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Technical Paper: Comparative Analysis of International and Russian Pro Bono Practices

Prepared by
Andrey Porfiriev and Marieanne McKeown
Council of Europe experts

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For further information please contact:

Economic Crime Cooperation Unit (ECCU)
Action against Crime Department
Directorate General of Human Rights and
Rule of Law-DG I, Council of Europe

Tel: +33-3-9021-4550
Fax: +33-3-9021-5650
e-mail: mustafa.ferati@coe.int
www.coe.int/corruption
www.coe.int/precop

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1 EXECUTIVE SUMMARY

There is no universally agreed definition of pro bono, but it is possible to glean a common understanding of what pro bono is from the guidelines and regulations available in different countries. Pro bono is legal work done by lawyers; for the public good, rather than for commercial interests; voluntary and uncompensated for the lawyer; free for the client; and delivered with the same professional standard as paid legal work.

Pro bono and legal aid are sometimes used inter-changeably and/or understood to mean the same thing. However this is not completely true, pro bono refers only to legal assistance provided without any compensation from the state or otherwise. Furthermore, pro bono is an adjunct to and not a replacement for state sponsored legal aid.

Pro bono can mean free legal assistance to both individuals and non-governmental civil society organisations. In Europe most institutionalised pro bono is provided to organisations rather than individuals, usually because of a strong system of statutory legal aid available to individuals.

It is not easy to compare pro bono practices in different countries as like-for-like, since each country has its own legal, regulatory and cultural factors that influence pro bono practice.

Common barriers to pro bono practice include; statutory or bar association rules prohibiting or limiting the provision of free legal services; VAT on pro bono work; the requirement to have professional indemnity insurance to cover pro bono work; difficulties monitoring the quality of pro bono work done; and challenges accessing pro bono opportunities.¹

The incentives for doing pro bono work depend heavily on motivations of the individual lawyer and the culture and environment in which they practice. Personal development, an individual sense of social responsibility and the wholesome feeling fostered while working for the common good are all traditional incentives for lawyers to take on pro bono work. However, these idealistic foundations have been supplemented in recent year by practical and more competitive reasons.

Making the business case for pro bono might sound clinical on the face of it but positive publicity, increased staff retention rates and rewarding pro bono achievement are all contributing to the same original goal. These incentives and prizes, regardless of motivation, are ultimately establishing a strong pro bono foundation in the international legal community, thereby ensuring that indigent communities can access the legal supports they need.

The development of pro bono practice in the Czech Republic has been led primarily by a civil society organisation, Pro Bono Alliance, which runs a successful pro bono clearinghouse and cooperates with the Ombudsman to provide pro bono assistance for victims of discrimination. There are no regulatory barriers to the provision of legal assistance for free and any pro bono work done is subject to the Code of Ethics of the Czech Bar Association. Pro bono is incentivised through public recognition in the form of pro bono awards, and it is presented as an opportunity to gain experience in legal fields outside of

¹ In addition to those detailed in this report, please see explanations of further barriers to pro bono practice in Latham & Watkins and the Pro Bono Institute, “A Survey of pro Bono Practices and Opportunities in 71 Jurisdictions, 2012”, <http://www.probonoinst.org/wpps/wp-content/uploads/a-survey-of-pro-bono-practices-and-opportunities-in-71-jurisdiction-2012.pdf>.

day-to-day practice, to make a lawyers work more fulfilling and as a recruiting tool for the best young lawyers.

Only since January 2014 has the provision of free legal assistance (out of court) been recognised as legal in Germany, prior to that the law was ambiguous. This has not prevented pro bono practice from developing, mainly through the influence of international firms with offices in Germany, notably through the establishment of Pro Bono Deutschland e.V. Pro bono work done by lawyers is subject to the same professional regulations as fee paying work and must meet the same professional standards. Pro bono is promoted as a recruiting tool for attracting young lawyers to firms and as a useful networking and marketing opportunity, but only as a benefit of rather than an incentive for doing pro bono work.

Hungary has a very active pro bono culture, primarily as a result of the establishment of PILnet's Hungarian Pro Bono Clearinghouse in 2007. Pro bono assistance is provided mainly by large national or international firms to civil society organisations and such work is governed by an agreement, or contract, specifically between the client and the lawyer. Through PILnet's clearinghouse lawyers have been involved in some notable pro bono projects on anti-corruption with Transparency International, and in promoting professional legal ethics through a series of seminars for law students delivered by lawyers on a pro bono basis. An annual award jointly bestowed by PILnet and the Hungarian Bar Association recognises exemplary pro bono work done by local lawyers.

Pro bono is not a widely recognised term in Spain but despite this there is widespread evidence of pro bono work being done, most notably through two pro bono clearinghouses that were set up in the last few years. Pro bono work done by lawyers is subject to the same rules of professional conduct and liability as fee-paid work.

Pro bono in the U.K., and more specifically the jurisdiction of England and Wales, has the most developed culture and practice of pro bono in Europe. This is driven, on the one hand, by the London offices of large U.S. firms which have strong internal pro bono structures and programs, working mainly for non-profit organisations, and on the other hand by small law firms that provide pieces of pro bono assistance on a day-to-day basis to individual clients. There are a wide range of non-profit organisations that facilitate pro bono or operate clearinghouses and any work done by lawyers (solicitors, barristers and legal executives) is subject to the same professional standards as fee-paying work.

Incentives for pro bono in England and Wales include; the range of awards bestowed upon lawyers and law firms that engage in pro bono work; the high level of competition between (mainly larger) law firms on their pro bono records; a firm's pro bono record being used in decision-making by potential new clients; internal law firm pro bono targets; and consideration of pro bono work in performance reviews and/or bonus decisions.

In no European country is there an obligation for members of the legal profession to provide pro bono work. However, members of the legal profession in some countries, such as the United Kingdom or Spain, are encouraged to provide pro bono work.

Recommended incentives for increasing the culture of pro bono in the Russian federation include; highlighting the social responsibility of lawyer, the 'feel good factor', and the career advantages that come with doing pro bono; providing the structures and information that make it easy for lawyers to engage in pro bono; recognising, awarding and advertising pro bono success stories; sell the business case for pro bono to law firms; offer indirect incentives that can benefit business; and expose Russian lawyers to international pro bono networks and best practice.

2 INTRODUCTION

2.1 What is Pro Bono?

“Pro bono” derives from the Latin phrase *pro bono publico*, which means “for the public good.” The term is used within the legal profession to refer to lawyers’ provision of free legal services to those in need but who lack access to such services. While the kind of work that is considered to be “pro bono” may vary depending on local legal traditions, cultures or social backgrounds, pro bono can be defined as having certain of the following characteristics:

- legal work done by lawyers;
- for the public good, rather than for commercial interests;
- voluntary and uncompensated for the lawyer;
- free for the client; and
- delivered with the same professional standard as paid legal work.

A distinction can be drawn between pro bono and other free legal services available to those in need. For example, some people are eligible to have their legal problems serviced at their government’s expense through government-funded legal aid programs. Such work is not considered to be “pro bono” because the lawyer providing the service is paid to do so by the government. Another example involves situations in which those in need access free legal services provided by lawyers working at a law centre or other non-profit organization. Again, such work is not considered to be “pro bono” because the lawyer providing the service is paid to do so by the non-profit organization. Finally, some lawyers may give free initial consultations to prospective clients. This is not considered to be “pro bono” because the lawyer is acting in his/ her own commercial interests to cultivate new fee-paying clients.

2.2 Comparing Pro Bono Practice

As mentioned above, pro bono is often understood in different ways by different people, organizations or institutions, and the practice of pro bono is shaped by local laws, regulations, structures and culture. This can sometimes make it difficult to compare pro bono practice between countries. This report broadly uses the definition of pro bono outlined above, but does acknowledge locally articulated definitions of pro bono where they exist.

However, it remains difficult to compare pro bono practices. For example, where the practice of pro bono is heavily regulated by codes of conduct, there are fewer concerns about the quality of pro bono work done. Similarly, where they are existing pro bono structures within law firms, civil society organizations or bar associations, it is much easier to build on those foundations in the creation of new pro bono projects than is starting from scratch.

Despite the challenges of comparison, the experience and practice of pro bono in other countries remains a valuable source of learning. The Russian Federal Ombudsman for Protection of Entrepreneurs’ Rights can draw upon these examples of good international practices to promote pro bono in the Russian Federation.

This report compares the following elements of pro bono practice:

- The country context in which pro bono is being done, the structure and regulation of the legal profession and the provision of state sponsored legal aid.
- The local culture of pro bono and legal or regulatory framework in which pro bono work is done
- What pro bono work is being done, by whom and for whom?

- Incentives used to encourage lawyers to do pro bono work, including recognition, marketing, awards, competition, targets, career progression, billable hours and other structures used by law firms to facilitate the engagement of their lawyers in pro bono.

2.3 Which Countries and Why?

This report provides a detailed description of pro bono practice in six Council of Europe member states; the Czech Republic, Germany, Hungary, Spain, and England & Wales, contained in chapter 4. The paper provides examples of useful pro bono regulations, practices structures and incentives from other European and non-European jurisdictions.

The countries covered in detail were chosen because they span a diverse spectrum of pro bono practice in Europe; from very well developed (England & Wales) to countries that are really only beginning to build a local pro bono culture (Spain); and countries which offer useful examples of pro bono delivered in collaboration with an Ombudsman (Czech Republic), and of improving awareness and standards for professional legal ethics (Hungary).

2.4 List of terms

This list explains what is meant by each the following terms for the purpose of this report:²

Civil society organization:

Also known as a non-profit, non-governmental, charitable, community or civil organization, independent of government and non-party-political.

Clearinghouse:

A clearinghouse facilitates the provision of pro bono legal assistance. It acts as an intermediary between people or organizations needing legal assistance and lawyers prepared and able to assist. By acting as a hub for the skills and expertise of the legal world, a pro bono clearinghouse provides NGOs, governments and/or individuals with an identifiable mechanism through which they can find legal support.

Law Centre:

Also known as a legal advice clinic or law clinic. A place where free legal information and advice on various areas of law is regularly provided. There are a variety of different legal clinic models. Some clinics provide advice on the spot, while others follow-up with advice at a later date. The legal assistance provided in law centres may be by students, trainees or qualified lawyers.

Legal aid:

The provision of free or subsidized legal advice or representation to people who cannot afford to pay for it, generally subsidized by government. It is different from pro bono services which are usually provided by lawyers who do not receive payment for their work.

² As defined in the glossary of terms, PILnet & A4ID, *Pro Bono Clearinghouse Manual*:
<http://www.probonomanual.org/doku.php?id=glossary>.

Pro bono:

Legal work done by lawyers; for the public good, rather than for commercial interests; voluntary and uncompensated for the lawyer; free for the client; and delivered with the same professional standard as paid legal work.

3 INCENTIVES FOR ENCOURAGING LAWYERS TO DO PRO BONO WORK: AN OVERVIEW

3.1 Incentives for individual lawyers

For a pro bono culture to flourish, lawyers need to want to do it, it may be driven by their own sense of social responsibility or by the opportunities for professional development that pro bono work can provide.

3.1.1 It is the social responsibility of lawyers to do pro bono work

Lawyers are the gatekeepers of the legal system. They speak the language of the law and understand the procedures and court systems that can often inhibit citizens, particularly the disadvantaged or socially excluded, from accessing justice. In the face of this high level of legal need, lawyers should be reminded that they have a monopoly on legal services and thus being a lawyer is a privilege, and that privilege comes with obligations.

In many of the case studies in this report – in the Czech Republic, Germany, Hungary, Spain and the U.K. – lawyers are drawn to pro bono because of this sense of responsibility. Sometimes this is enshrined in lawyers’ codes of ethics or conduct by bar associations. In South Africa, this sense of social responsibility prompted the establishment of a compulsory pro bono target for all qualified lawyers following the creation of the new post-apartheid constitution and democratic institutions.

Increasingly law firms are formally recognizing this connection between the responsibilities of the legal profession and the provision of free legal assistance, and as a result may include pro bono programs within their corporate social responsibility mandates.

3.1.2 The pro bono ‘feel good’ factor

For many lawyers, wanting to help others and to serve justice motivated them to become lawyers in the first place. As their careers progress, they may be distracted from this ‘idealism’ by the pressures of a high workload and billable targets. Pro bono work can provide them with the opportunity to reconnect with their ideals. According to Geoff Budlender, drafter of the initial recommendations for South Africa’s mandatory pro bono scheme, there is “an opportunity for lawyers, who may find spiritual poverty within their profession, to nourish themselves with pro bono work as the ‘soul food for lawyers’.”³

This sentiment echoes in the U.S.A. In writing about why lawyers do pro bono, a senior partner in a large international law firm found that the best way to get all lawyers to consider doing pro bono, is to convey how it feels. The overwhelmingly positive experience of doing pro bono work means that if you can get a lawyer to take on one piece of pro bono work, they usually will on more; ‘lawyers who do pro bono keep doing pro bono’.⁴

3.1.3 Career progression and personal development

Pro bono work can be an opportunity for lawyers to expand their skills and expertise, and to advance in their careers. For young lawyers in particular, pro bono cases represent a chance

³ *The Responsibility of Lawyers to Undertake Pro Bono Publico and Public Interest Work*, Conference Proceedings, 2002: <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/SouthAfricaProbono.pdf>

⁴ D. Kutik, GPSolo Magazine, *Pro Bono: Why Bother?* 2005: https://www.americanbar.org/newsletter/publications/gp_solo_magazine_home/gp_solo_magazine_index/2005_oct_nov_probono.html.

to take on more responsibility and explore more areas of law than their training program might offer. The skills they develop as a result are of benefit to both the lawyer and the firm.

According to Lardent's report, pro bono work makes better lawyers overall. It provides an opportunity for lawyers to go beyond their immediate and narrow specialties and garner a broader sense of society and how it works – or doesn't work. The report also cites a 1991 survey of almost 200 major corporations on the effects of employee volunteering. The survey found that volunteer work promotes personal and professional growth; it encourages characteristics that improve the quality of their work force, such as creativity, trust, teamwork, productivity, and persistence.

At some law firms pro bono performance is linked to bonuses and career progression. For example, at Clifford Chance each lawyer's pro bono record is considered during their appraisal. In other firms, such as Ashurst and DLA Piper, pro bono work is counted as billable/chargeable hours and therefore part of the bonus calculation process.

3.1.4 Recognition and Awards

Recognizing the contribution of pro bono lawyers can be a valuable way of thanking the lawyers, of highlighting and promoting high standards of pro bono, and of encouraging competition between lawyers and firms in their pro bono record.

Recognition could be in the form of website or newsletter articles, or social media posts, highlighting successful pro bono cases and projects and the valuable contribution of a particular lawyer or law firm.

Pro bono awards are another important way to ensure public recognition for those who have made an outstanding contribution to the pro bono community. Strategically, a pro bono award serves several purposes. First, it provides an opportunity to thank the lawyers who have donated their time, money and efforts to pro bono practice. Second, this "official" pro bono recognition adds prestige to the lawyer's record and can help them to market themselves more positively in the legal community. Finally, this kind of event also promotes pro bono more generally.

Each year PILnet bestows two awards recognizing outstanding pro bono contribution in Europe. The award for Exemplary Partnership in the Public Interest recognizes the best pro bono legal project, or projects, undertaken as collaboration between an NGO and a law firm. The award for Extraordinary Contribution to the Development of Pro Bono Culture is given to an emblematic and leading figure of the development of pro bono in a European country, and who has helped PILnet advance its pro bono efforts in Europe.

Since 2003, there has been a pro bono award for individual lawyers in Poland under the patronage of the Bar Council and the National Council of Legal Advisors. Members of the jury include The Ombudsman, the Minister of Justice and the Presidents of a number of courts and both bar associations.

In the United States, there are many awards and each have their own criteria. Law firms, law schools, law students and individual lawyers, both in private and government practice, can all receive pro bono awards.

Drawing the media's attention to pro bono awards can be a useful way of raising wider awareness of pro bono success stories, and also to highlight to the general public the volunteer commitment of the legal community. In Poland, for example, the leading Polish newspaper, Rzeczpospolita, is a co-organizer of the pro bono competition. In Russia,

PILnet-Moscow's Clearinghouse co-organizes an annual Pro Bono Award with the Corporate Lawyer, a publication awarding law firms for their contributions in various areas.

3.2 The business case for pro bono

Doing pro bono for ethical or moral reasons is not mutually exclusive from doing pro bono for business reasons. Marketing, client relationships and competition may incentivize a law firm, as a business, to promote pro bono within the firm but this does not negate the positive impact had by individuals lawyers doing pro bono work (so long as it is done to the same quality standard as billable work). Pro bono can collectively benefit the individual client, the community, the lawyer and the law firm.

According to an article on the economics of pro bono work, this type of work can often enhance the revenue of a law firm, or at worst present a marginal expense for the firm. The costs of providing the pro bono work can be offset or outweighed by the indirect effects of that work: enhancing and supporting the law firm's goals and activities that can give them a competitive edge.⁵

3.2.1 Marketing

Branding, advertising and marketing have become increasingly important to law firms, initially with the large international firms and now increasingly with smaller firms. Marketing strategies can set a law firm apart from its competitors. Esther Lardent, of the Pro Bono Institute, identified four ways in which pro bono can be a valuable marketing tool for law firms:⁶

- i. Pro bono adds credibility to a firm and makes it seem more trustworthy to potential clients. It gives the firm a more wholesome image.
- ii. High impact or controversial pro bono cases can lead to publicity and media attention for firms, often yielding more attention than paid advertising slots could obtain.
- iii. Pro bono projects can sometimes offer an opportunity for law firm lawyers to work with the in-house lawyers of corporate clients. This can be valuable for building stronger relationships with clients and for retaining their business.
- iv. Increasingly pro bono is seen as a public marker of a conscientious highly effective law firm. Being associated with a good cause is good for business.
- v. According to a senior law firm partner in Lardent's report, every dollar his firm spends on pro bono generates ten times its value in good publicity and heightened visibility for the firm.

3.2.2 Competition

If pro bono can give law firms and lawyers an edge over the competition, then published pro bono league tables can make this public knowledge. However, ranking law firms according to their pro bono performance is a highly controversial issue. The leading daily news source for the US legal profession *The American Lawyer*, has compiled pro bono league tables

⁵ Jack Londen, Morrison & Foerster, 1997.

⁶ See Esther Lardent, The Pro Bono Institute *Making the Business Case for Pro Bono*, U.S.A. 2000: http://www2.nycbar.org/mp3/DoingWellByDoingGood/pbi_businesscase.pdf.

since 2008. *Who's Who Legal*, an online resource for comparing law firms across jurisdictions and practices, published the results of its first ever global survey on pro bono. While not producing a league table per se, *Who's Who Legal* did use the survey results to identify the law firms with the best pro bono records and handed out awards for the top performers. In contrast, many other well developed pro bono constituencies, such as the U.K., have so far decided against measuring the performance of lawyers against each other. The most common arguments against using league tables is the fear that lawyers should not do pro bono for the recognition (although conversely most will readily accept awards), that league tables are merely flattery for the biggest law firms and finally, that because each law firm tends to collect data on pro bono in different ways, it is very difficult to accurately compare like-for-like.

3.2.3 Government contracts

In a small number of jurisdictions, the pro bono performance of a law firm is taken into consideration by government bodies during the public procurement/tender process.

In Australia, for example, the Commonwealth Attorney-General's Department has established a Legal Services Multi-Use List (LSMUL) which includes law firms that have been pre-qualified to provide legal services to all Commonwealth agencies. In order to join the LSMUL firms must subscribe to the National Pro Bono Resource Centre's aspirational target of 35 hours of pro bono work per lawyer per year (provided either to individuals or non-profit organisations that cannot afford to pay for legal help) or nominate a target value of pro bono work across a financial year. The pro bono record of these firms is then considered when tenders are being awarded. Similarly, the government of the State of Victoria stipulates that law firms wishing to be on a government legal panel must commit at the same time to providing pro bono legal services for an "approved cause" defined by government worth the equivalent of 5-15 per cent of the fees they receive from the government. According to a recent report on pro bono in Australia, the introduction of these incentives has had a noticeable impact on number of firms doing pro bono work.⁷

3.2.4 Recruitment and retention

In the race to sign up the best new young lawyers, law firms with effective pro bono programs enjoy an advantage over their competitors (when other factors such as salary are comparable).⁸ The increase in law school legal clinics and other initiatives has instilled the value of pro bono in many young lawyers. As a result, they seek out law firms that will offer them opportunities to engage in pro bono work as their careers develop.

