existing legal acts. The issues of bringing advocates to disciplinary liability, internships for persons who have expressed a desire to become advocates, and others that are the subject of separate research remain controversial in connection with the adoption of the Law.

Conclusions

Legal regulation of the Bar in the European Union depended on the development of the Common Market of the European Economic Community, and subsequently of the European Union. Each step in the development of legislation in this area was significant progress in comparison with the regulations that had been adopted earlier. Despite the peculiarities of the legal profession, the European Union has managed to create a system that allows lawyers to exercise their rights to freedom of movement of services and freedom of establishment on an equal footing with representatives of other professions and to practice freely in any EU member state on a permanent and temporary basis. As a result of the study, the following conclusions can be drawn:

1. the legal regulation of the Bar and bar self-government in the European Union depended on the development of the Common Market of the European Economic Community and, subsequently, the European Union. Legislation regulating the status of a foreigner is marked by significant progress and gradual improvement;
2. despite the peculiarities of the legal profession, the European Union has managed to create a system that allows lawyers to exercise their rights to freedom of movement of services and freedom of establishment on an equal footing with representatives of other professions and to practice freely in any EU member state on a permanent and temporary basis;
3. the constitutional and legal status of the Bar stems from the principle of the rule of law in combination with fundamental human rights, but most often, unlike the right to defense and legal aid, the institution of the Bar does not have direct constitutional consolidation.

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