The costs associated with the failure to retain good lawyers, in advertising the job, the hiring process and training of a new lawyer, can be equal to, or even exceed, the annual salary for that position, according to Lardent's report. Some qualities – rapport with clients, highly specialized expertise – are virtually irreplaceable at any price.

While it may not be the primary deciding factor, a strong pro bono culture within a firm can contribute greatly to a sense of moral for its lawyers, and correspondingly their level of job satisfaction. New York's Shearman & Sterling has recognized this by including paid leave to undertake full-time pro bono work as one of the longevity incentives it provides to senior associates.

⁷ See <http://www.probonoaustralia.com.au/news/2013/10/legal-pro-bono-contribution-steady#>.

⁸ See Lardent, 2000.

3.2.5 Client relationships

Engaging in pro bono often enables law firms and lawyers to develop relationships with existing clients, or potentially new fee paying clients.

According to Tom Dunn, Pro Bono Director at Clifford Chance, pro bono helps the firm to build good relationships with its fee-paying clients. Many of these clients are themselves pursuing corporate responsibility strategies and expecting (and in some cases, demanding) the same of their legal advisers. Therefore, it's essential for Clifford Chance to demonstrate its serious commitment to corporate responsibility and pro bono. Often this includes offering them opportunities to collaborate with on pro bono projects.⁹

Doing pro bono work with individuals and charitable organizations can also build new networks for law firms and potentially open up opportunities for fee-paying work in the future. This can be particularly valuable for smaller firms and solo practitioners.

3.3 Pro Bono Structures

Pro bono organizations, law firms, bar associations or other institutions aiming to increase the number of lawyers engaged in pro bono work need to put in place structures that will make it easy to do pro bono work, and that will incentivize lawyers to increase their participation.

3.3.1 Build a strong pro bono program

It would be counterproductive to incentivize lawyers to do more pro bono work if there is not an effective and full functioning pro bono program to manage it, including a full or part time member of staff to implement it.¹⁰ The following elements have proven to be valuable in the establishment of pro bono clearinghouses across Europe:

- A register or list of lawyers interested in doing pro bono work;
- An outreach strategy for getting more lawyers to join;
- Advertising pro bono opportunities through an email, newsletter or website;
- A computer-based system for logging information on pro bono cases, which lawyers they are assigned to and for pulling reports on pro bono work being done;
- An agreement or memorandum of understanding for when lawyers take on new pro bono cases to make it clear what the expectations and standards are for the work. This includes standards for the quality of work, confidentiality and the extent to which the Ombudsman's office will remain involved or appraised of developments in the case once it has been assigned to a pro bon lawyer;
- Policies on how to assign cases, for example on a rota basis or a volunteer basis, and on managing problems, such as a lack of communication from one party or where the pro bono assistance is not of a sufficient quality;
- Maintaining strong relationships with law firms to identify when pro bono work they are willing, or not willing, to take on and what their areas of expertise are;
- A strategy for following-up on cases to find out what happened and what the impact was.

⁹ See <http://www.pila.ie/bulletin/2013/november-2013/20-november/guest-article-by-clifford-chance-pro-bono-director-tom-dunn/>.

¹⁰ A guide to setting up a pro bono program in Russia is currently in development by PILnet's Moscow office.

The pro bono clearinghouse operated by PILnet's Moscow office has all of the above structures in place. Further advice on running a pro bono clearinghouse is available in a guide prepared jointly by PILnet and Advocates for International Development.¹¹

3.3.2 Make it easy to access pro bono opportunities

One of the biggest barriers preventing lawyers from doing pro bono is inertia. They have not done it before. They do not know where to find opportunities, how to fit it in with their existing legal work and whether they have the right skills and expertise.

For lawyers in law firms with a pro bono program the answers to these questions are readily available. It is easy for them to review the firm's pro bono policy, to discuss current opportunities with the firm's pro bono coordinator and to find projects and cases that fit their expertise.

For solo practitioners or lawyers in small and mid-sized law firms that do not have a pro bono program, it is more difficult and time consuming to find relevant opportunities. In many countries across Europe, the Americas, Africa and Asia these lawyers can seek assistance from local and/or international pro bono clearinghouses, law clinics, law centers or other pro bono initiatives to find the right project for them. These organizations make it easy for lawyers to take on pro bono cases: they screen the clients; identify the specific legal question to be answered and the area of legal expertise that is required; estimate the number of hours that the lawyer will need to dedicate to the matter; and provide a deadline by which the work should be completed.

PILnet's pro bono clearinghouses provide this service at both local and international levels. PILnet's clearinghouses in Hungary, Russia, China and Hong Kong all work with local lawyers and law firms to help connect them with charities and civil society organizations that require legal assistance. From representation in strategic litigation to advice on employment contracts, the clearinghouses provide pro bono opportunities to suit the availability and skills of a wide range of lawyers. Through its Global Pro Bono Clearinghouse PILnet also offers lawyers from any country in the world, from any size of law firm, the opportunity to take on pieces of pro bono work that have an international dimension. A lawyer from Germany can provide an analysis of German case law as an international comparative for litigation in Austria. Law firms in a number of different countries regularly work together to provide a pan-European overview of legislation in a specific field, such as women's rights, to inform the work of an NGO.

In both its domestic and international programs, PILnet's clearinghouse service makes it easy for lawyers to get involved in pro bono.

3.3.3 Pro bono targets

Setting targets for pro bono work, such as number of hours completed, or number of individuals assisted, has proven very useful in several jurisdictions for increasing both the pool of lawyers doing pro bono, and the amount of pro bono work they are doing. Targets may be set by the local or national bar association, by a pro bono organization or internally within a law firm.

South African bar councils and law societies, the bodies that govern legal practitioners, have implemented mandatory pro bono requirements as a strategy for expanding access to justice. Their rules state that attorneys (solicitors) and advocates (barristers) provide a minimum of

¹¹ *Pro Bono Clearinghouse Manual*: <http://www.probonomanual.org/doku.php?id=start>.

20-24 hours of pro bono work each year.¹² The New York State Bar has also introduced a mandatory pro bono target, but it is for law students rather than qualified lawyers. All prospective lawyers must complete 50 hours of pro bono work before they can be admitted to practice law in New York State.¹³ Similarly, all trainee lawyers in Belgium must complete any pro bono cases assigned to them during their three year training period.

Mandatory pro bono targets can be controversial, and some commentators argue that the quality of pro bono work will suffer if lawyers are forced into doing it as a tick-box exercise, rather than because they really want to do it. Aspirational (i.e. voluntary) targets are a viable alternative. Since 2007 there has been an aspirational pro bono target of 35 hours per year per lawyer in Australia. According to the latest figures there are over 7000 lawyers currently signed up to the target.¹⁴ Reports indicate that the target has had a positive impact on the amount of pro bono hours' work by lawyers. It has done so by placing an increased focus on pro bono within law firms and by setting a benchmark against which firms and lawyers can compare themselves with others. Both the American Bar Association and the Canadian Bar Association have a 50 hour aspirational pro bono target for their lawyers.

In the U.S.A. the Pro Bono Institute, a non-profit organization, has established the *Pro Bono Challenge*. Exclusively for large law firms with more than 50 lawyers, the *Challenge* offers firms the option of aspiring to either 100 or 60 pro bono hours per year, per lawyer, or more commonly, aspiring to having either 3% or 5% of billable hours as pro bono work.¹⁵

No European bar associations set pro bono targets for lawyers. In lieu of this, some law firms have set their own pro bono targets. Most often these are large firms with offices across the world and established pro bono programs. Sometimes their pro bono targets apply to each lawyer in each office, other times there are different targets depending on the jurisdiction, but all are aspirational. For example Orrick, Herrington & Sutcliffe has a target of 20 hours, Ashurst LLP has a target of 50 hours while Dentons has a target of 100 hours.

3.3.4 Billable hours

By including work done on a pro bono basis as billable or chargeable hours, a law firm sends a clear message to lawyers that pro bono work is important. It is also a critical factor that can increase the number of pro bono hours; when lawyers are not trying to reach billable targets and fit pro bono work around those targets, it provides them with more time to do pro bono work.

For individual practitioners and smaller firms, however, including pro bono as billable hours may not be possible, or may not have the same impact on the amount of pro bono being done.

¹² See for example Rule 21 of the Cape Law Society which imposes a 24 hour pro bono requirement: <http://www.capelawsoc.law.za/docs/Pro%20%20bono%20eng.pdf>.

¹³ See 520.16 of the Rules of the Court of Appeals for Admission as Attorneys and Counselors at Law: <http://www.nycourts.gov/ctapps/520rules10.htm#B16>.

¹⁴ See <http://www.nationalprobono.org.au/page.asp?from=8&id=169>.

¹⁵ See <http://www.probonoinst.org/projects/law-firm-pro-bono/law-firm-pro-bono-challenge/>.

3.3.5 Pro bono networking

Conferences, forums, roundtables and training events can offer lawyers the chance to talk with others doing pro bono work, share their successes and challenges, find opportunities to collaborate locally or internationally, or simply to learn about new pro bono opportunities.

PILnet, for example, organizes and hosts an annual European Pro Bono Forum. This forum is Europe's biggest event dedicated to providing local, international and comparative perspectives on pro bono practice. The Forum brings together hundreds of participants from all over the world—law firm lawyers, corporate counsel, individual practitioners, bar association representatives, NGO representatives, academics and students—all seeking to develop innovative partnerships between the legal community and the non-profit sector.¹⁶

The Pro Bono Alliance in Czech Republic organizes roundtables for lawyers and NGO representatives on a regular basis. The purpose of these events is to strengthen local support for this pro bono initiative. The roundtables serve as an opportunity for participants to review the pro bono current situation and raise potential risks and problems. The clearinghouse regularly invites foreign experts from countries with developed pro bono practices to encourage local law firms to participate in pro bono projects. This discussion brings fresh ideas about possible ways to implement new pro bono models in the local environment. The clearinghouse uses these events to bring interested NGO representatives and lawyers together equally, through both formal discussions and informal networking. Usually, there is the opportunity for short speeches on different aspects of pro bono. Bar officials, law firm representatives and NGOs can explain their interest and motivation to do pro bono.

¹⁶ See the Forum website to see the agendas of previous Forums: www.probonoforum.eu.

4 PRO BONO IN COUNCIL OF EUROPE MEMBER STATES

4.1 Pro Bono in the Czech Republic

4.1.1 Country Outline

The Czech Republic is a parliamentary democracy and civil law jurisdiction with a population of over 10 million people.¹⁷ The capital is Prague and the country's supreme source of law is the 1992 Constitution of the Czech Republic.¹⁸ The Executive is led by the President and Prime Minister and the country has a bicameral parliament. The highest courts in Czech Republic are the Supreme Court, Constitutional Court and Supreme Administrative Court.

4.1.2 Structure of the Legal Profession

Only lawyers (*advokát*) that meet certain criteria and are registered with the Czech Bar Association (CBA) are entitled to practice law in the Czech Republic. The criteria include having a university degree, a minimum of three years as a “conciipient” (trainee-type role), passing the lawyers examination and saying an oath (“slib”) among other things as laid out in the Law on Advocacy.¹⁹

The performance of lawyers is regulated by the Law on Advocacy. The law gives power to the Ministry of Justice to regulate certain aspects of the work of lawyers (such as fees, admission requirements and discipline). The CBA has also issued a Code of Conduct which is binding for all lawyers but does not have the status of a formal law.²⁰

Lawyers can practice as a sole lawyer, jointly with other lawyers as a member of a so-called consortium or in a commercial enterprise, or within employment.²¹

4.1.3 Provision of State Sponsored Legal Aid

Under the Czech Constitution everybody has the right to legal assistance in legal proceedings. In specific criminal, administrative and civil cases the court may appoint a lawyer to provide legal services for free to individuals. The state then reimburses the lawyer for this work.

In cases in which do not qualify for state sponsored legal aid, individuals may apply for legal representation with the CBA. Under certain circumstances, the CBA can appoint a lawyer to provide such legal services, sometimes free of charge but normally at a reduced fee, which is covered by the CBA.²²

¹⁷ Central Intelligence Agency, “The Czech Republic”, *The World Factbook*, <https://www.cia.gov/library/publications/the-world-factbook/geos/ez.html>.

¹⁸ Constitution of the Czech Republic, *Parlament Ceske Republiky*, <http://www.psp.cz/cgi-bin/eng/docs/laws/1993/1.html>.

¹⁹ The Law on Advocacy Nr. 85/1996 Coll.

²⁰ Rules of Professional Conduct and the Rules of Competition of Lawyers of the Czech Republic (Code of Conduct), Resolution of the CBA, No. 1/1997 of the Official Journal of the Bar, dated 31st October 1996.

²¹ § 11 of the Law on Advocacy.

²² *Free of charge advice for social weak citizens*, provided by Prague / Bono lawyers, governed by Law on Advocacy, section 18, clause 2

4.1.4 Pro Bono

4.1.4.1 Local Culture of Pro Bono

Pro Bono Alliance (PBA),²³ a non-profit, nongovernmental organization of lawyers set up in 2003 to achieve systematic changes in the Czech legal system, defines pro bono as:

“Legal services provided by advocates free of charge without expectation of any remuneration. Pro bono consists of providing legal services to; people with limited means; non-governmental organizations in case they serve the interests and needs of people with limited means; individuals and entities focusing on protection of human rights and public interests in strategic cases or other type of work with potential significant social impact; and non-governmental organizations regarding their organizational matters.”²⁴

PBA makes it clear that the role of pro bono is distinct to the role of legal aid:

‘Although a target group of pro bono legal services are people with limited means, pro bono legal services should not substitute a state guaranteed system of legal aid. The state should not shift its responsibility to advocates. Such is still unfortunately the situation in the Czech Republic.’

Twenty-two law firms have signed the Czech Pro Bono Declaration, which expresses their interest in and commitment to furthering the culture of pro bono in the Czech Republic. The Declaration was created at the initiative of PBA.²⁵ Since then, sixty-two law firms have joined Pro Bono Alliance's network.

Beyond the activity of Pro Bono Alliance, the Czech Bar Association organizes time-limited free legal counselling on a semi-regular basis in regional capitals. Some law firms also run their own pro bono programmes independent of Pro Bono Alliance.

4.1.4.2 Regulation of Pro Bono Work

It is legal for lawyers to provide legal assistance on a pro bono basis in the Czech Republic. There is no rule against providing legal assistance for free. The Code of Ethics of the Czech Bar Association encourages lawyers to “participate to a reasonable extent in projects aimed at the promotion and defence of human rights and liberties, without entitlement to remuneration”.

Any pro bono work undertaken by lawyers through PBA must be provided for free; no remuneration should be received by the lawyer, and must be completed to the same quality as paid legal work.²⁶

4.1.4.3 Pro Bono Practice: What is being done, by whom and for whom?

PBA runs a Czech pro bono clearinghouse, Pro Bono Centrum (PBC), and other programs to improve access to legal aid, and organizes training programs focused on socially responsible lawyering. Attorneys and law firms affiliated with PBC provide pro bono legal services to individuals and groups who otherwise would not be able to access legal assistance.

²³ Pro Bono Alliance, <http://www.probonoalliance.cz/en>.

²⁴ Pro Bono Centrum, “What is pro bono?”, <http://www.probonocentrum.cz/english/what-is-pro-bono>.

²⁵ See Pro Bono Centrum, “Pro Bono Declaration”, <http://www.probonocentrum.cz/english/pro-bono-declaration>.

²⁶ Pro Bono Centrum, “About Pro Bono Centre (clearinghouse)”, <http://www.probonocentrum.cz/english/clearinghouse->

PBC connected 30 different NGOs with lawyers to provide pro bono assistance in 40 legal matters over a 12 month period between 2012/2013.²⁷ During this time, lawyers from 20 different law firms provided pro bono assistance through PBA.

Through a flagship project launched in 2012, PBA facilitates free legal representation to victims of discrimination where the Ombudsman (Public Defender of Rights) concludes that discrimination is likely to have occurred. Free legal representation is secured for victims of discrimination who want to pursue their rights in the court proceedings and who due to lack of funds or other disadvantage cannot afford legal services. As part of the project, pro bono lawyers are provided with training from the Ombudsman's office on taking discrimination cases, and lawyers working at the Ombudsman's office are on hand to provide consultation to pro bono lawyers when they take such cases on.²⁸

Although the Czech Bar Association does not provide active public support for pro bono, they do engage with PBA in discussions, provide 'quiet' support and participate in pro bono conferences and events.²⁹

4.1.5 Incentives for Doing Pro Bono

PBA encourages law firms and lawyers to undertake pro bono work using three main incentives:

- i. *Pro bono work is also an outstanding opportunity for lawyers to gain experience in areas, which usually do not form part of lawyer's everyday practice. This experience could be in turn beneficial to commercial clients.*
- ii. *Providing pro bono services can make lawyer's work more fulfilling and therefore contribute to greater satisfaction and effectiveness in work.*
- iii. *It might be also expected that number of outstanding young lawyers will grow, for whom pro bono program will be a reason to choose to get employed by particular law firm.*

4.1.5.1 Recognition and Awards

Each year the Czech Bar Association, together with a legal publishing company, organize the Lawyer of the Year awards. Five years ago, a category for pro bono work was introduced. Pro Bono Alliance is a partner in the category, helping to promote it among stakeholders, to submit nominations, and advise the award jury in selecting the awardee. In 2013, a pro bono category was also added to the Law Firm of the Year awards.

4.1.5.2 Pro Bono Structures (incl. billable hours)

Pro bono legal work is not formally counted as billable hours in the Czech Republic according to the information Pro Bono Alliance has received from its partnered law firms.

Pro bono engagement of the respective law firms is typically driven by professionals who feel a personal commitment to pro bono and organize the involvement of other members of the team. Within the larger firms engaged in Pro Bono Alliance's network, pro bono work is typically managed by a senior lawyer or office manager.

²⁷ Information obtained from unpublished PILnet survey on Pro Bono Practice, 2014.

²⁸ Pro Bono Centrum, "Cooperation with Ombudsman", <http://www.probonocentrum.cz/english/cooperation-with-the-public-defender>. See also Public Defender of Rights, "Possibilities of free legal aid to victims of discrimination", <http://www.ochrance.cz/en/discrimination/assistance-to-victims-of-discrimination/free-legal-aid-to-victims-of-discrimination/>.

²⁹ Pro Bono Centrum, "Cooperation with Ombudsman", <http://www.probonocentrum.cz/english/cooperation-with-the-public-defender>. See also Public Defender of Rights, "Possibilities of free legal aid to victims of discrimination", <http://www.ochrance.cz/en/discrimination/assistance-to-victims-of-discrimination/free-legal-aid-to-victims-of-discrimination/>.

4.2 Pro Bono in Germany

4.2.1 Country Outline

The Federal Republic of Germany is made up of sixteen states (Länder). The courts are arranged in a federal structure and each *Länd* is responsible for the administration of justice within its state. German courts are divided into five distinct jurisdictions, covering ordinary law, administrative, fiscal, social and labour matters. There is an additional jurisdiction that deals with the constitutionality of legislation within each *Länd*. The highest courts in Germany are the Federal Constitutional Court (Bundesverfassungsgericht, BVerfG) for constitutional matters and the Federal Court of Justice (Bundesgerichtshof, BGH) for civil and criminal matters.³⁰

Germany's population of about 81 million is governed from the capital city of Berlin. The country has a presidential head of state, a head of government (the Chancellor) and the bicameral legislature is made up of the Parliament (*Bundestag*) and the Federal Council (*Bundesrat*).³¹

4.2.2 Structure of the Legal Profession

Lawyers in Germany practice under the title of *Rechtsanwalt*. The legal professional is regulated using a combination of federal laws, bar association regulations and professional codes of conduct. Chief among these federal laws is the Federal Lawyers' Ordinance (BRAO)³². Civil law notaries and tax advisers are separate roles within Germany's legal profession.³³ Before individuals are licensed to practice law in Germany, they must complete a university education in law, pass two state exams organized by the Minister of Justice and complete a two year legal clerkship.

The regional bars and the bar at the Federal Court of Justice are responsible for admission to the Bar and for regulating the profession. Membership in a regional bar is compulsory upon admission to practise as a lawyer. At a federal level, the BRAK (Bundesrechtsanwaltskammer) is the 'voice' of Rechtsanwälte and represents their interests at a national, EU and international level; there is a second, voluntary-membership based organization for lawyers', the DAV (Deutscher Anwaltverein).³⁴ German lawyers can practice as a sole practitioner, in partnerships or in a corporate body and there are over 50 international law firms with a presence in Germany.³⁵ In 2010, there was one lawyer for every 533 German residents and it is suggested that the numbers of qualified lawyers has grown since then.³⁶

4.2.3 Provision of State Sponsored Legal Aid

Legal advice given outside the courtroom is differentiated from free legal representation in proceedings. The relevant federal laws are the Legal Advice Scheme Act (*Beratungshilfegesetz*) and the Court Proceedings Costs Assistance Act (*Gesetz über*

³⁰ <http://www.nyulawglobal.org/globalex/Germany1.htm#IV>

³¹ <https://www.cia.gov/library/publications/the-world-factbook/geos/gm.html>

³² 1959, last amended October 2013.

³³ The Law Society of England and Wales, "International practice: how to practise in Germany", <http://international.lawsociety.org.uk/ip/europe/574/practise>.

³⁴ <http://international.lawsociety.org.uk/ip/europe/574/practise>

³⁵ See <http://www.legal500.com/c/germany/directory>.

³⁶ See <http://www.probonoinst.org/wpps/wp-content/uploads/a-survey-of-pro-bono-practices-and-opportunities-in-71-jurisdiction-2012.pdf>, p82.

Prozesskostenhilfe) but these federal schemes are organised by the *Länder*, more particularly by the courts.³⁷ Under Germany's Free Legal Advice Scheme, advice and representation can be given to indigent persons outside the courtroom free of charge. However a different set of rules apply when dealing with courts costs. Applications can be made at local district courts and must contain evidence of the applicant's means. Legal aid may be granted in full or partially. According to the German Code of Civil Procedure, claims must have a reasonable chance of success in order to exercise the statutory right of representation.³⁸ In practice, only hopeless claims are refused.³⁹

4.2.4 Pro Bono

4.2.4.1 Local Culture of Pro Bono

The provision of *pro bono* advice has a long tradition in Germany, although it has not always been known by this name. Most law firms in Germany have had a non-institutionalized commitment to *pro bono* on matters ranging from providing legal advice to the parish or a local football club to advising those of limited means on handling social welfare office or landlord-tenant problems without charging any fees. It has only been more recently that this work has been given the label of *pro bono*.⁴⁰

Pro Bono Deutschland e.V., a non-profit organization set up in 2011 by a number of law firms in Germany, defines *pro bono* as:

*'... gratuitous legal counseling for a good cause and consists of the counseling and representation of non-profit organizations, non-governmental organizations, trust funds and needy individuals who pursue legitimate causes yet do not benefit from the statutory legal aid system, as well as engagement to promote and spread the rule of law and human rights. The aim of the pro bono legal counseling is to make the professional expertise and resources of a law firm available for a good cause, in most cases a charitable cause, and to therewith develop civic engagement as a part of the professional activities....In principle, pro bono legal services are also only rendered in those cases for which no or a very limited "market" exists. Parties requesting such advisory services are mostly not in a position to bear the costs of legal counselling due to their economic situation or by-laws, or are unwilling to do soon grounds of a preferential use of their funds for their own charitable purposes.'*⁴¹

Although development of a *pro bono* culture in the sense as characterized above is gaining traction in Germany, mainly under the influence of Anglo-American law firms, some in the legal profession fear that *pro bono* undermines the country's comprehensive legal aid system by taking work away from sole practitioners who would have handled such work within the framework of the legal aid system.

³⁷ See <http://www.a4id.org/sites/default/files/u3/A4ID%20Legal%20AID%20Guide.pdf>, p47.

³⁸ German Code of Civil Procedure (Zivilprozessordnung) section 114 http://www.gesetze-im-internet.de/englisch_zpo/englisch_zpo.html.

³⁹ See <http://www.probonoinst.org/wpps/wp-content/uploads/a-survey-of-pro-bono-practices-and-opportunities-in-71-jurisdiction-2012.pdf>, p83.

⁴⁰ Beck, *Pro Bono Legal Services in Germany – An Overview*:

http://www.beck.de/rsw/upload/NJW/Pro_Bono_Legal_Services_in_Germany_-_An_Overview.pdf. This is a translation of an article by Bälz, Moelle, Zeidler published in NJW 47/2008 (NJW is a legal magazine published by Beck).

⁴¹ Pro Bono Deutschland, "Welcome", <http://www.pro-bono-deutschland.org/en/>.

4.2.4.2 Regulation of Pro Bono Work

Federal laws and professional rules regulate the compensation of lawyers in Germany. Generally they are required to charge fees for their services but as of 1 January 2014 it is legal for lawyers to provide their services free of charge to individuals and organizations that cannot afford to pay for legal assistance. This only applies to out of court work.⁴²

There are no specific formal guidelines for pro bono work but any legal work done, whether on a pro bono basis or not, is regulated by the BRAO and the German Professional Code for Lawyers. These provisions serve to protect the client and to preserve confidence and trust in the legal profession as a whole.⁴³ In addition, many of the larger or international law firms in Germany have internal pro bono policies stating that pro bono matters should be treated just like billable matters in terms of quality, timeliness, liability, confidentiality and other professional duties. This applies to the law firm members of Pro Bono Deutschland e.V. that each commit to ensuring that pro bono ‘meet(s) the same professional quality standards as fee-based legal services.’⁴⁴

The liability of lawyers providing *pro bono* services is also subject to the same general principles as the liability of lawyers providing paid-for services. There is no scope for preferential treatment of legal services that are provided for free. This is because the client has called on the professional expertise of a qualified lawyer in a matter which is of considerable importance to the client.⁴⁵

4.2.4.3 Pro Bono Practice: What is being done, by whom and for whom?

Pro Bono Deutschland e.V. (PBD) is a non-profit organization launched in 2011 by a number of law firms in Germany with the aim of achieving ‘greater recognition and more widespread implementation of the concept of pro bono legal advice among lawyers in private practice in Germany’.⁴⁶ PBD currently has 32 members, including local, national and international law firms.⁴⁷ The organization stimulates discussion on how best to establish and expand pro bono advice but does not act as a clearinghouse or otherwise provide pro bono opportunities for its members. PBD’s establishment demonstrates how law firms in Germany are taking a leading role in strengthening the local pro bono culture.

According to the Kilian survey in 2011, two-thirds of German lawyers provide pro bono legal services, and on average take on nine pro bono cases each per year.⁴⁸ Smaller law firms and large international firms are the most active in taking on pro bono matters. According to Kilian, international law firms are embedded in well-established pro bono structures while local firms need to raise attention locally and might be more embedded in local charitable

⁴² Lawyers Remuneration Act (Rechtsanwaltsvergütungsgesetz, RVG), article 4

⁴³ Beck, *Pro Bono Legal Services in Germany – An Overview*:
http://www.beck.de/rsw/upload/NJW/Pro_Bono_Legal_Services_in_Germany_-_An_Overview.pdf,12.

⁴⁴ <http://www.pro-bono-deutschland.org/en/pro-bono-legal-advice/perhaps/>

⁴⁵ Beck, *Pro Bono Legal Services in Germany – An Overview*:
http://www.beck.de/rsw/upload/NJW/Pro_Bono_Legal_Services_in_Germany_-_An_Overview.pdf,12.

⁴⁶ Pro Bono Deutschland, http://www.pro-bono-deutschland.org/wp-content/uploads/2012/12/probono_Flyer_Mai_20131.pdf.

⁴⁷ Pro Bono Deutschland, “Member Firms”, <http://www.pro-bono-deutschland.org/en/member-firms/>.

⁴⁸ Kilian, *Pro Bono – (k)ein Thema für Deutschland? 2012*:
http://www.soldaninstitut.de/fileadmin/soldaninstitut/Upload/PDF/AnwBl_2012-01_01.pdf.

organizations. It has also been reported that an increasing number of law firms are providing highly specialized legal services to charitable and non-profit organizations for free.⁴⁹

Some law schools have established pro bono centres in which students participate in pro bono work. These include Bucerius Law school law clinic (for individuals)⁵⁰ and Humboldt Law Clinic.⁵¹

4.2.5 Incentives for Doing Pro Bono

4.2.5.1 Social Responsibility of Lawyers

During the 2011 PILnet European Pro Bono Forum in Berlin, Axel Filges, President of the German Federal Bar, expressed one of the underlying incentives for German lawyers to do pro bono work:

*'Apart from pro bono work, the legal profession's social responsibilities also include its particular readiness to work in an honorary capacity. Beyond the general duties of every citizen, it should therefore be part of the profession's ethical tasks to introduce expert knowledge about the realization of the law into honorary activities that are related with our profession.'*⁵²

This statement was made at a time when it was not clear whether doing work for free was legal in Germany (before *Lawyers Remuneration Act* in 2012). It was an important demonstration of support from the German Bar for pro bono.

Pro bono work breaks the monotony of "regular" billable activities. Lawyers who have engaged in pro bono work attest to the combined sense of professional duty and personal satisfaction derived from the work and the fact that it helps connect to their communities in a more direct way.⁵³

4.2.5.2 Marketing

By engaging in pro bono projects, lawyers may also hope that this will enhance their reputation or the standing of the firm in the community. In other words, it gives their firm good PR.⁵⁴

During the Berlin Forum, Filges argued against pro bono being seen as a marketing tool and instead be done for its altruistic qualities; placing emphasis on the lawyer's special function as an organ of the administration of justice—as opposed to the “merchant only” professional. However, he did not mean the firms that do work pro bono should remain quiet about that:

*'On the contrary: If you do good, you should be able to talk about it openly. But the important point is: it is not only what you say, it is how you say it.'*⁵⁵

⁴⁹ Latham & Watkins and the Pro Bono Institute, “A Survey of pro Bono Practices and Opportunities in 71 Jurisdictions, 2012”, <http://www.probonoinst.org/wpps/wp-content/uploads/a-survey-of-pro-bono-practices-and-opportunities-in-71-jurisdiction-2012.pdf>, 84.

⁵⁰ Bucerius Law School, <http://www.law-school.de/lawclinic.html>.

⁵¹ Chair for Public Law and Gender Studies, “Humboldt Law Clinic” <http://baer.rewi.hu-berlin.de/humboldt-law-clinic>.

⁵² Axel C. Filges, “The role pro bono (can) play in German society”, keynote speech at PILnet European Pro Bono Forum 2011, <http://www.pilnet.org/dmdocuments/Axel%20Filges%20on%20pro%20bono%20in%20Germany.pdf>.

⁵³ Beck, http://www.beck.de/rsw/upload/NJW/Pro_Bono_Legal_Services_in_Germany_-_An_Overview.pdf.

⁵⁴ Beck, http://www.beck.de/rsw/upload/NJW/Pro_Bono_Legal_Services_in_Germany_-_An_Overview.pdf.

4.2.5.3 Competition

Engaging in pro bono work can provide networking opportunities for law firms, many of whose commercial and banking clients themselves provide pro bono services for the public good, for example within the framework of corporate responsibility programmes.

4.2.5.4 Recruitment

Pro bono practice has been used as a recruiting tool for hiring qualified lawyers. "Soft factors" are becoming increasingly important according to Beck, particularly the opportunity for lawyers to be involved in pro bono projects as part of their professional activities.⁵⁶ Although traditionally more important in the U.S. and U.K. this factor is becoming more significant in Germany.

⁵⁵ Axel C. Filges, "The role pro bono (can) play in German society", keynote speech at PILnet European Pro Bono Forum 2011,

<http://www.pilnet.org/dmdocuments/Axel%20Filges%20on%20pro%20bono%20in%20Germany.pdf>.

⁵⁶ Beck, http://www.beck.de/rsw/upload/NJW/Pro_Bono_Legal_Services_in_Germany_-_An_Overview.pdf.

4.3 Pro Bono in Hungary

4.3.1 Country Outline

Since 1990 Hungary has been a parliamentary democracy. It has a population of almost 10 million people and its capital lies in Budapest.⁵⁷ The executive branch of government is led by a President and Prime Minister, its legislature operates from a unicameral national assembly and the judicial branch contains local, county, municipal and appeal courts with the highest courts being the Supreme Judicial Court and Constitutional Court. Hungary is a civil law jurisdiction.

4.3.2 Structure of the Legal Profession

Approximately 30,000 people work in the legal profession in Hungary, generally as attorneys, judges, prosecutors, public notaries, public servants or legal counsels.⁵⁸ Although detailed databases are not available, it is estimated that 15,500 legal practitioners work at law firms,⁵⁹ approximately 3,500 are employed by courts,⁶⁰ and about 750 people work at public notary offices.⁶¹ The Budapest Bar Association is by far the largest regional bar association in Hungary representing about 60% of all the attorneys in Hungary.⁶² The vast majority of Hungarian lawyers work either individually or in small law firms. However, an increasing number of lawyers work in firms with between 20-30 members.⁶³ These law firms are mostly international and active in the corporate sector.⁶⁴

The provision of legal services is regulated by separate acts applicable to the different branches of the legal profession, such as the Act on Attorneys, the Act on Legal Councils and the Act on the Legal Status of Judges.⁶⁵ The Act on Attorneys does not fix legal fees, which should be negotiated between lawyer and client.

The provision of legal services is regulated by separate acts applicable to the different branches of the legal profession, such as the Act on Attorneys, the Act on Legal Councils and the Act on the Legal Status of Judges.⁶⁶ The Act on Attorneys does not fix legal fees, which should be negotiated between lawyer and client.

4.3.3 Provision of State Sponsored Legal Aid

The Hungarian Constitution⁶⁷ provides an individual with the right to representation at any time during a judicial or criminal proceeding. In fact, legal representation is required for

⁵⁷ Central Intelligence Agency, "Hungary", *The World Factbook*, <https://www.cia.gov/library/publications/the-world-factbook/geos/hu.html>.

⁵⁸ Since no written database is available on this subject, the above estimation was obtained orally from the Hungarian Lawyers Association.

⁵⁹ The 15,500 legal practitioners who work at law firms is estimated to include: attorneys: 12,384; trainees: 2,612; employed (salaried) attorneys: 424; European Community lawyers: 134 (oral information from the Hungarian Bar Association, effective as of Nov. 30, 2011).

⁶⁰ Judges: 2,889; secretaries: 312; trainees: 291 (oral information from the National Office for the Judiciary, effective as of Mar. 30, 2012)

⁶¹ Public notaries, vice-notaries and trainees: 747 (HUNGARIAN CHAMBER OF CIVIL LAW NOTARIES (Dec. 31, 2012).

⁶² Márta Pardavi, *The Legal Profession in Hungary*, Organization for security and cooperation in Europe ("OSCE") Paper (October 2008), <http://www.osce.org/odihr/36305>

⁶³ Budapest Bar Association, http://www.bpugyvedikamara.hu/main_page/

⁶⁴ Pardavi (2008).

⁶⁵ The following acts shall apply regarding lawyers: Act 11 of 1998 on attorneys; Act CLXI of 2011 on the judicial system; Act CLXII of 2011 on the legal status of the judges.

⁶⁶ The following acts shall apply regarding lawyers: Act 11 of 1998 on attorneys; Act CLXI of 2011 on the judicial system; Act CLXII of 2011 on the legal status of the judges.

⁶⁷ The new Hungarian Constitution entered into force on 1, January 2012, renamed as Fundamental Law of Hungary

certain types of detentions, and if a detained person has not consulted with a lawyer within 72 hours of a detention, the Hungarian state has an obligation to provide that person with a lawyer.⁶⁸

Legal aid services may be provided by the following persons specified by the Act on Legal Aid; nongovernmental organizations, foundations, minority local governments, universities offering legal education and lawyers (including European Community lawyers permanently working in Hungary).

In out-of-court proceedings, all registered legal service providers may provide legal aid.⁶⁹ However, in court proceedings, only attorneys, law firms and certain other entities (nongovernmental organizations, foundations) may provide legal aid. These organizations must have concluded fixed-term agency contracts with attorneys under which the attorneys will provide legal services on behalf of the organization.⁷⁰ Hungary offers legal aid in both civil and criminal proceedings. People can also obtain aid when seeking legal advice or drafting legal documents.⁷¹ If a person needs legal services during court-administered judicial proceedings, the court will provide such services.⁷² If a person qualifies for legal aid during such proceedings, the aid will cover the entirety of the person's involvement in the legal process, including any appellate work and the enforcement of the court's decision.⁷³ Hungarian courts look at numerous factors when deciding whether a person qualifies for legal aid, including the person's financial status and his or her need for trained legal services in the given legal proceeding.⁷⁴

4.3.4 Pro Bono

4.3.4.1 Local Culture of Pro Bono

Hungary has a long tradition of pro bono legal assistance. In his work from 1929, "On the Art of Lawyering," Dr. Emil Oppler, a prominent figure in the Hungarian legal community, wrote "Beyond their duties, attorneys have always taken care of the matters of the poor without compensation, either in a legal defence association or alone, on an individual basis." Even earlier than that, in 1915, the Budapest Bar Association found that a lawyer who had advertised free service two days a week was merely following a noble heritage that had become part and parcel of legal practice.

At the beginning of the system change in the early 1990s, international law firms appeared on the scene, partnering with Hungarian law firms, and introduced an organizational legal culture that included the concept of pro bono. The firms, together with a growing number of young attorneys who had become familiar with pro bono through international study, laid the groundwork for a renewed mind-set. PILnet began building a network of pro bono supporters in 2005, and by 2006 had kicked off the broader discussion at a pro bono roundtable hosted by the Hungarian Bar Association. In 2007, PILnet collaborated with nine law firms to initiate the Magyar Pro Bono Központ and the ProBono Ugyved website,

⁶⁸ United Nations, "Committee Takes Up Hungary's Fourth Periodic Report: Experts Praise Reforms, Express Concern Over Minorities, *Human Rights, U.N. Press Release Doc. HR/CT/618* (Mar. 22, 2002), www.un.org/news/Press/docs/2002/hrct618.doc.htm.

⁶⁹ *Id.* § 68.

⁷⁰ *Id.* § 68.

⁷¹ European Judicial Network in Civil and Commercial Matters, https://e-justice.europa.eu/content_rights_of_victims_of_crime_in_criminal_proceedings-171-HU-en.do?clang=en&idSubpage=4

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

through which PILnet matches the legal needs of NGOs with lawyers willing to give pro bono assistance.⁷⁵

Most structured pro bono programs in Hungary focus on community initiatives, where legal resources can have the broadest possible impact. The appeal of this approach is borne out in the increasing number of lawyers and firms taking on human rights cases, even when there is the potential for drawn-out litigation. More often than not, NGOs would benefit from assistance with administrative legal needs, help registering with the state or regulating employee contracts, but lack the resources to cover the legal fees.

Another perhaps less obvious way that pro bono practice has taken shape is in the form of short-term collaborative projects. In the last two years, a number of private lawyers and NGO representatives came together to teach a short seminar on legal ethics, that was offered to students for free. Many lawyers have also given their time to train their peers in specialized human rights fields such as children's and disability rights.

4.3.4.2 Regulation of Pro Bono Work

In Hungary, pro bono relationships are fairly unique in that they are based on a free agreement between the client and the lawyer. If, for instance, a lawyer volunteers on behalf of a community or individual in need, or for a human rights or social cause, he or she is allowed to do so within the law.

Lawyers should apply the same standard of service to their pro bono clients that they would for private, paying clients. Pro bono is undoubtedly good for business but only inasmuch as it advances the reputation that the firm or individual attorney has for integrity. It's PILnet's experience that these rules—written and otherwise—are taken seriously. Lawyers almost always go beyond the call of duty once they have committed to a pro bono matter.

4.3.4.3 Pro Bono Practice: What is being done, by whom and for whom?

PILnet's Hungarian Pro Bono Clearinghouse is run out of the organization's office in Budapest.⁷⁶ It helps charitable or civil society organizations to connect with lawyers and law firms who can provide legal assistance on a pro bono basis. In the past seven years, though, under PILnet's Hungarian pro bono initiative alone, more than 500 lawyers and trainee lawyers have actively engaged in pro bono. As a general rule, PILnet promotes matters that involve human rights and/or social justice issues, and doesn't see its services as substitute for a healthy legal aid system.

More Hungary-based lawyers and law firms than ever are doing pro bono work and more firms have well-established internal pro bono structures. Perhaps just as significantly, there is a strong recognition that pro bono is an ethical responsibility as much as a path to enhance one's practice. Several NGOs and law firms have established ongoing relationships, and more NGOs than ever understand how pro bono legal help can boost their impact.

When PILnet was looking to expand the ways in which attorneys can get involved with pro bono, it approached a number of human rights NGOs to examine their needs and the needs of the people that they serve. In addition to everyday matters, these NGOs wanted to help lawyers improve their ability to do human rights work, on a pro bono basis or not. Motivated by this feedback, PILnet has been helping to organize attorney trainings in collaboration with human rights NGOs and other practicing lawyers.

⁷⁵ Atanas Politov, "The then, the now and the future of pro bono in Hungary", interview (16 October 2013), <http://www.pilnet.org/media-coverage/194-the-then-the-now-and-the-future-of-pro-bono-in-hungary.html>.

⁷⁶ PILnet Pro Bono Ugyved, <http://probonougyved.hu>.

PILnet is collaborating closely with Transparency International (TI) Hungary. Both foreign law firms and local lawyers provided pro bono assistance to the organization concerning anti-corruption matters. PILnet facilitated the NGO by organizing an anti-corruption seminar for lawyers at the Budapest Bar Association.

Law schools are also involved, and have begun to look to pro bono and law clinics as a way for students to get hands-on practice. PILnet is building relationship with Pécs School of Law who plan to set up a Law Clinic supporting micro-entrepreneurs. In a collaborative project with ELTE School of Law, TI, law firms and corporations PILnet organizes a professional ethics seminar for law students every year. The activity involves lectures on accountability in the state and private sectors, interactive dilemmas in business ethics, and lectures on law and practice in multinational companies with regards to business compliance.⁷⁷

PILnet's Hungarian Clearinghouse signed a cross-promotional agreement with the Hungarian Bar Association and the Legal Aid Bureau. Under this agreement, NGOs that are seeking legal advice but are not eligible for state legal aid are referred to PILnet's Hungarian Clearinghouse for legal advice. Additionally, the agreement allows each organization—the Hungarian Bar Association, the Legal Aid Bureau and PILnet—to display its logo on the others' websites.

4.3.5 Incentives for Doing Pro Bono

4.3.5.1 Recognition and Awards

PILnet, in collaboration with the Hungarian Bar Association, bestows annual awards upon individuals and firms that have strengthened civil society through exceptional pro bono efforts within their communities. Each year, a five-member independent committee decides on the nominations of Hungarian Pro Bono Award. Among other things, the committee considers the extent of the service provided, whether or not it strengthened civil society, and the impact the work has had in the local community. The award is bestowed on the National Attorneys' Day.

4.3.5.2 Pro Bono Structures

Building on the existing thirst for pro bono work, PILnet's clearinghouse provided a structured, easy way for lawyers to access pro bono opportunities. Many firms have a nominated a pro bono coordinator, usually a lawyer, who is responsible for promoting pro bono opportunities within the firm and encouraging lawyers to get involved.

In Hungary, pro bono has flourished best when the law firm has supportive community/social responsibility/pro bono policies that encourage and support its employees to get involved in pro bono projects.

⁷⁷ This professional ethics seminar was first run in Russia through a collaboration between PILnet, White & Case, DLA Piper and Microsoft at Moscow State University.

4.4 Pro Bono in Spain

4.4.1 Country Outline

Spain is a parliamentary monarchy with a population estimated to be almost 50 million.⁷⁸ Under this political system, a hereditary king or queen carries out the functions as head of state, while the elected parliament holds the power to draft and pass legislation. The head of government, the President, is elected by popular majority. Spain has a bicameral parliamentary system, comprising a Senate (Senado) and a Congress of Deputies (Congreso de los Diputados).⁷⁹

Spain's highest court, the Supreme Court (Tribunal Supremo), consists of a court president and several rooms or lists dealing with a different area of law, each with their own presidents and magistrates. The divisions cover civil, criminal, administrative, social and military law. The layers of subordinate courts include National Court, High Courts of Justice, provincial courts and courts of first instance.⁸⁰

4.4.2 Structure of the Legal Profession

There are several different types of legal professional in Spain. Abogado is the term used to describe a lawyer who is qualified to provide legal advice, direct and defend parties in disputes and represent their clients. Other legal roles include: court lawyers who represent the parties in court; court clerks who deal with documentation; notaries who provide documentation and advisory services and commercial registrars who keep public registers.

The main laws regulating the legal profession in Spain are Organic Law 6 /1985 of 1 July 1985, and Estatuto General de la Abogacía. In order to become an abogado, individuals must be a Spanish or EU national, an adult and not previously disqualified from practicing law. They must also have a law degree (at least five years of study) or recognized international equivalent qualification and be a member of their regional bar association, as it is the local bar who license lawyers.⁸¹ There are currently about 122.000 practicing abogados and 39.800 non-practicing abogados registered in Spain.⁸²

It is mandatory for practicing lawyers to be a member of a bar association (Colegio de Abogados) and they must abide by the rules of professional conduct set out by the bar association. Non-qualified individuals providing professional legal services are also legally required to be registered with a professional body.⁸³

4.4.3 Provision of State Sponsored Legal Aid

The Spanish system of free legal assistance (*asistencia jurídica gratuita*) is determined by law, financed by the state, managed by the Spanish Bar and supervised by the Consejo General de la Abogacía Española (CGAE). The right to free legal assistance is guaranteed by

⁷⁸ Central Intelligence Agency, "Spain", *The World Factbook*, <https://www.cia.gov/library/publications/the-world-factbook/geos/sp.html>.

⁷⁹ GlobalLex, "Guide to Legal Research in Spain", *Hauser Global Law School Program*, <http://www.nyulawglobal.org/globalex/Spain1.htm#Parliament>

⁸⁰ Central Intelligence Agency, "Spain", *The World Factbook*, <https://www.cia.gov/library/publications/the-world-factbook/geos/sp.html>

⁸¹ European E-Justice, "Legal Professions - Spain", https://e-justice.europa.eu/content_legal_professions-29-es-en.do?member=1. See also International Bar Association, "Spain International Trade in Legal Services", http://www.ibanet.org/PPID/Constituent/Bar_Issues_Commission/ITILS_Spain.aspx

⁸² The Law Society of England and Wales, How to Practice in Spain: <http://international.lawsociety.org.uk/ip/europe/580/practise>

⁸³ Profile of a Bar Association: Spain, International Bar Association: <http://www.ibanet.org/Article/Detail.aspx?ArticleUid=659d99ca-0d6f-4cd2-8b6d-c7635f9b9428>

Article 119 of the Spanish Constitution and described in more detail in Law 1/1996, of 10 January.

Individuals seeking legal assistance must meet set monetary thresholds in order to be eligible for the scheme. Financial need is the main basis on which legal aid can be refused or granted. It will be granted to individuals who can demonstrate that the income of their family is less than double the statutory minimum wage. The law also allows a certain amount of discretion; assistance can be granted in cases of low income that may not meet the threshold. Spanish citizens, EU citizens and foreign nationals residing in Spain can all apply for legal aid.

4.4.4 Pro Bono

4.4.4.1 Local Culture of Pro Bono

There is no legal definition of pro bono in Spain but the Madrid Bar Association defines pro bono legal work as voluntary free legal advice for economically needy, socially vulnerable, socially excluded individuals or communities and the organizations which assist them.⁸⁴

Although the term ‘pro bono’ is not widely used or understood within Spain, the idea of the legal profession’s social responsibility has been present for centuries.⁸⁵ The concept of *asistencia jurídica gratuita* under the Spanish Constitution of 1978 (the right of citizens to free legal assistance) enshrines the moral obligation of the legal profession to undertake this kind of work. However, *asistencia jurídica gratuita* is also the term used to refer to the state sponsored legal aid program, under which lawyers get paid for their work, and is often misleadingly equated to pro bono.⁸⁶

4.4.4.2 Regulation of Pro Bono Work

It is legal for lawyers in Spain to undertake pro bono work and indeed it is often encouraged by a number of the biggest bar associations. Pro Bono work should be undertaken in the same terms as would apply to paid legal advice and is covered by the rules of professional conduct. In addition, some bar associations encourage lawyers to sign a declaration of social responsibility.⁸⁷

Professionals are liable for their pro bono work in the same terms as would apply to paid legal advice and therefore must have an insurance policy to cover their pro bono services.

4.4.4.3 Pro Bono Practice: What is being done, by whom and for whom?

Pro bono in Spain is targeted mainly at civil society organizations rather than individuals, since the legal aid system is obligated to provide free legal assistance to individuals.

The Centre for Lawyer’s Social Responsibility (*Centro de Responsabilidad Social de la Abogacía*), set up in 2008 within Madrid’s Bar Association (*Colegio de Abogados de Madrid*), oversees the social responsibility of its members by promoting pro bono practice

⁸⁴ ICAM-CRSA, http://crsa.icam.es/web3/cache/CRSA_probono.html

⁸⁵ Edwin Rekosh, Addressing Social Justice: The Pro Bono Challenge in Spain, 24 October 2012: <http://www.pilnet.org/public-interest-law-news/blogs/delivering-justice/169-addressing-social-justice-the-pro-bono-challenge-in-spain.html>. See also Q&A with Carmen Pombo, Pro bono is still a ‘new’ concept in Spain, 26 October 2012: <http://www.trust.org/item/20121026120700-vbnq8/>

⁸⁶ Latham & Watkins and the Pro Bono Institute, “A Survey of pro Bono Practices and Opportunities in 71 Jurisdictions, 2012”, <http://www.probonoinst.org/wpps/wp-content/uploads/a-survey-of-pro-bono-practices-and-opportunities-in-71-jurisdiction-2012.pdf>, 300

⁸⁷ ICAM-CRSA, “Madrid Bar Association’s Declaration of Social Responsibility”, http://crsa.icam.es/docs/declaraMadrid_ing.pdf.

amongst law firms and individual lawyers. The Centre acts as a pro bono clearinghouse between lawyers and civil society organizations.⁸⁸

Fundación Fernando Pombo is a non-profit organization set up by a law firm in Spain to promote social responsibility within the legal profession. It acts as a clearinghouse for its internal network of lawyers.⁸⁹

Since its establishment in 2010 *Fundacion Aranzadi Lexnova* promotes awareness of rights and law in Spain (and Portugal) and operates a pro bono clearinghouse to provide civil society organizations with access to pro bono assistance. On average, the Fundacion brokers 40 pro bono matters per year.⁹⁰

The General Council of Spanish Advocacy (GCSA) has signed an agreement with Transparency International (TI), a civil society organization that promotes access to public information. According to this agreement the GCSA has created a register for Lawyers who want to provide advice in those matters proposed by TI.

4.4.5 Incentives for Doing Pro Bono

There are currently no public awards given for pro bono work but some firms, particularly the international ones, have internal pro bono awards.

Pro bono is starting to be seen as a differentiator between firms and is starting to play a role in the competitiveness between firms.

Those firms that have the most active pro bono practices have a pro bono committee that manages their pro bono programme and sometimes a full time pro bono staff member. Pro bono is counted as chargeable hours but only within the international firms.

⁸⁸ For further information on the clearinghouse, see http://crsa.icam.es/web3/cache/CRSA_index.html

⁸⁹ See interview (Q&A) with Carmen Pombo, Pro bono is still a 'new' concept in Spain, 26 October 2012: <http://www.trust.org/item/20121026120700-vbnq8/>

⁹⁰ La Fundación Aranzadi Lex Nova, <http://www.fundacionlexnova.org>.

4.5 Pro Bono in the U.K. (specifically England and Wales)

4.5.1 Country Outline

The United Kingdom of Great Britain and Northern Ireland ('the U.K.') is made up of four countries with three separate legal jurisdictions; England & Wales, Scotland and Northern Ireland. Each jurisdiction has its own legal system and profession but shares some features, such as the role of the Supreme Court as the final court of appeal in civil cases in all three jurisdictions, and a common asylum and immigration tribunal. The population of the U.K. is estimated at over 63 million people and the capital is London. It is a common law jurisdiction with no written constitution, a monarchical head of state, bicameral Parliament and the government is led by the Prime Minister.⁹¹

This report will focus only on the legal system and profession in England & Wales, the jurisdiction with the most advanced pro bono practice. The court system in England & Wales is split between civil and criminal courts.

4.5.2 Structure of the Legal Profession

The legal system has two branches; solicitors and barristers.⁹² Historically, solicitors provide initial legal advice to members of the public with a legal problem but may only represent clients in court in limited circumstances. Usually they work together in a law firm, ranging from small to very large international practices, but there are also large numbers of solo practitioners and solicitors working in companies or government and to a much smaller extent within civil society organizations. The Law Society of England and Wales is the representative body of the profession,⁹³ while regulation and discipline of solicitors is handled by the Solicitors Regulation Authority (SRA).⁹⁴ All solicitors must hold practicing certificates issued by the SRA. There are currently 128,425 practicing solicitors in England and Wales.⁹⁵

Barristers are specialist advocates and advisers with rights of audience in court, who traditionally could not take cases directly from members of the public; a solicitor was required to instruct a barrister on behalf of the client. However, recent changes mean that in some cases barristers may be instructed by members of the public. There are now over 15,000 practicing barristers in England and Wales, of which 80% are self-employed and 20% employed in industry, commerce or central or local government.⁹⁶ Self-employed barristers work in offices called 'chambers', which they may share with other barristers. On completion of their training, barristers apply for a permanent position known as 'tenancy' in a set of chambers. The Bar Council is the regulatory body representing the profession.⁹⁷ All barristers are subject to professional rules set out in a Code of Conduct and regulated by the Bar Standards Board.⁹⁸

The Chartered Institute of Legal Executives (CILEX) is the professional association and governing body for Chartered Legal Executive lawyers, other legal practitioners and

⁹¹ Central Intelligence Agency, "United Kingdom", *World Factbook*, <https://www.cia.gov/library/publications/the-world-factbook/geos/uk.html>

⁹² Bar Council, "Frequently asked questions" <http://www.barcouncil.org.uk/becoming-a-barrister/guidance-for-applications/frequently-asked-questions/>

⁹³ Law Society, "Who we are", <http://www.lawsociety.org.uk/about-us/who-we-are/>

⁹⁴ Solicitors Regulation Authority, <http://www.sra.org.uk/home/home.page>

⁹⁵ Solicitors Regulation Authority, "Regulated population statistics", http://www.sra.org.uk/sra/how-we-work/reports/data/population_solicitors.page

⁹⁶ Bar Council, "Statistics", <http://www.barcouncil.org.uk/about-the-bar/facts-and-figures/statistics/>

⁹⁷ Bar Council, <http://www.barcouncil.org.uk>

⁹⁸ Bar Standards Board, <https://www.barstandardsboard.org.uk>

paralegals.⁹⁹ Executives perform work similar to that of a solicitor, including limited court representation, and may be employed within a law firm or other body, or may be self-employed and provide specific types of legal assistance to the public. CILEX has 20,000 members in England and Wales, each of which is subject to the Code of Conduct regulated by ILEX Professional Standards Limited.¹⁰⁰

4.5.3 Provision of State Sponsored Legal Aid

Since the Legal Aid and Advice Act 1949 England and Wales has provided quite a comprehensive system of state sponsored legal aid for both criminal and civil law matters. Legal aid is administered by the Legal Aid Agency, which covers the cost of legal aid work done by solicitors and barristers. Civil legal aid is also sometimes provided by trained non-lawyers working in law centers and not-for-profit advice agencies. It is not mandatory for solicitors or barristers to do legal aid work.

Legal aid can cover initial legal advice right through to representation by a solicitor or barrister in court. It is available for cases involving criminal, debt, housing, family, education and community care issues.¹⁰¹

Eligibility for legal aid in criminal cases is based on the financial means of the individual and the 'interests of justice'. For civil legal aid, eligibility depends on the area of law, a person's income and capital, whether there is a reasonable chance of winning the case and whether it is worth the time and money needed to win.¹⁰²

Recent cuts have withdrawn many areas of civil law from within the scope of legal aid, which has dramatically reduced the number of individuals who are eligible. Evidence has shown that this decrease in legal aid has correlated with an increase in demand for pro bono services in England & Wales.¹⁰³

4.5.4 Pro Bono

4.5.4.1 Local Culture of Pro Bono

Some argue that pro bono is not as well developed in the U.K. as it is in the U.S., primarily because state sponsored legal aid has traditionally provided access to legal assistance for a large proportion of those in need.¹⁰⁴ Despite this, there is a long-standing tradition of lawyers putting their skills and expertise at the service of the most disadvantaged in society.

The U.K. Pro Bono Protocol defines pro bono as:

- i. *Legal advice or representation provided by lawyers in the public interest including to individuals, charities and community groups who cannot afford to pay for that*

⁹⁹ Chartered Institute of Legal Executives, <http://www.cilex.org.uk>

¹⁰⁰ ILEX Professional Standards Ltd "Code of Conduct", *Chartered Institute of Legal Executives* <http://www.cilex.org.uk/pdf/IPS%20Code%20of%20Conduct%20May%2010%20final.pdf>

¹⁰¹ UK Government portal, "Legal Aid", <https://www.gov.uk/legal-aid/print>

¹⁰² Community Legal Service Direct, "A Step-by-Step Guide to Legal Aid"*Town Hamlets Law Cent*http://www.thlc.co.uk/resources/A_Step-by-Step_Guide_to_Legal_Aid.pdf

¹⁰³ LawWorks, "Pro Bono Survey 2013":

http://www.lawworks.org.uk/tmp_downloads/e28t49e135o61h126r5p83x11g123s80p84c147o37t51a55/lawwork-s-2013-pro-bono-report-final.pdf

¹⁰⁴ Latham & Watkins and the Pro Bono Institute, "A Survey of pro Bono Practices and Opportunities in 71 Jurisdictions, 2012", 72: <http://www.probonoinst.org/wpps/wp-content/uploads/a-survey-of-pro-bono-practices-and-opportunities-in-71-jurisdiction-2012.pdf>.

advice or representation and where public and alternative means of funding are not available.

- ii. *Legal work is Pro Bono Legal Work only if it is free to the client, without payment to the lawyer or law firm (regardless of the outcome) and provided voluntarily either by the lawyer or his or her firm.*
- iii. *Pro Bono Legal Work is always only an adjunct to, and not a substitute for, a proper system of publicly funded legal services.*¹⁰⁵

The Protocol has been signed by 124 law firms, civil society organizations and universities involved in the delivery of pro bono legal work.¹⁰⁶

The culture of pro bono in England and Wales has been bolstered by the vocal support provided by past and present Attorneys General (the post of chief legal advisor to the government). The Attorney General together with the Attorney General's 'Pro Bono Envoy', convenes both national and international pro bono committee with the aim of increasing awareness and coordinating of pro bono work within the sector.¹⁰⁷

4.5.4.2 Regulation of Pro Bono Work

It is legal for lawyers in England & Wales to provide legal assistance on a pro bono basis. There is no minimum fee that must be charged for legal work and VAT does not need to be charged for pro bono work.

As with fee-paying work, the work of all lawyers, legal executives and other non-qualified advisors is regulated by the relevant governing body; the Solicitors Regulatory Authority, the Bar Standards Committee or ILEX Professional Standards Limited. All three bodies oversee the conduct of their lawyers in both fee paying and pro bono work.

Law firms, individuals lawyers and others providing pro bono legal services are encouraged to sign up to the UK Pro Bono Declaration, which sets the standards under which pro bono work should be carried, i.e. at the same level as if a client was paying.

4.5.4.3 Pro Bono Practice: What is being done, by whom and for whom?

According to the LawWorks Survey of Pro Bono in 2013, pro bono assistance is most commonly provided to small not-for-profit organizations and individuals. Smaller law firms were much more likely to be providing assistance to individuals. Larger firms reported assisting a broader spread, and, of all the groups, were more likely to also be engaged with large not for profits and social enterprises. Pro bono is predominantly carried out by solicitors and trainees.¹⁰⁸

Pro bono is done by all sizes of law firm in England and Wales. Small firms tend to see pro bono as part of their day to day work and do not treat it any differently to their other work. They tend to devote specific resources to pro bono practice or record pro bono work done. On the other hand, many international law firms with offices in England and Wales have an

¹⁰⁵ The Protocol was developed under the auspices of the Attorney General's Pro Bono Coordinating Committee and has been endorsed by the Law Society of England and Wales, Bar Council of England and Wales and Chartered Institute of Legal Executives. See the full text at: http://www.lawworks.org.uk/protocol_text.

¹⁰⁶ As of 16 April 2014. See <http://lawworks.org.uk/protocol-signatories>.

¹⁰⁷ The Pro Bono Yearbook of England and Wales 2012:

http://www.accesstojusticefoundation.org.uk/downloads/Pro_Bono_Yearbook_2012.pdf.

¹⁰⁸ LawWorks, "Pro Bono Survey 2013: summary report",

http://www.lawworks.org.uk/tmp_downloads/g106h141b25i78m23j103y11h48v13y149o121y73k132154x28/law-works-2013-pro-bono-report-final.pdf, 11

active pro bono practice. Many of them have dedicated pro bono resources, such as one or a number of staff members dedicated to coordinating or even carrying out pro bono work. Lawyers that work within a company, ‘in-house lawyers’, may do pro bono work but are limited in terms of what work they can do, who they provide the work to and by the terms of their professional indemnity insurance.¹⁰⁹

Members of CILEX can engage in pro bono work through pro bono clearinghouses, law centers and other pro bono programs. CILEX runs a Pro Bono Trust to promote pro bono amongst its members.¹¹⁰

A number of pro bono clearinghouses operate in England & Wales that connect individuals and/or civil society organizations in need of legal help and who do not have the means to pay for it, with lawyers willing to provide their services on a pro bono basis. These include LawWorks (pro bono for solicitors),¹¹¹ the Bar Pro Bono Unit (pro bono for barristers),¹¹² Advocates for International Development (pro bono for both solicitors and barristers on matters relating to the UN Millennium Development Goals),¹¹³ Trustlaw Connect¹¹⁴ and PILnet UK.¹¹⁵

In one twelve month period between 2012/2013, LawWorks reported finding pro bono solicitors for 51 individuals and pro bono mediators for 65 individuals.¹¹⁶

Members of the legal profession can also do work on a pro bono basis with non-profit independent legal advice clinics. For example, Citizens Advice Bureaus and the Federation of Law Centers have legally qualified and non-qualified volunteers who provide pro bono assistance to members of the public.

There are many opportunities for law students and trainees to do pro bono legal work. This can be through university or law school run legal clinics such as BPP’s legal advice clinics¹¹⁷, the Free Representation Unit¹¹⁸ or through non-profit independent advice centers, such as Citizen’s Advice Bureaus.¹¹⁹ LawWorks runs a program to provide assistance and guidance for students to establish their own legal clinics.¹²⁰ In 2013, a non-profit organization, Pro Bono Community, was established to train law students to be more effective volunteer legal advisors and to maximize their impact as pro bono practitioners.¹²¹ A centralized website has been created to list pro bono opportunities for all law students.¹²² LawWorks reported 20,541 clinic appointments in which an individual met with in person (or by phone/Skype) a solicitor or a supervised student to receive free legal advice.¹²³

¹⁰⁹ See the SRA Practice Framework Rules 2011 and the Legal Services Act 2007.

¹¹⁰ Chartered Institute of Legal Executives, “CILEx Pro Bono Trust”, http://www.cilex.org.uk/about_cilex/pro_bono/cilex_pro_bono_trust.aspx.

¹¹¹ LawWorks, <http://www.lawworks.org.uk>.

¹¹² Bar Pro Bono Unit, <http://www.barprobono.org.uk>.

¹¹³ Advocates for International Development, <http://a4id.org>.

¹¹⁴ Thomson Reuters Foundation, “Trust Law Connect” <http://www.trust.org/services/trustlaw-connect/>.

¹¹⁵ PILnet: The Global Network for Public Interest Law, www.pilnet.org.

¹¹⁶ Information obtained from unpublished PILnet survey on Pro Bono Practice, 2014.

¹¹⁷ BPP University, “BPP Legal Advice Clinic”, <https://www.bpp.com/bpp-university/l/probono-advice?p>.

¹¹⁸ Free Representation Unit, <http://www.thefru.org.uk>.

¹¹⁹ Citizens Advice Bureau, “Student Volunteers”, http://www.citizensadvice.org.uk/index/join-us/youth_volunteering/student_volunteers.htm.

¹²⁰ LawWorks, “Student and Pro Bono Mailing List”, <http://www.lawworks.org.uk/students>.

¹²¹ Pro Bono Community, <http://www.probonocommunity.org.uk>, see also <http://www.theguardian.com/law/2013/nov/14/student-pro-bono-volunteering>.

¹²² Student Pro Bono: the gateway to student pro bono, www.studentprobono.net.

¹²³ Ibid. 26

In 2010 the National Pro Bono Centre was established in London. The Centre acts a hub for pro bono information and services.¹²⁴ A number of pro bono charities have their offices within the Centre, including LawWorks, the Bar Pro Bono Unit, ILEX Pro Bono, PILnet UK, Pro Bono Community, the Access to Justice Foundation and the London Legal Support Trust.

4.5.5 Incentives for Doing Pro Bono

According to the LawWorks Pro Bono Survey, it varies from firm to firm whether or not their lawyers are offered incentives to do pro bono. It is most common for individuals in the largest organisations to be offered incentives but mainly non-financial incentives.

4.5.5.1 Recognition and Awards

U.K. National Pro Bono Week has taken place each year since 2001 to showcase and celebrate pro bono work done by solicitors, barristers, other legal professionals, trainees and students.¹²⁵ The week takes place under the patronage of the Law Society, the Bar Council and CILEX, and usually contains a mixture of events and seminars hosted by law firms, clearinghouses and other advocates for pro bono.

Throughout the year awards for pro bono practice are bestowed by a range of organizations, each with different criteria and some for different parts of the legal profession. These include:

- LawWorks and Attorney General’s Student Pro Bono Awards
- LawWorks Pro Bono Awards (for qualified solicitors)
- Law Society’s Excellence in Pro Bono Award for law firms
- The Bar Pro Bono Award
- CILEX Pro Bono Medal
- Trustlaw Connect Pro Bono Awards (an international award)
- PILnet Pro Bono Awards (an international award)

4.5.5.2 Marketing

Law firms that engage in pro bono work, mainly the larger firms, often publicize the pro bono work their lawyers have done in annual reports, pro bono or corporate social responsibility reports and on their websites.¹²⁶ These reports are then often used in pitches to potential new clients.

4.5.5.3 Competition and Targets

Given that many of the large law firms in England and Wales run pro bono programs, there can be competition in terms of who is doing the highest volume or more impactful pro bono work. Public ranking lists on pro bono, such as that compiled by Who’s Who Legal, intensifies competition.

There is no mandatory or aspirational target for pro bono hours in England and Wales. However, according to the LawWorks Pro Bono Survey, many larger firms set internal

¹²⁴ National Pro Bono Centre, <http://www.nationalprobonocentre.org.uk>.

¹²⁵ Law Society, “Pro bono at heart of legal profession as 12th Pro Bono week begins”, 4 November 2013, <http://www.lawsociety.org.uk/news/press-releases/12th-national-pro-bono-week-begins/>.

¹²⁶ According to the LawWorks Pro Bono Survey for 2013 pro bono is much more likely to be publicized by the larger and medium organizations, 86% and 78% respectively. Nearly three quarters of the smallest organizations indicated that they do not publicize their pro bono work.

targets for their lawyers, for example allowing individuals to allocate 30 or 60 hours of pro bono to their billable hours. Since this is sometimes integrated into the internal appraisal and assessment processes, pro bono work done by a lawyer may count towards the calculation of bonuses and in consideration for promotion.

4.5.5.4 Career Progression

When pro bono is promoted from the top of a firm by partners, more lawyers are inclined to do pro bono work. The LawWorks survey reported that 86% of respondents said that pro bono is actively encouraged within their firm. Many of the large firms also have designated pro bono partners to lead pro bono drives within the firm. This provides a supportive environment for lawyers interested in doing pro bono work. It also acts as an incentive for lawyers that want to be in the partners' favor.

As the LawWorks survey confirms, much of the pro bono work in England and Wales is performed by young lawyers. The experience obtained by these young lawyers through pro bono work is invaluable to law firms because it exposes them to a wider variety of work and higher level of responsibility than they may be provided under the firm's normal training scheme.

4.5.5.5 Pro Bono as Billable Hours

For law firm lawyers, time and billable targets can often be an obstacle to them taking on pro bono work. Many of the large firms surveyed by LawWorks, almost two thirds in fact, recognize pro bono in billable hours targets. Smaller and medium sized firms on the other hand are more likely to exclude pro bono hours from billable targets; their acknowledgment of pro bono in chargeable hours is much lower, at just under one third.

4.5.5.6 Pro Bono Structures

Many of the firms with the most active pro bono practices in England and Wales have dedicated policies, staff and budgets. Having this internal structure makes it easy for lawyers to avail of pro bono opportunities when they wish to do so.

5 CURRENT SITUATION IN THE RUSSIAN FEDERATION

5.1 Introduction

The current legal regulation in the Russian Federation is primarily intended to regulate free legal aid subsidized by the state, which is often erroneously called pro bono in Russia. Pro bono legal assistance in its internationally accepted meaning is reflected in the Russian laws only with reference to specific institutions: legal clinics and non-governmental free legal aid centers.

The legal assistance rendered on a pro bono basis by attorneys-at-law falls short of the requirements and professional standards governing provision of qualified legal assistance by attorneys-at-law. However, Russian laws do not stipulate an express ban on provision of pro bono legal assistance by attorneys-at-law.

The companies and sole proprietors specializing in legal consulting, legal education professionals and research fellows may provide free legal services not subsidized by the state. However, such services may only be governed by a gratuitous services agreement. In practice, such agreements are rare.

Although legal clinics operate on a pro bono basis, essentially such aid does not fall within qualified legal assistance. Activities of legal clinics in Russia represent to a greater extent an element of education rather than pro bono aid.

Non-governmental free legal aid centers represent a form of involvement of attorneys-at-law, notaries of non-profit organizations in provision of pro bono legal aid, however, they are poorly developed in practice. Regulation of such centers primarily has to do with organizational matters and relationships between centers with the Ministry of Justice authorities, leaving standards of free legal aid outside.

Various forms of engaging legal professionals in law making have become quite common: anticorruption expert evaluation, evaluation of regulatory effect and public discussion of draft regulations. Such practice of free expert support of the state in its regulatory function is constantly developing and expanding.

The activities of the Ombudsman for Protection of Entrepreneurs' Rights under the Russian President (a federal business ombudsman) created demand for attorneys-at-law and advisors to handle complaints from entrepreneurs on a pro bono basis. The standards of such aid rendered by attorneys-at-law and consultants are not regulated; however, they find their way into agreements with institutions assisting the federal business ombudsman. One of such institutions is the Center for Public Procedures "Business against Corruption" (BAC).

The current state of legal regulation of legal assistance/pro bono legal services requires legislative measures to be taken. Largely, the absence of norms preventing abuse by those who render pro bono services and protecting recipients of such services resulted from parallel existence in the Russian Federation of non-profit lawyers' associations (relatively regulated) and legal business consulting (remaining without special legal regulation).

Until systematic decisions to regulate the legal profession are made, to establish attorneys-at-law's monopoly over commercial legal services, the regulation of pro bono activities will be hindered. At this point those involved in pro bono activities are required to regulate their relationships through civil law agreements in maximum detail.

Russian laws do not provide for such concepts as *pro bono* or *pro bono publico*. Due to the absence of a legal definition of such concept both lawyers and law enforcers lack common understanding of what this concept means in Russia.

Lawyers understand *pro bono* to mean various forms of legal assistance. The approaches found in practice are common in that in any case *pro bono* means legal assistance rendered by lawyers both admitted and not admitted to the bar without charging any fee on an individual or a legal entity, a public entity or a non-governmental organization that receive such assistance. We intentionally do not use the concept of “gratuitous legal assistance” here as this concept as opposed to *pro bono* has a specific legal definition and may create ambiguity for what *pro bono* means.

There is quite a broad variety of opinions both in legal science and among practitioners as to which legal assistance rendered free of charge for a principal or a client fits the *pro bono* category. Listed below are basic potential conditions to qualify such assistance as *pro bono*:

- a) no fee for relevant services payable by the state or municipalities.
- b) no fee is charged for legal assistance in the cases where gratuitous legal assistance is not a statutory entitlement;
- c) legal assistance is rendered by attorneys-at-law or legal professionals (holders of a university degree in jurisprudence)
- d) legal assistance serves public interests or interests of the general public.

In addition to the legal assistance rendered to individuals, organizations, public entities (irrespective whether for the benefit of such persons only or in public interests), *pro bono* practically often includes activities of lawyers and attorneys-at-law as legal experts: drafting legal regulations, participating in discussions of legal regulations, assessment of regulatory impact of legal regulations, particularly, for the purpose of developing the legal services market, legal profession, notarial system and the judiciary. Strictly speaking, such activities cannot be classified as legal assistance as such professional activity has no “addressee” or “recipient”. However, such expert activities are of legal nature. Notably, it may not include any expert activities conducted by legal experts, in arbitration, civil and criminal proceedings as such activities are subject to specific legal regulation and as a rule carried out for a fee.

The great variety in understanding the concept of *pro bono* in Russia results mostly from the fact that legal services in Russia fall under both for-profit and non-profit activities. Legal services in Russia, subject to certain exceptions, may be provided by businessmen both with and without a university degree in jurisprudence and for-profit organizations employing persons, as a rule, holding said degree but not in all cases.

Legal services (legal assistance) as not-for-profit activities are rendered by attorneys-at-law as well as not-for-profit organizations, individuals having no entrepreneur status or notaries public¹²⁷. In Russia, only certain types of legal assistance (legal services) may be rendered by attorneys-at-law or persons who are bound by special requirements to legal training (mostly in criminal proceedings and representation in the Constitutional Court of the Russian Federation).

A high degree of liberalization of the legal services market and scope of legal assistance inevitably leads to a situation where the lack of legislative regulation of legal services, including *pro bono* legal services, is aggravated by the lack of uniform approaches in the

¹²⁷ The question of whether legal services rendered by notaries public constitute business activities cause disputes in legal practice.

legal community to standards of legal assistance, including gratuitous legal services. Arguably, we can more or less say that there are standards of legal assistance rendered by attorneys-at-law and legal services.

In defining pro bono for the purposes of this paper, we are bound to proceed from the fact what forms of legal assistance and what activities of lawyers are to a greater extent recognized as such in practice.

The most common approach is to classify the following legal services/legal assistance and other activities of the legal nature as pro bono:

- i. Provision of qualified legal assistance by attorneys-at-law to individuals in the Russian Federation free of charge;
- ii. Provision of legal services under a civil law agreement pursuant to the Civil Code by persons not admitted to the bar, including gratuitous charitable services.
- iii. Activities of legal aid clinics;
- iv. Activities of non-governmental gratuitous legal aid centres;
- v. Activities of state legal aid offices;
- vi. Gratuitous law-making activities, including regulation of legal profession, by lawyers, including law school professors and research fellows.

The following types of gratuitous legal assistance usually do not constitute pro bono:

- i. Acting as defence attorney in criminal proceedings in the cases where a defence attorney is required (Art.51 of the Russian Criminal Procedure Code) and no defence attorney is engaged by the suspect, accused, his or her legal representative and other persons as instructed by, or subject to consent of, the accused;
- ii. Acting as attorney-at-law in civil proceedings if the defendant, whose place of residence is unknown, has no legal representative and in some other cases (Art.50 of the Russian Criminal Procedure Code)
- iii. Provision of assistance by individuals, including employees of non-governmental and human rights organizations (not specified in paragraphs 6.2-6.3 above) who are not lawyers (holding no university degree in jurisprudence);
- iv. Legal assistance rendered by government authorities to, for example, servicemen and persons discharged from military service and their family members on any matters related to military service – by military administration and military justice authorities, preliminary investigation authorities and courts;
- v. Law-making activities conducted by persons whose public standing or job title implies performance of such job gratuitously (deputies of all levels, public servants, members of professional associations of employers, governing bodies of trade unions etc.)

Despite that the above approach is relatively common in practice, this paper shows to which extent a particular activity taking place and governed by law is consistent with the concept of pro bono. This analysis is significant in its connection with the proposals set forth in this paper regarding necessary legislative steps to develop pro bono in the extent it is consistent with its nature and not governed by similar but essentially different concepts of legal assistance in the Russian Federation.

5.2 Current regulations, practices and principles for pro bono work in the Russian Federation

5.2.1 Provision of free qualified legal assistance by attorneys-at-law

Federal Law No.63-FZ “On Practice of Law and Bar Associations” dated May 31, 2002 (the “**Bar Associations Law**”) (Art.25 Part 4 §§3, 4, Art.26) expressly stipulates that legal

services may be rendered either for a fee or free of charge but in the manner contemplated by Federal Law No.324-FZ “On Gratuitous Legal Assistance in Russian Federation” dated November 21, 2011 (the “**Gratuitous Legal Assistance Law**”).

The Gratuitous Legal Assistance Law specifies categories of individuals in the Russian Federation entitled to gratuitous legal assistance arising out of the Russian Constitution¹²⁸, types of such assistance (oral and written advice; drafting legal documents; representing an individual in courts, before government and municipal authorities, organizations) and a list of matters in respect to which such assistance may be rendered.

In addition to the above provisions, this law provides for two separate systems of gratuitous legal assistance: governmental and non-governmental systems.

In the governmental system of gratuitous legal assistance attorneys-at-law are entitled (but not obliged) to place themselves on the list of attorneys-at-law who offer gratuitous legal assistance, submit reports of such assistance from time to time to the bar association in a constituent entity of the Russian Federation (Art.18 of the Bar Associations Law).

The fees payable to the attorneys-at-law offering gratuitous legal assistance to individuals as part of the governmental system of legal assistance and compensation of their costs shall be paid from the federal, regional and local budgets (also taking account of whether he/she renders such assistance on his/her own or through a government legal aid office as described below).

As practice of law by an attorney-at-law as part of the state-supported gratuitous legal assistance system represents none other than the exercise of individuals’ constitutional right to qualified gratuitous legal assistance subsidized by the budget, such activities may not be treated as pro bono.

Provisions of the Gratuitous Legal Assistance Law concerning non-governmental system of gratuitous legal assistance as the only possible method of rendering gratuitous legal assistance not subsidized by the state set forth an attorney-at-law’s, and bar associations’ right to set up non-governmental gratuitous legal aid centres (services of such centres will be further elaborated below).

Does this mean that an attorney-at-law is prohibited from rendering gratuitous legal assistance other than through non-governmental gratuitous legal aid centres (set up as unincorporated entities if an attorney-at-law renders gratuitous legal services on his own behalf)?

In practice this issue is the most complex as an attorney-at-law is essentially unable to enter into an agreement for gratuitous legal assistance on a pro bono basis on his own behalf and therefore render such assistance under the Bar Associations Law. Nonetheless, in practice we see that attorneys-at-law render pro bono legal assistance as experts handling applications to the Ombudsman for Protection of entrepreneurs’ rights and in some other cases.

Currently, the Bar views gratuitous legal assistance only through the prism of a governmental legal aid system, which is evidenced by numerous local regulations issued by

¹²⁸ Article 48 of the Russian Constitution grants everyone a right to qualified legal assistance; such legal assistance is rendered free of charge in the cases contemplated by law.

regional bar associations¹²⁹, governing issues of compensation for legal assistance rendered by attorneys-at-law. Only in a few Russian regions pro bono services are recognized and not concealed by the Bar. For example, the Regulation on Provision of Gratuitous Legal Assistance by the Stavropol Krai's Attorneys-at-Law as Part of the State Gratuitous legal Aid System and Pro Bono System¹³⁰, provides that the Bar considers it its social obligation to render gratuitous legal aid at least by way of gratuitous legal advice in the cases where an individual seeking such assistance is not eligible to such assistance in the state gratuitous legal aid system. Each instance of advice given should be recorded by the attorney-at-law in the "Statement of Free Pro Bono Legal Assistance" in the form approved by the Bar Association Council. Furthermore, no legal services agreement is executed if the attorney-at-law chooses not to render any pro bono services by way of representation in legal proceedings.

It is important to note that the Bar Associations Law does not provide for execution of an agreement for gratuitous legal assistance between an attorney-at-law and a client. But if pro bono legal assistance is rendered by an attorney outside the purview of the Bar Association Law, than strictly speaking it may not be regarded as qualified legal assistance and practice of law, it will not be subject to the Bar Associations Law or, in certain legal interpretations, to the Professional Code of Attorney-at-Law's Ethics¹³¹. Such assistance is rendered outside the professional standards, which entails a number of legal consequences: no criteria exist for making claims as to quality and compliance with ethical norms; a client is deprived of protection if a conflict of interest arises etc. Essentially, attorney's legal aid on a pro bono basis is tantamount to legal services rendered free of charge by persons not admitted to the bar.

It must be noted that an attorney being unable to provide pro bono assistance under the Bar Associations Law does not mean that he or she is unable to render it in principle. An attorney-at-law may enter into an agreement for gratuitous legal services, including as part of charity work, because the Bar Associations Law does not debar an attorney-at-law from engaging in any other unpaid activity. However, the language of Article 9(3) of the Professional Code of Attorney-at-Law's Ethics permitting attorneys-at-law to render legal services (legal aid) outside their practice of law only as part of charity projects undertaken by other institutions of civil society envisaging gratuitous legal services brings some ambiguity.

¹²⁹ E.g. see the Methodological Guidelines for Provision of Gratuitous Legal Assistance by Attorneys-at-Law As Part of the State Free Legal Aid System in the City of Moscow approved by the Resolution of the Council of the Moscow Bar Association (minutes No.14 dated December 19, 2013); Remuneration of Attorneys-at-Law Who Render Gratuitous Legal Assistance in the Bryansk Region As Part of the State Free Legal Aid System and Compensation for Such Assistance approved by Bryansk Bar Association; Recommended Tariffs for Legal Assistance Rendered by Attorneys-at-Law of Kaluga Region Bar Association to Individuals, Institutions, Organizations, and Enterprises approved by Kaluga Region Bar Association (minutes No.13 dated December 7, 2011); Regulation on Gratuitous Legal Assistance and Participation of Attorneys in Criminal Proceedings as Defense Attorneys Appointed by Inquiry Authorities, Preliminary Investigation Authorities and Judicial Authorities in the Kostroma Region approved by the Resolution of the Council of Kostroma Region Bar Association dated January 27, 2011 (as amended on December 19, 2013); Regulation of Gratuitous Legal Assistance by Attorneys As Part of the State Free Legal Aid System in the Oryol Region approved by the Resolution of the Council of Oryol Region Bar Association dated October 26, 2012, and other.

¹³⁰ Approved by the resolution of the Council of Stavropol Krai Bar Association dated January 13, 2014

¹³¹ By virtue of Article 4 Part 2 of the Lawyers' Associations Law, the Professional Code of Attorney-at-Law's Ethics imposes on each attorney-at-law mandatory rules of conduct in their practice of law

Practically, in most cases it leads to a situation where there is no agreement between an attorney-at-law and a recipient of pro bono legal aid at all. As a result, it becomes impossible to set any standards of legal aid whatsoever and stipulate attorney-at-law's liability under a regular civil law agreement for gratuitous legal services.

However, it is obvious that taking pro bono legal aid rendered by attorneys-at-law out of purview of the acts governing practice of law and effectively bringing it under the purview of common rules governing business transactions have no practical value. Either the Bar Associations Law should be amended to permit attorneys-at-law to enter into agreements for gratuitous qualified legal services or a total ban should be imposed on any pro bono activities of an attorney-at-law undertaken other than through non-governmental gratuitous legal aid centres (which would be an extremely regrettable step for bar associations as institutions of civil society).

5.2.2 Provision of legal services under a civil law agreement

There is no requirement in Russia that a person must be necessarily admitted to the bar in order to render legal aid/legal services (with certain exceptions in criminal and constitutional proceedings); and therefore, the statutory provisions governing the attorney-at-law status and standards of legal aid do not apply to lawyers who are not qualified attorneys or for-profit and not-for-profit organizations that render legal services.

Essentially, the only statutory requirement to provision of legal aid/legal services by persons not admitted to the bar is compliance with mandatory rules of the Civil Code, including those concerning services agreements. In the case of pro bono legal assistance, it is a gratuitous agreement not specified in the Civil Code, which gives one practically unlimited freedom in determining terms of such an agreement. By its legal nature, such an agreement may have the nature of a charitable assistance agreement. Article 1 of Federal Law No.135-FZ "On Charitable Activities and Charitable Organizations" dated August 11, 1995 classifies voluntary activities of individuals and corporate entities to provide disinterested (free of charge or on preferable terms) services to individuals or corporate entities as charity.

Given the freedom of contract, it is extremely important for a recipient of pro bono legal aid to stipulate in detail legal guarantees of his protection: confidentiality provisions, transfer of documents, their storage, requirements to execution of legally relevant documents, liability for giving knowingly erroneous advice etc. Often such client's interests are jeopardised given that the client himself is often in financial need and has no personal experience in executing legal services agreements

A recipient of gratuitous legal services is unable to complain if the advisor breaches ethical norms because there is no self-regulation in the legal profession outside lawyers' associations in Russia.

As a matter of practice, agreements between entities rendering legal services or a lawyer not admitted to the bar and a recipient of such services are extremely rare. Some Russian experts note tax risks of a for-profit entity rendering gratuitous services to a not-for-profit organization¹³².

Irrespective of reasons, the absence of a pro bono services agreement between a client and an attorney-at-law deprives clients of legal protection (except for general rules of civil legislation on compensation of damages in special situations: theft of, or damage to,

¹³² Pro Bono in Russia: Gratuitous Legal Services /D. Samigullin. //Corporate Lawyer. -2012. – No. 5. - P. 57 – 64.

documents, taking legally relevant actions with the sole purpose of inflicting harm) in such hypothetical situations as:

- use of client's confidential information by the advisor to provide legal services to another person that the client has a conflict of interests with;
- using a client seeking assistance for self-promotion without any intention to offer quality legal aid (especially common in the so-called high-profile family and housing disputes);
- provision of aid to a client by unqualified employees for the purpose of their training without ensuring proper supervision over quality of such work etc.

5.2.3 Activities of legal aid clinics

Legal aid clinics (student consultancy clinics, student legal clinics etc.) are set up by institutions of higher vocational learning either as a legal entity (if the educational institution is authorized to do so by its founder) or as a structural subdivision of such educational institution¹³³. One of the key objectives pursued by legal aid clinics is to raise legal awareness of the general public and teaching law students the skills of rendering legal assistance.

However, along with their awareness role and educational function, legal aid clinics may offer gratuitous legal aid by way of legal advice orally and in writing, drafting applications, complaints, petitions and other legal documents (Article 23 Part 4 of the Gratuitous Legal Assistance Law).

The Law does not provide a clear answer as to whether legal aid clinics may offer gratuitous legal aid to organizations. On the one hand, the law in principle does not mention provision of gratuitous legal aid to organizations because this law primarily governs the exercise of rights by individuals to free qualified legal aid. On the other hand, private gratuitous legal aid governed by this law does not expressly stipulate its provision to individuals only: Russian Federation citizens, including entrepreneurs, foreign citizens, and stateless persons. As a matter of practice, a number of legal aid clinics in Russia offer gratuitous legal aid to organizations.

Gratuitous legal assistance at legal aid clinics is rendered by students majoring in jurisprudence at institutions of higher learning, under supervision of holders of a university degree in jurisprudence responsible for training such persons and running a legal aid agency at an institution of higher learning.

Order No.994 of the Russian Ministry of Education and Science dated November 28, 2012 provides that gratuitous legal aid may be rendered voluntarily by students (trainees) who have shown their personal interest in such activity and have the prerequisite general cultural and professional competencies formed in the process of mastering relevant academic programs.

The students' (trainees') professional competencies required to render gratuitous legal aid are determined by educational institutions on their own. No common standards that students (trainees) engaged in legal aid clinics must observe have been adopted as part of laws or subordinate legislation. The "supervision over compliance by those rendering gratuitous legal aid with professional ethics and requirements as to quality of such gratuitous legal

¹³³ The regulation on setting up legal aid clinics by institutions of higher vocational learning and their operation as part of the non-governmental free legal aid system is approved by Order No.994 of the Ministry of Education and Science of Russia dated November 28, 2012

aid”¹³⁴ contemplated by Article 5(4) of the Gratuitous Legal Assistance Law does not apply to legal aid clinics as there are no uniform professional ethical standards and requirements to such aid for students supervised by their teachers. The universities themselves (or legal clinics if they act as separate legal entities) try to fill this gap by adopting relevant internal regulations. In the absence of specific requirements to legal aid a person who suffered damages due to poor quality advice may only refer to provisions of the agreement with a legal clinic (or a university if such clinic is the university's organizational unit) if such an agreement was entered into at all.

The requirements contemplated by Federal Law No.324-FZ “On Gratuitous Legal Assistance” dated November 21, 2011 to the persons charged with oversight over legal clinics’ activities at an institution of higher learning are limited to their having a university degree in jurisprudence. The other requirements are to be introduced by universities through their internal regulations. That is, the persons charged with oversight over legal clinics’ activities do not have to be attorneys-at-law (and they are not as a matter of practice) or have any experience in providing legal services. It is intended that this would not be a single person but rather a number of persons – lecturers of relevant courses in jurisprudence. It is reasonable if oversight over written or oral advice, for example, in civil law is exercised by a lecturer in civil rather than criminal law. But requirements to such persons’ position or academic degree (associate professor, professor) are nonetheless governed by the university’s internal regulations.

It is apparent that such legal assistance may not be considered qualified legal assistance. But does such legal assistance, or rather specific legal awareness efforts, in Russia represent pro bono by their very nature?

The Gratuitous Legal Assistance Law (Art.22) classifies activities of legal clinics as non-governmental gratuitous legal aid system formed on a voluntary basis and not subsidized by the state. The Law provides for remuneration of attorneys-at-law and other persons rendering gratuitous legal aid to individuals and compensation of their expenses incurred in the course of provision of gratuitous legal aid only as part of the governmental gratuitous legal aid system. Specific working hours of legal clinic employees (who are not students and whose involvement in the clinic is not part of their training process) and their costs are compensated by the university if such clinic is the university’s organizational unit.

But what happens if a legal clinic is set up by a university as a separate legal entity? Of course, most of the clinic’s funding is provided by its founder – the university. However, in Russia there is also a mechanism of state funding for such legal entities as socially oriented non-profit organizations. Article 31.1 Part 1 §6 of Federal Law No.7-FZ “On Non-Profit Organizations” dated January 12, 1996 expressly provides for the right of government authorities and local self-governance authorities to support socially oriented non-profit organizations if they are engaged pursuant to their constitutional documents in such activities as provision of legal aid on a gratuitous or another privileged basis to individuals and non-profit organizations and conduct legal awareness programs for the general public, activities to protect human and civil rights and liberties. The law provides for such potential forms of support as budget allocations, tax credits, provision of state or municipal property for specific needs etc. Availability of such support does not mean that legal awareness

¹³⁴ A similar provision is found in Order No.994 of the Russian Ministry of Education and Science dated November 28, 2012 whereby persons responsible for a legal aid clinic ensure that rules of professional ethics are complied with and the appropriate quality of free legal when they render such free legal aid. This Order additionally specifies the requirement to comply with Federal Law No.59-FZ “On Handling Inquiries from Citizens of the Russian Federation” dated May 2, 2006, which in principle may not apply to relationships between legal aid clinics and individuals.

programs (legal aid) offered by legal clinics to individuals and organizations become “commercial” services for the state. The state does not fund clinics as such, does not pay students and their supervising professors for any specific work.

Therefore, activities of legal clinics should be classified as pro bono activities though with the reservations above. We can say that such pro bono work represents pro bono work of the universities themselves which pay extra remuneration to professors who supervise their students as such clinics function on a voluntary basis and students’ involvement does not fall within mandatory state educational standards.

Currently, prerequisites are forming to develop some self-regulation in this area. This is mostly due to the creation of the Center for Development of Legal Clinics, an autonomous non-profit organization. This organization operates in several areas, including standardization of methods and principles of legal clinics and drafting recommendations as to methodology and organization of legal clinic’s activities. Currently, the Center for Development of Legal Clinics implements such projects as creation of a unified operations control centre for legal clinics in Moscow, a unified legal clinic data base, a legal clinic information portal and a gratuitous legal aid map of Russia etc.

However, the key objectives of this organization are in fact educational, namely: development of legal clinic education, dissemination of ideas and methods of legal clinic education, introduction of other practical methods of education in law schools¹³⁵.

The Center for Development of Legal Clinics drafted the Performance Standards of Participants in the Non-Governmental Gratuitous legal Aid System. Such standards are intended to be applied to all those involved in the non-governmental gratuitous legal aid system, both legal clinics and non-governmental gratuitous legal aid centers.

It is intended that the Standards will apply to those who render gratuitous legal pro bono aid as to qualification of legal relations formed by gratuitous legal aid, requirements to qualification of such persons and the quality of their legal aid, including compliance with rules of professional ethics¹³⁶.

At the same time the mechanism of adoption and entry into force of this standard remains unclear. Until this happens, legal clinics will follow only general principles of gratuitous legal aid.¹³⁷

5.2.4 Activities of non-governmental gratuitous legal aid centres

Non-governmental gratuitous legal aid centres are created by non-profit organizations, attorneys-at-law, attorney associations, bar associations in constituent entities of the Russian Federation, notaries public either as separate legal entities or as organizations’ structural units. It remains unclear why the list of those entitled to set up non-governmental gratuitous

¹³⁵ More information about this center: <http://codolc.com/about/>.

¹³⁶ <http://codolc.com/files/8b/b9/8bb9c12232d81217ecd16c1d5e5bcd39.pdf>

¹³⁷ Article 5 of the Gratuitous Legal Assistance Law sets forth the following principles: 1) ensuring exercise and protection of rights, liberties and legitimate interests of individuals; 2) social justice and social orientation in provision of free legal aid; 3) availability of free legal aid to individuals in the cases contemplated by Russian laws; 4) supervision over compliance by those who provide free legal aid with professional ethics and requirements to quality of free legal aid; 5) requirements to professional qualification of those who provide free legal aid; 6) individual’s free choice of governmental or non-governmental free legal aid system; 7) objectivity and impartiality of free legal aid and its timely provision; 8) equality of access to free legal aid and prevention of discrimination in its provision; 9) ensuring confidentiality in providing free legal aid.

legal aid centres is limited to those above. It is hard to imagine the reasons why the Russian legislator believes that a particular for-profit organization may not set up such a centre and ensure a proper level of gratuitous legal assistance, acting, for example, for charitable purposes.

Just like legal clinics, non-governmental gratuitous legal aid centres offer gratuitous legal assistance by way of oral or written legal advice, drafting applications, complaints, petitions and other legal documents, however, the Gratuitous Legal Assistance Law envisions provision of such assistance to Russian nationals only rather than organizations, foreign citizens and stateless persons.

As a general rule neither non-governmental centres, nor legal clinics may represent individuals in court, before government and municipal authorities or other organizations.

However, non-governmental centres may expand the scope of their gratuitous legal aid by representing individuals in courts, governmental and municipal authorities, organizations (and even offering any other types of legal aid) by entering into an agreement with the Russian Ministry of Justice or its local office if the latter is authorized to do so. In exchange for such expansion of powers the agreement may include further requirements to such organizations (Article 26 Part 2 of the Federal Law “On Non-Profit Organizations”). Such agreement with a ministry of justice body is signed by the non-governmental center itself if it operates as a separate legal entity or its founder – a non-profit organization. The question of whether such agreement may be entered into by a centre that does not operate as a legal entity remains unclear as the non-profit organization it forms part of is not, strictly speaking, its "founder".

There are certain requirements needed to set up non-governmental gratuitous legal aid centres, namely:

- i. available premise to receive visitors;
- ii. persons holding a university degree in jurisprudence hired under an employment or a civil law agreement entitled to provide legal advice to individuals at such non-governmental gratuitous legal aid centre.

If legal aid is provided at non-governmental gratuitous legal aid centres, no limitations or privileges may be imposed based on gender, race, ethnicity, language, origin, position, religion, beliefs, or membership in NGOs. Curiously enough, such reservation exists only in relation to non-governmental centres though it should undoubtedly apply to all those who render gratuitous legal assistance within both governmental and non-governmental sectors.

The Gratuitous Legal Assistance Law does not provide for any specific standards of gratuitous legal aid rendered by non-governmental centres and therefore it is only subject to general principles applying to legal clinics as well.

As for liability for potential adverse effect of legal aid rendered by a non-governmental centre on individuals, the Gratuitous Legal Assistance Law provides that the persons who render such aid, a non-governmental gratuitous legal aid centre and (or) its founders shall be liable as prescribed by Russian Federation laws. Apparently, this federal law refers to chapter 59 of the Civil Code of the Russian Federation that contains general compensation of damage provisions.

As for the funding of non-governmental gratuitous legal aid centres, all of the provisions applying to legal clinics apply to such centres. Therefore, activities of non-profit organizations, attorneys-at-law, notaries public and other persons setting up non-governmental legal centres may also be regarded as consistent with pro bono principles.

However, there is one nuance here. The Gratuitous Legal Assistance Law (Art.26 Part 2) specifies that if a ministry of justice body and a non-governmental centre enter into an agreement that expands the scope of activities of such non-governmental centre by employing additional forms of gratuitous legal aid, such an agreement may stipulate specific measures of state support for such organizations. Depending on how such terms are worded, activities of such non-governmental centres may come to be subsidized by the government, which would render activities of their founders not fully consistent with the pro bono principle.

5.2.5 Activities of state legal aid offices

Starting from 2005, the process of creation of state legal aid offices to offer gratuitous legal aid to individuals has been underway. The first step in this direction was an experiment to set up a governmental gratuitous legal aid system for low-income citizens pursuant to Resolution No.534 of the Russian Government dated August 22, 2005. According to the Gratuitous legal Aid Activity Report of the Russian Ministry of Justice, in 2013 legal aid offices as public establishments of constituent entities of the Russian Federation were set up and operate in 23 regions of Russia. Their status is basically determined by regional legislation. The federal legislation envisages only the basics of how governmental legal aid offices operate.

Article 17 of the Gratuitous Legal Assistance law provides that governmental legal aid offices are to be set up for only two purposes: to ensure proper functioning of the governmental gratuitous legal aid system and to offer gratuitous legal aid to individuals pursuant to laws of constituent entities of the Russian Federation. Governmental legal aid offices provide advice on legal matters orally or in writing, draft applications, complaints, petitions and other legal documents, provide their employees to represent people in civil proceedings and execution proceedings in civil cases. Such assistance is rendered by their employees and attorneys-at-law, however, attorneys-at-law are engaged only as part of the governmental gratuitous legal aid system pursuant to an agreement executed annually between a Ministry of Justice body and the Bar Association in a constituent entity of the Russian Federation. Governmental legal aid offices do not render any legal services for a fee. This makes sense because the status of governmental legal aid offices as public institutions means that their activities are funded by a constituent entity of the Russian Federation, they may not engage in any activities outside those contemplated by their Articles of Association.

The above clearly shows that governmental legal aid offices are specialized institutions to help low-income and socially vulnerable citizens to exercise their rights at the expense of regional budgets; they provide legal assistance by virtue of express statutory requirements. Therefore, activities of governmental legal aid offices are essentially not pro bono and represent a clear argument in favor of inexpedience of fusing together fundamentally different phenomena: pro bono publico and exercise of subjective rights of citizens to gratuitous legal aid through governmental institutions funded exclusively by the government.

5.2.6 Gratuitous law making activities

Whereas the above forms of gratuitous legal aid mostly concerned provision of such aid to specific individuals and organizations, this section will deal with legal assistance to the society or the state as well as professional legal community.

The analysis of such assistance and whether it is advisable to classify it as pro bono is complex and gives rise to discussions. In most cases, there is no one to enter into an agreement for gratuitous legal aid with or it is impossible to clearly define the “instruction”

or understand real “addressees” of such aid. Sometimes involvement in law making is directly in the best interests of clients who received qualified legal assistance for a fee and sometimes it is so tightly related to activities of a legal professional (for example, holding office in a business association or a trade union) that it cannot be classified as pro bono at all.

Nonetheless, free law-making activities by lawyers except for persons whose public standing or job title implies performance of such job gratuitously (deputies of all levels, public servants, members of professional associations of employers, governing bodies of trade unions etc.) should be regarded as pro bono.

The following basic forms of such work should be underlined:

Civic and expert boards set up by government authorities: committees of the State Duma, Federation Council, Russian Government, ministries, federal services and agencies, regional authorities and local self-government authorities.

The law basically leaves the methods for the creation and the requirements on these civic and expert boards to be set by the authorities which decide¹³⁸ to set up such boards. But as participating in drafting bills, agency regulations and their adjustment to resolve systematic problems of business represents one of the key objectives for such expert and civic boards set up by government authorities, members of the legal community, primarily, attorneys-at-law, are often included in such boards.

Anticorruption expert evaluation of regulations and draft regulations.

Anticorruption evaluation is conducted by private accredited experts free of charge and involvement of such experts is purely voluntary.¹³⁹ These are usually individuals having a university degree and at least 5 years of specialized experience. As a matter of practice, most accredited anticorruption experts have a university degree and are experts in law. However, a poor wording of requirements to candidates, specifically regarding their work experience to be evidenced by their employment record card, creates obstacles for accreditation of attorneys-at-law as many attorneys-at-law acquired their status prior to reaching the 5-year work experience in legal profession (as employees).¹⁴⁰

Evaluation of regulatory effect

As part of this procedure, a federal executive authority that wishes to draft a regulation, posts a notice with details of such draft on the official web-site at regulation.gov.ru.¹⁴¹

¹³⁸ Only for federal executive authorities it is prescribed that a civic board be formed by a government authority together with the Civic Chamber of the Russian Federation (Resolution No.481 of the Russian Government dated 02.08.2005, Decree No.842 of the Russian President dated 04.08.2006)

¹³⁹ Federal Law No.172-FZ “On Anticorruption Expert Evaluation of Regulations and Draft Regulations” dated July 17, 2009.

¹⁴⁰ Order No.146 of the Russian Ministry of Justice dated July 27, 2012 “On Approval of the Administrative Rules of the Ministry of Justice of the Russian Federation to Accredit Legal Entities and Individuals Wishing to Obtain Such Accreditation to Conduct Anticorruption Evaluation of Regulations and Draft Regulations as Independent Experts in the Cases Contemplated by the Russian Federation Laws”.

¹⁴¹ Rules of Evaluation by Federal Executive Authorities of Regulatory Effect of Regulations, Draft Amendments to Draft Federal laws and Draft Resolutions of the Council of the Eurasian Economic Commission approved by Order No.1318 of the Russian Government dated December 17, 2012

The developer notifies authorities and organizations engaged in protection and representation of business entities and businessmen that such notice is posted. The Bar and legal advisors that represent businessmen are actively involved on a pro bono basis in preparing proposals to be incorporated in the report on assessment of regulatory effect for further public discussion of the draft regulation. Such proposals specify details of potential adverse effect of such regulation's enactment on business activities, uncovers obscurity and ambiguities of the draft regulation's language, inconsistencies with existing laws.

Public discussion

Legal professionals are experts in various fields of law who participate on a pro bono basis in public discussion of significant bills affecting key state policies in social and economic development of the Russian Federation. Such regulations are published for public discussion by virtue of Decree No.167 of the Russian President dated February 9, 2011.

Involvement of attorneys-at-law and legal advisors in preparation of regulations, professional standards, local regulations governing provision of qualified legal assistance

Primarily, this refers to attorneys-at-law. Regulation of the legal services market and provision of gratuitous legal aid require significant effort so attorneys-at-law allocate some of their time to the drafting of necessary documents to be further used by the Federal Bar Association, bar associations in constituent entities of the Russian Federation, Ministry of Justice departments, and legislative authorities.

Legal advisors outside a bar association are also involved in producing necessary solutions to regulate the legal profession, including by way of participation in projects undertaken by the largest professional association – the Association of Russian Lawyers.

5.3 Legal associations in support of the functioning of the Federal Ombudsman for the Protection of Entrepreneurs Rights

In 2013, a new human rights body was created in the Russian Federation – the institute of ombudsmen for protection of entrepreneurs' rights. This is a governmental institute, and the **Federal Business Ombudsman** is a public servant – an employee of the Russian Presidential Administration. Federal Business Ombudsman and his office are expected to become a separate government authority from January 1, 2015. Initially this post was created due to strong public pressure, primarily, from the business community.

A peculiarity of this institute was initially a clearly cautious approach to its formation, refusal to create a multidivisional and powerful system of bodies similar to other human rights and law enforcement agencies. The government's and the society's expectations as to how the new structure will actually fare should be consistent with the general state policy intended to optimize the number of public servants and reduce expenditures on the machinery of government. Therefore, initially the Federal Ombudsman who still preserved his public servant status in the structure of the Russian Presidential Administration rather than head of a separate government agency was provided with limited human resources at the expense of the budget of the Russian Civil Chamber¹⁴², without any financial base to engage advisers on a commercial basis¹⁴³.

¹⁴² Article 26 Part 1 of the Federal Law "On the Civil Chamber" states: organizational, legal, analytical, informational, documentation, financial and technical support to the activities of [...] the Ombudsman for

The Federal Ombudsman lacking a powerful bureaucratic structure with local offices (regional ombudsmen do not report to the Federal Ombudsman and do not form a single structure) necessitates preservation of close ties between the Federal Ombudsman and the business community, including national associations of entrepreneurs. Such ties are not only used in collaboration with non-governmental institutions to identify systematic violations of entrepreneurs' rights in Russia but to resolve specific issues brought up by entrepreneurs in their numerous requests to the Federal Ombudsman.

Protection of entrepreneurs from typical violations of their rights such as corporate raid, corruption-related pressure on business, involving law enforcers to gain advantage in purely commercial disputes, requires joint effort by the Federal Ombudsman, business community and advisers providing legal advice to the businessmen. This is due to the fact that the information sent to the Federal Ombudsman by entrepreneurs who believe their rights have been violated is extremely complex and requires engagement of persons having special expertise, primarily, in legal matters. Preparation of systematic solutions of the legislative nature to remove the very conditions conducive of violations of entrepreneurs' rights also requires serious involvement of experts, primarily, legal scholars.

The Federal Law does not expressly mention engagement of legal experts by the Federal Ombudsman on a pro bono basis. Under Article 7 Part 4 of Federal Law No.78-FZ "On Ombudsmen for Protection of Entrepreneurs' Rights in the Russian Federation" dated May 7, 2013, the Federal Ombudsman may set up expert, advisory and civic boards, working groups and other advisory bodies operating on a voluntary basis and engage representatives of government authorities, local self-government authorities, business community and NGOs. The following bodies were set up to help the Federal Ombudsman to implement these provisions with active participation from legal advisers and attorneys-at-law on a pro bono basis:

1. **The Expert Board** - under the Federal Ombudsman has an objective to devise systematic measures for the Ombudsman to protect entrepreneurs, primarily, by making amendments to existing laws. Not all of the Expert Board members are legal scholars whose core activity is to provide paid legal services. Along with such persons, the Expert Board includes representatives of the legal science, lawyers having the status of a deputy in a legislative body as well as in-house lawyers. Therefore, if the concept of pro bono is taken in its narrow sense, only some of the Expert Board's members may be regarded as working on a pro bono basis.

In their pro bono activities as members of the Expert Board, experts prepared a number of proposals in 2013-2014 on judiciary reform, amendments to criminal procedure laws, removal from the Russian Civil Code of excessive mandatory rules and reinforcement of the "freedom of contract". But the most high-profile initiative was their draft order on amnesty of entrepreneurs. During the subsequent year, the draft order was repeatedly revised and was adopted by the Russian State Duma in July 2013 (Order No.2559-6 GD of the Russian State Duma "On Announcement of Amnesty" dated July 2, 2013). About 2,300 entrepreneurs were pardoned under the amnesty while this order was in effect.

Protection of Entrepreneurs' Rights under the Russian President shall be provided by the administration of the Civic Chamber".

¹⁴³ Certain contrast may be noted in this case with the status of Children's Ombudsman who was initially vested with powers to engage research and other organizations, scholars and experts, particularly, under contract, to conduct research regarding protection of children's rights (clause of Decree No.986 of the Russian President dated September 1, 2009)

2. *Inter-departmental working groups set up by the Federal Ombudsman together with government authorities: General Prosecutor's Office of Russia, the Ministry of Internal Affairs of Russia, the Federal Bailiff Service etc.* Activities of such working groups are intended to coordinate various authorities in considering specific complaints from entrepreneurs that as a matter of practice concern mass (typical) violations of entrepreneurs' rights or gross violations of rights such as unlawful prosecution to give advantage to one of the parties to a business (corporate) dispute or drive them out of the market. There is no information until now that such working groups include legal advisers or attorneys-at-law. However, the materials submitted to such working groups for consideration are oftentimes sent by the office of the Federal Ombudsman to attorneys-at-law or legal professionals not admitted to the bar to provide their expert opinions. The list of experts who prepare legal opinions based on entrepreneurs' requests on a pro bono publico basis is posted on the website of the Ombudsman for Protection of Entrepreneurs' Rights.

Cooperation between the Office of the Ombudsman and *Business Against Corruption*, a civil procedures centre (the “**Center**”), is of great importance. The Center was set up by *Business Russia*, an all-Russia NGO, with support from the Russian Ministry of Economic Development and the Russian Government. The Center had begun its activities long before the Office of the Federal Ombudsman was set up and its primary objective was to review complaints from entrepreneurs confronted with corporate raid or corruption and their public legal evaluation. The results of such evaluation would serve as a basis for enquiries made by associations of entrepreneurs (primarily Business Russia), other members of the Center's civic council (State Duma deputies, prominent public figures) to government authorities (whose representatives served on the Center's Supervisory Board) to take measures within the scope of their authority. Specifically, the Center would take measures to reconcile two parties to a conflict if the conflict was purely economic or corporate.

The key element of a public legal evaluation was legal evaluation of submitted documents both from the applicant and the other party conducted by well-known Russian attorneys-at-law and legal advisers on a pro bono basis.

Following creation of the Federal Ombudsman office, all enquiries regarding corruption-related pressure on business, involvement of public officials in attempts to illegally seize their business or unlawful prosecution of entrepreneurs began to be submitted for consideration to this Center. This does not mean that the Center's activities replace the activities of the Federal Ombudsman, and legal evaluations conducted by the Center on a pro bono basis have become a determining factor for the Federal Ombudsman to make particular decisions.

Nonetheless, when legal evaluation conducted for the Center identifies facts of corporate raid or specific cases of corruption (as per specific enquiry) and members of the Center's Civic Board conclude, following an open review of a case involving parties and experts, that there are grounds to support an entrepreneur by protecting his rights, such materials will be sent to the Federal Ombudsman. In many cases, if an issue falls within the competence of the Federal Ombudsman (relating to protection of entrepreneurs from unlawful acts of government authorities rather than other entrepreneurs), the Federal Ombudsman takes notice of the Center's enquiry and acts pursuant to his authority.

The rise of social significance of the Center that has become for the Federal Ombudsman an “expert platform” of sorts in matters of protection of entrepreneurs from corporate raid and corruption made the Center take internal control measures in relation to pro bono experts.

Indeed, the entrepreneurs contacting the Ombudsman mostly do not know that their application and enclosed materials may be submitted for expert evaluation to third parties and become subject of public discussion. Ultimately, the Ombudsman will be fully liable for any damage caused to the entrepreneur through potential misuse of the information he submitted (and, prior to creation of a government authority on the basis of the Ombudsman's office, the Russian Presidential Administration, which the Ombudsman currently forms part of, will also be liable).

As noted above, activities of attorneys as part of gratuitous legal analysis of documents, provision of expert legal opinions outside the purview of the Gratuitous Legal Assistance Law do not fall within the Federal Law "On Practice of Law and Lawyers' Associations" and in certain interpretations – the Professional Code of Attorney's Ethics. Similar activities of lawyers not admitted to the bar are essentially not governed by any standards, do not fall within any mandatory requirements or restrictions, either.

Therefore, the Center took the following measures to prevent potential abuse by lawyers or attorneys who conduct legal expert evaluations on a pro bono basis.

1. *Execution of a cooperation agreement between the Center and experts engaged to conduct expert valuations on a pro bono basis.* The basic terms of such agreements are as follows:
 - 1.1 the Expert preparing a legal opinion adheres to the principles of lawfulness, good faith, objectivity and impartiality, completeness and comprehensiveness, a systematic approach to evaluation and substantiation of conclusions;
 - 1.2 if the Expert is an interested party, affiliate or has another conflict of interest in respect of a legal opinion he is requested to prepare, he is obliged to bring such information to the notice of the Center's Secretariat within 3 days after such interest, affiliation or another conflict of interest are identified;
 - 1.3 the Expert ensures confidentiality of the confidential and other protected information he receives for expert evaluation;
 - 1.4 such documents and materials received by the Expert from the Center to perform this Agreement may be used by the Expert for the purposes falling outside this Agreement only subject to the Center's consent in writing.

Assessment of efficiency of such agreement in prevention of abuse shows the following. The agreement defines obligations of an expert who is not bound by any civil law or employment agreement with the Center. But are such obligations legally binding?

In other words, what are the consequences of non-performance of such agreement for the expert? The nature of such agreement allows one to conclude that the main potential consequence for an expert if he fails to comply with the agreement is that the Center may choose not to work with the expert. Given that the expert's work at the Center is gratuitous but at the same time public (the Center's activities receive coverage in mass media and on the Internet), a break-up with the Center does not entail any negative financial consequences for the expert but does entail adverse effect on his business reputation. The Center's policy in engaging experts on a pro bono basis is not formalized (the Center has no list of requirements to experts), however, as a matter of practice it is based on the assumption that an expert should be an attorney or that his professional activities (or the activities of the organization that employs him) must have to do with commercial legal services. Therefore, any public breakup with an expert due to him breaching terms of the agreement appears to be an effective way because the expert handling enquires being sent to the Center on a pro bono basis is interested in a positive public assessment of his work.

Nevertheless, such consequences are not of legal nature. Filing complaints, including legal action, against the expert in connection with his failure to report a conflict of interest, provision of a knowingly inaccurate opinion, using information obtained to render commercial legal services to one of the parties to a conflict. Even if the expert is an attorney, his pro bono activities outside the purview of gratuitous (subsidized) legal assistance does not fall within the Federal Law “On Practice of Law and Lawyers’ Associations” and the Professional Code of Attorney’s Ethics, including conflict of interest rules.

Such a situation directly arises from the general problems of insufficient legal regulation of the legal services market and pro bono in Russia, lack of common professional standards in the legal profession and inapplicability of rules governing forensic examinations to lawyers’ activities as experts as described in the general section of this research¹⁴⁴. Therefore, no revision of the Agreement to be entered into between the Center and an expert would make the Agreement legally binding and enforceable in court until it comes to be an agreement for gratuitous legal aid to the Center or another civil law agreement.

The above risks require not only thorough selection of experts by the Center’s administration but also certain precaution measures on the part of applicants and representatives of the other party to a conflict. Practically speaking, for example, parties usually do not provide to the Center and then to experts any original documents (other than where the other party to a conflict has reasonable doubts as to their authenticity), thoroughly protect commercially privileged information (if it is found in any documents additionally provided to the Center)¹⁴⁵. Probably, this is the reason why there are no known facts of violation by any expert of confidentiality of the information they receive to gain profits, to prepare an opinion containing knowingly inaccurate conclusions throughout the Center’s existence.

2. *Approval of the Methodological Guidelines to prepare expert legal opinions in Business against Corruption Center.* The basic provisions of the Methodological Guidelines include:

2.1 The list of questions to be addressed by an expert:

- a. Does a particular conflict represent a dispute between business entities?
- b. Are there any signs of corporate raid in the case files? (the Methodological Guidelines provide a definition of corporate raid)
- c. Are there any signs of corruption-related violations in the case files? (the Methodological Guidelines provide a definition of corruption)
- d. Are there any signs of violations of law not properly evaluated by law enforcement authorities? Please specify such violations and provide their legal treatment.
- e. Please specify potential mechanisms of reinstatement of the Applicant’s violated rights.

¹⁴⁴ For example, the Federal Law “On State Forensic Examinations in the Russian Federation”, whose certain provisions apply to private experts/private expert organizations if it refers to expert evaluations conducted as part of civil, arbitration or criminal proceedings.

¹⁴⁵ If entrepreneurs applying to the Ombudsman for protection of their rights provide to it any commercially privileged information, the Ombudsman has no legal grounds to pass it to the Center. If an entrepreneur’s enquiry is passed on by the Ombudsman to the Center for evaluation, during legal evaluation by a pro bono expert such information is requested again during further evaluation. This is necessary because by virtue of Article 13 Part 2 of Federal Law No.98-FZ dated July 29, 2004 government officials may not disclose or pass any commercially privileged information without consent of its owner to any third parties, other government authorities, local government authorities, which has become known to them by virtue of their employment (office) duties save as otherwise provided by the Federal Law.

- f. Please specify potential addressees from among government authorities that may be authorized to consider application materials to prevent wrongful acts and decisions or take legal action against offenders.
- 2.2 If a particular issue is unclear, an expert may explain how he understands such an issue. After considering each issue, expert sets out his conclusions and their legal grounds. Expert work is limited to the questions raised for the expert.
- 2.3 An expert must clarify the views of both parties to a conflict. If the other party to a conflict is represented by government authorities, including law enforcement authorities, and the expert is unable to request necessary information by operation of law, the expert may record the position of the other party to a conflict based on the process documents available to him and decisions of the relevant government authorities.

By virtue of Article 7 Parts 1 and 2 of Federal Law No.78-FZ “On Ombudsmen for Protection of Entrepreneurs’ Rights in the Russian Federation” dated May 7, 2013, the Federal Ombudsman may appoint public representatives acting on a voluntary basis; the Federal Ombudsman’s public representatives exercise representative and expert functions. Such provisions have been practically implemented by setting up public ombudsman institutions. Currently, some public ombudsmen are advisers who also provide legal services. For example, a public ombudsman for intellectual property (his area of expertise includes misuse of intellectual property rights in civil, administrative, criminal and antitrust laws) is Anatoly Vyachslavovich Semenov, Chairman of the Board, Director of Non-Profit Partnership “Community of Copyright and Related Rights Users” (NP SPAS) that offers comprehensive business support services, legal representation and protection of entrepreneurs in the area of intellectual property.

Activities of such public ombudsmen should be regarded as pro bono.

It is important to note that along with the institution of the Federal Ombudsman, Ombudsmen for Protection of Entrepreneurs’ Rights operate in most constituent entities of the Russian Federation. Such ombudsmen actively enter into gratuitous legal aid agreements with attorneys, lawyers’ associations and law firms and in some cases such agreements are entered into even with bar associations in constituent entities of the Russian Federation. Terms of such agreements vary but we may say that they have one important thing in common: they lack a legal framework providing for execution of such agreements. This in and of itself does not mean that such agreements may not be executed. This means that such agreements essentially can hardly guarantee efficient protection from abuse by those providing pro bono aid or even provide any guarantees of quality of such aid.

6 RECOMMENDATIONS

6.1 Define pro bono

At the outset it is important that the Business Ombudsman Institution and others working to promote pro bono practice in the Russian federation have an agreed definition of pro bono. The definition outlined at point 2.1. of this report was drafted based on consultation with many other pro bono organizations and individuals internationally. It is recommended that it be used as a starting point for the development of a definition that will be understood and culturally relevant in Russia:

Pro bono work refers to legal work done by lawyers [for the federal and regional ombudsmen]; for the public good, rather than for commercial interests; on a voluntary and uncompensated basis by the lawyer; that is free for the client; and is completed to the same professional standard as paid legal work.

6.2 Explain pro bono

In order to promote pro bono within the Russian Federation, generally and for the purposes of the work of the Ombudsmen, it is important to communicate the different types of pro bono work that can be done. Too often when lawyers think of pro bono, they think of high profile time-consuming litigation, when in reality most pro bono work is done outside of the courtroom and most often is desk-based work. It is recommended that a list of pro bono opportunities is developed and made available to interested lawyers. This list could include the following types of pro bono work: be useful to highlight the following types of pro bono work that lawyers could provide:

- An expert, independent opinion to an ombudsman in disputes involving entrepreneurs in which there are allegations of corruption;
- Initial advice in entrepreneur corruption cases provided to the Centre for Public Procedures “Business Against Corruption”;
- Advice on and/or help draft new legislative proposals or amendments to strengthen anti-corruption laws and policies;
- Training to other lawyers on anti-corruption law to increase the number of lawyers with expertise in this field;
- Presentations and speeches on anti-corruption and pro bono;
- Supplement the law schools' educational program with information on pro bono aid as integral part of lawyers' activities.

6.3 Structure Pro Bono

It is vital to that a clear structure is put in place to regulate pro bono work done for the ombudsmen. This can ensure that lawyers know what is expected of them, what the procedures and policies are, and help the ombudsmen to manage problems. The following elements should be built into such a structure:

6.3.1 Eligibility criteria

It is recommended that a list of criteria is developed to regulate which lawyers can provide pro bono assistance. The criteria could include:

- Lawyers with expertise in business and anti-corruption law;
- Only Attorneys-at-Law;
- A minimum number of years post-qualification;

- Only those lawyers which agree to sign a code of conduct/ethics for the pro bono work

For pro bono work done through the Centre for Public Procedures or other non-profit organisations it is also recommended that a list of criteria is developed to regulate which entrepreneurs/businesses can receive pro bono assistance. The criteria could include:

- A means test, i.e. only those entrepreneurs/businesses that can prove that they cannot afford to pay for legal assistance;
- A social responsibility requirement, i.e. businesses that receive pro bono help should commit to giving something back to society.

6.3.2 Pro Bono Database

It would be useful at both regional and federal levels to have access to a database of lawyers that are willing to work on a pro bono basis. This database could include the areas of expertise of each lawyers, their experience, the types of pro bono assistance they are willing to provide and what pro bono cases they have already done.

It would also be useful for the ombudsmen to have access to a database of ‘independent expert opinions’ provided by pro bono lawyers. This could help to share expertise across regions where there are fewer pro bono lawyers available and also increase consistency in decision-making by ombudsmen across the Russian Federation.

6.3.3 Pro Bono Policies

In order to make expectations clear, manage risks and to ensure public confidence through transparent decision-making the ombudsmen should set out clear policies for managing pro bono work. This could include:¹⁴⁶

- A policy on allocating pro bono cases; lawyers could volunteer based on a list of pro bono opportunities or the ombudsmen could decide at the outset which lawyers should be offered the case;
- An agreement or memorandum of understanding for when lawyers take pro bono cases from the ombudsmen to make it clear what the expectations and standards are for the work. This includes standards for the quality of work, confidentiality and management of conflicts of interest, particularly concerning the involvement of lawyers for a party to a case in which they have already provided an ‘independent expert opinion’ to an ombudsman.
- A procedure for dealing with lawyers that do not abide by the code of conduct/ethics for pro bono work set out by the ombudsmen, for example if the work is not of a sufficient standard, not completed in a timely manner, or if the lawyer has otherwise acted inappropriately or unethically.

6.3.4 Pro Bono Social Media Group

As this pro bono initiative develops it is important that both the lawyers and ombudsmen across the Russian federation have the opportunity to share their experience and expertise. A private LinkedIn group, Google group or other social media platform can provide a forum for lawyers and ombudsmen to ask questions and develop common solutions to problems.

¹⁴⁶ A complete guide to setting up a pro bono program in Russia is currently in development by PILnet’s Moscow office and should be available by the end of 2014. This will include a comprehensive set of pro bono policies that can be adopted in order to regulate pro bono work.

6.4 Regulate Pro Bono

- I. Primarily, pro bono legal services should be regulated by legislation on lawyers' associations. The Federal Law "On Practice of Law and Lawyers' Associations" should clearly and unambiguously stipulate attorney-at-law's right to render pro bono aid. Undoubtedly, such changes should go hand in hand with measures to prevent abuse in taxation to guard against execution of agreements on a pro bono basis for the purpose of tax evasion. It appears, however, that such measures should primarily lie in the area of practical application of law as existing tax laws already provide for legal devices to counter agreements executed on a non-arm's length basis to conceal profits and other taxable income.
- II. As no standards for provision of legal services by those not admitted to the bar can be established, emphasis should be placed on the following areas:
 - improvement of the legal culture of pro bono aid recipients, primarily, non-profit organizations and government authorities (for example, through holding of public seminars, conferences, as well as through establishing of non-profit non-public legal assistance centers,)
 - devising agreements to develop the pro bono system by professional trade associations of legal consultants; perhaps devising a National Pro Bono System Agreement by "captains" of legal business in Russia and major offices of international law firms with the right of accession by professional legal consultants (both organizations and sole proprietors). The scope of such agreement may include standards of pro bono legal aid (of advisory nature), forms of agreements for such aid, a list of persons entitled to such aid on a first priority basis,.
 - Entering into agreements between the federal business ombudsman and the Russia's Law Society (regional divisions of the Russia's Law Society and the regional business ombudsmen) on cooperation in pro bono field,
 - Further development of the regulation of draft law public discussions and engagement of lawyers into pro bono legislative drafting.

6.5 Incentivize lawyers to take on pro bono cases

Incentives that can be used to encourage lawyers and law firms to do pro bono work in the Russian Federation:

Promote pro bono as a lawyer's social responsibility. As a member of the legal profession, lawyers have a privilege and corresponding responsibility to help provide access to justice

Highlight the pro bono 'feel good factor'. Helping others feels good and it may be useful to remind lawyers of the reasons why they may have chosen to practice law.

Link pro bono to career progression. Ambitious lawyers may be motivated by the additional skills and experience pro bono cases can provide them with, as well as giving them prestige in the legal community. It is important to sell these advantages when trying to recruit more pro bono lawyers.

Offer recognition and bestow awards for outstanding pro bono contributions: Recognition and awards offer an opportunity to thank those lawyers that undertake notable pro bono cases. It encourages them, and their peers, to increase their efforts. Pro bono

awards also set benchmarks for what good pro bono should look like. At a later stage consider the potential for the development of the national rating of attorneys' societies and law firms providing pro bono services.

Sell the business case for pro bono. Lawyers may do pro bono for ethical reasons but law firms encourage pro bono to obtain valuable business advantages. Pro bono success stories can improve the image of a law firm and helps them to attract new clients. It can also give them an edge over firms with a similar portfolio of services and help the firm to attract and retain the best legal talent.

Establishment of institutes facilitating engagement of lawyers into pro bono activities. What is referred here is establishment of non-public legal assistance centers and other non-profit organizations. As related to pro bono aid as a means of anti-corruption protection of the entrepreneurs, it would be expedient to extend the practice of establishing regional anti-corruption centers. These centers may act as pro bono aid recipients (and thus leave business ombudsmen holding official positions outside the circle of those entitled to receive such aid). However, such centers may ensure public discussion of particular business cases related to hostile takeovers or corrupt pressure, where legal review shall be performed by a pro bono expert. Thereby pro bono experts get more motivated and the risk of them being engaged into corrupt practices is being reduced.

Encourage law firms to market their pro bono success stories. Endorsing pro bono by including examples of pro bono work on the firm's website, in a client newsletter, or in their annual report can encourage lawyers within the firm to get involved. Marketing also increases competition between law firms.

Expose lawyers in RF to international pro bono best practice. In countries across Europe, Asia, Australia, Africa and the Americas, pro bono is growing and innovating year on year. The opportunity for lawyers from the Russian Federation to learn from such examples can be a valuable incentive to drive the expansion of pro bono practice locally.

7 APPENDIX: SAMPLE MOU AGREEMENTS FOR PRO BONO WORK

7.1 Standard pro bono MoU utilized by PILnet

[Insert Partner's name]

Direct Phone:

Email:

[Insert date]

[Insert Clients Details]

Dear [●]

We are writing to confirm that [law firm] will be very pleased to act for [●] in the matter you referred to [Insert clearinghouse name if the matter came through a clearinghouse], on the terms of this letter and of the attached Terms of Business ('Terms').

Legal work to be undertaken

1. The work to be undertaken by [law firm] will consist of advising you in relation to [Provide details of the matter].
2. We understand that you require this work to be completed, subject to any unforeseen issues, by [name of lawyer].

The legal team

3. I will be your Client Relationship Manager with overall responsibility for the quality of our service. [Provide details of other team members and who will "deal with this matter on a day to day basis"]. Where appropriate, other lawyers, paralegals or trainees will also be involved. All lawyers involved in this work will be adequately trained, have appropriate skills and experience and will be properly supervised.

Communications

4. We understand that we shall be receiving instructions from [Ngo contact person] and our correspondence should be addressed to her.
5. We will communicate with you in any of the following ways:

By email to: [●]

By telephone on: [●]

By post or delivery by hand at:

[●]

Information in our correspondence with you may be confidential. If for this reason or any other reason, you would not wish us to correspond with you by any of the methods set out above, please let us know.

Pro Bono

6. [law firm] will make no charge on this matter in respect of its professional fees and will carry it out on a pro bono basis. This decision has been based on the assumption that you are a registered charity with charity number [insert number]. We will also make no charge for our routine disbursements such as telephone calls, couriers and photocopying related to matters on which we advise.
7. [law firm] applies the same professional standards and priority, attention and care to its pro bono work as it does to its paid work.

Limitation

8. We refer you to paragraph [●] of the Terms. [law firm]'s liability (and any liability of a member, employee or consultant of [law firm], if any) shall not exceed the sum of £3 million.

Termination of the instructions

9. You have a right to stop us acting on the matter set out above at any time.
10. We are obliged to provide services to you only to the extent that we have outlined above. We may stop acting for you if we give reasonable notice and if we have good reason (e.g. if there is a serious breakdown of confidence between us or if we do not receive all reasonable help from you to allow us to complete the work properly).

General

11. If you have any queries relating to this letter or the Terms, or there is any further information generally that we can provide about our services please let us know. Otherwise, we should be grateful if you would confirm your acceptance of the Terms and this letter by signing the attached copy of this letter and returning it to us. Your instructions to proceed with this matter will amount to your acceptance of the terms and this letter.

Yours sincerely,

[●]

Partner

7.2 Sample pro bono agreement from the Sverdlovsk Region

AGREEMENT No. _____

on expert legal aid rendered free of charge (*pro bono publico*)

city _____, _____, _____ 2014

Business Ombudsman for the Sverdlovsk Region Yelena Nikolayevna Artyukh, hereinafter referred to as "the Ombudsman", acting based on the Decree of the Sverdlovsk Region Governor of 11.03.2014 No. 126–UG "On Assigning Ye.N.Artyukh to the Position" and the Law of the Sverdlovsk Region of 19 December 2013 "On the Business Ombudsman for the Sverdlovsk Region", on the one part, and _____ represented by _____, acting on the basis of _____, hereinafter referred to as "the Expert Organisation", on the other part, further jointly referred to as "the Parties", have concluded this Agreement on Expert Legal Aid rendered Free of Charge (*pro bono publico*),

1. General Provisions

1.1. This Agreement defines the general principles and obligations of the Parties with regard to providing free expert legal aid (*pro bono publico*) for legal analysis of applications from entities carrying out entrepreneurial activities received by the Ombudsman as well as participation of the Expert Organisation, following the Ombudsman's invitation, in various events aimed at legal education of entities carrying out entrepreneurial activities (hereinafter - "entrepreneurs") in form of free legal aid.

1.2. For the purposes of this Agreement an Expert shall mean a specialist of the Expert Organisation recommended by the Head of the Expert Organisation for fulfilment the Ombudsman's commissions and having the necessary specific knowledge, qualifications and experience in the field of jurisprudence.

The Experts' names, first names and patronymics and the area of their professional competencies are indicated in the Experts Database (*pro bono publico*) in Annex No. 1 to this Agreement.

2. Main Directions of Cooperation

2.1. The Parties' cooperation within the framework of this Agreement is effected for the purposes of examination on the merits of the entrepreneurs' applications received by the Ombudsman and development of legal recommendations of protection of the applicant entrepreneur's rights, as well as joint work for rendering free legal aid to entrepreneurs.

2.2. After receipt of the Ombudsman's written commission, the Expert Organisation submits to the Expert the materials for preparation of an Expert's Legal Report (hereinafter - "the Expert's Report") on the applications taking into consideration the area of professional competencies as defined in Annex No. 1 to this Agreement, to be made in compliance with the Recommended Expert's Report Structure (*pro bono publico*) (Annex No. 2 to this Agreement).

2.3. During preparation of the legal report and providing legal aid the Expert shall be guided by the principles of lawfulness, good faith, objectivity and impartiality, integrity and comprehensiveness as well as consistency.

2.4. The working communications with the Expert Organisation and the Expert for solving administrative issues within the framework of this Agreement shall be performed by an appointed official from the Ombudsman's Office, for and on behalf of the Ombudsman. The name, first name and patronymic and the contact details of the aforementioned official shall be informed at sending the application (e-mail: sverdlovsk@ombudsmanbiz.ru).

The appointed Ombudsman Office official, if necessary, shall: prepare enquiries to the applicant or to state/municipal authorities in order to obtain additional data on the merits of the application, provide for the Expert's attendance of the event within the framework of which the application, which has been submitted to the Expert for legal evaluation, is examined, or provides for public announcement of the conclusions made in the legal report on the application.

2.5. In case it is found out that the Expert Organisation or the Expert are interested or affiliated persons or there emerges any other conflict of interests within the framework of the application sent to such Expert Organisation or Expert for preparing a legal report, they shall be obliged to bring such information to the knowledge of the Ombudsman not later than within 3 days from the moment when the fact of such interest was established.

2.6. The Expert shall be entitled to approach the Ombudsman with suggestions to send enquiries to the applicant or to state/municipal authorities in order to obtain additional materials on the merits of the application. The Ombudsman shall be informed of the need for such enquiries within the period not exceeding 5 days from the moment of receipt of the Ombudsman's commission by the Expert Organisation.

2.7. In order to reduce the time-limits for information and documentary exchange within the framework of this Agreement the Parties shall use e-mail and telefax communications and couriers, sending documents in the form of originals, scan copies (and simultaneously in form of MS Word text files).

2.8. The Expert shall send the Expert's Report to the Ombudsman's e-mail: sverdlovsk@ombudsmanbiz.ru and to the e-mail of the appointed official (in compliance with Clause 2.4. of this Agreement) within the period not exceeding 15 days from the moment of receipt of the Ombudsman's commission by the Expert Organisation.

In case of additional enquiries for data and documents (in compliance with Clause 2.6. of this Agreement) the time-limit for sending the Expert's Report to the Ombudsman may be prolonged but may not exceed 25 days from the moment of receipt of the Ombudsman's first commission by the Expert Organisation.

2.8.1 The inner Register of Expert Organisations and Experts involved in providing free expert legal aid (pro bono publico) shall be kept by the appointed official from the Ombudsman's Office.

The Register shall contain: name, first name, patronymic, official position, belonging to the Expert Organisation, contact details of the Expert, the number of provided legal reports, the number of reports which have been taken into consideration or served as the basis for solution of problematic issues, the Expert Organisation's participation in the events aimed at legal education of entities carrying out entrepreneurial activities in the form of providing free legal aid, and other necessary data.

2.9. The Ombudsman shall be entitled to publish information on the involved Expert Organisations and Experts at the Ombudsman's official website.

2.10. The appointed Ombudsman Office official shall:

2.10.1. Provide for distribution at the events and in the publications concerning the applications from entrepreneurs covered by the Expert's legal reports, for the purposes of informing the public on the results of the Expert's work;

2.10.2. Provide for submitting, as per the Expert Organisation's and the Expert's request, references and data on the Expert's activities within the framework of this Agreement, for providing to third persons, except for the information which is regarded as confidential;

2.10.3. Ask the Ombudsman to issue reference letters in the name of the Expert Organisation and the Expert as well as other honourable distinctions the information about which must be published in the Ombudsman's website.

2.11. The Ombudsman, as agreed with the Expert Organisation, attracts it for participation in rendering free (pro bono publico) legal aid advice in form of personal consultations, conducting seminars and in other forms for entities carrying out entrepreneurial activities. For these purposes, the Ombudsman shall ensure timely (not later than 5 days in advance) invitations to take part in the relevant event.

2.12. In case of non-fulfilment or improper fulfilment by the Expert Organisation of the Ombudsman's commissions aimed at examination of entrepreneurs' complaints on the merits and development of legal recommendations on protection of entrepreneurs' rights, the Ombudsman may give negative characteristics to the Expert Organisation in public.

3. Term of Agreement

3.1. This Agreement comes into legal force and becomes binding for the Parties from the moment of its signing.

3.2. This Agreement shall be valid during 1 year from the moment of its signing.

3.3. If one of the Parties notifies the other Party in writing on early termination of the Agreement it shall become invalid after expiry of one month from the date of receipt the notification on termination of the Agreement by the other Party.

3.4. This Agreement shall be deemed prolonged for each consecutive year if neither of the Parties notifies the other Party on expiry of the term of the Agreement and its refusal to prolong it.

4. Final Provisions

4.1. The Expert Organisation shall provide for confidentiality of the information obtained by it within the framework of this Agreement. The data and materials received by the Expert Organisation from the Ombudsman for fulfilment of the terms and conditions of this Agreement may be used for the purposes beyond the framework of this Agreement only based on the Ombudsman's written approval.

4.2. Any amendments and supplements to this Agreement shall be valid only if executed in writing and signed by both Parties.

4.3. Use of facsimile signatures reproduced by mechanical and other copying devices, digital electronic signatures or any other substitute of a personal signature is allowed only in the cases and as per the procedure stipulated by the existing legislation.

4.4. Any amendments to the text of the Agreement shall have legal force only if confirmed by the Parties in any separate case.

4.5. This Agreement is made in two copies having equal legal force, one copy for each Party. In all other issues not stipulated or defined by this Agreement the Parties shall be guided by the valid legislation of the Russian Federation.

4.6. The person in charge of fulfilment of this Agreement on the part of the Ombudsman: Ms Irina Vitalyevna Golovina, Head of the Office of the Business Ombudsman (tel. (343)375-62-50, 375-84-96, e-mail: Golovina@gov66.ru).

The person in charge of fulfilment of this Agreement on the part of the Expert Organisation:
_____ (tel. _____, e-mail: _____).

Business Ombudsman for the
Sverdlovsk Region

_____/ Ye.N. Artyukh/

Expert Organisation

_____/_____

Annex No. 1 to the Agreement
 dt. _____ No. _____
 "On Expert Legal Aid Rendered Free of
 Charge (*pro bono publico*)"

Database of Experts (*pro bono publico*)

No.	Expert's name, first name, patronymic (if applicable)	Expert's education (with indication of the name of the educational institution, graduation year, speciality and qualification)	Area of professional specialisation (competence)*	Legal practice record

*

- Tax regulation
- Subsoil usage
- Land relations
- Town planning
- Technical regulation including veterinary and phytosanitary control
- Industrial safety regulation
- Licensing of certain types of activities
- Government procurement
- Use of natural environment and environmental protection
- Tariff regulation
- Customs regulation
- Non-tariff regulation (quota allocation)
- Anti-monopoly regulation
- Banking regulation
- Insurance regulation
- Intellectual property regulation
- Other _____

As per types of economic activities:

- Construction
- Energy
- Transport
- Communications
- Medicine
- Tourism
- Agriculture
- Other _____

Inter-industry areas:

- Law enforcement issues
- Small and medium enterprise protection
- Fighting corruption
- Judicial practice
- Protection of investors' rights abroad
- Other _____

Recommended Structure of Expert's Report (*pro bono publico*)

Introduction

1. Expert Organisation name
2. Expert information (full name, legal speciality, competencies)
3. Has/does not have positive experience in conducting cases (advice) on issues similar to the examined application
4. Date of receipt of the Ombudsman's written commission

Main part

4. Descriptive part of the essence of the entrepreneur's application
5. List of regulations (with details), documents (with details) and judicial practice used as the basis for the Report on the application
6. Declarative part: found / not found violations of the rights of the entity carrying out entrepreneurial activities (with references to the existing legislation)

Operative part

7. Conclusions and recommendations as to possible ways of protection (restoration) of the violated right
8. Notes:
Expert's recommendations on the examined issue (proposals for amendments to regulations; proposals on the need for educational work; other proposals)

Expert:

_____/_____/

Date:

Planned Scope of Work

1. The Expert Organisation _____ within the framework of implementation of this Agreement shall work with not more than _____ applications per month (1, 3, 5, 7, 10 - insert as applicable), including as per the Experts:

No. No.	Expert's full name	Number of applications per month (scope from...till.... to be indicated)

2. The Experts of the Expert Organisation _____ within the framework of implementation of this Agreement agree to take part in not more than _____ event(s) per month, (1, 3, 5 - insert as applicable)

aimed at legal education of entities carrying out entrepreneurial activities in form of providing free legal aid, agreed not later than 5 working days prior to holding the event.

Business Ombudsman for the
Sverdlovsk Region

Expert Organisation

_____/Ye.N. Artyukh/

 _____/_____

7.3 Sample pro bono agreement from the Republic of Tatarstan

AGREEMENT on expert legal aid rendered free of charge (*pro bono*)

Kazan _____ 2013 No. _____

Limited Liability Company "The Centre for Support of Regional Foreign Economic Activities and Development", hereinafter referred to as "the Contractor", in the person of its Director General Yelena Anatolyevna Pozhigaylo, acting on the basis of the Company's Charter, hereinafter referred to as "the Expert", on the one part, and Business Ombudsman at the President of the Republic of Tatarstan Timur Dmitriyevich Nagumanov, hereinafter referred to as "the Ombudsman", on the other part, hereinafter jointly referred to as "the Parties", have concluded this Agreement for free (*pro bono*) legal aid.

1. General Provisions

1.1. This Agreement sets up the general principles and obligations of the Parties with regard to free (*pro bono*) legal aid provided by the Expert for legal analysis of applications from entrepreneurs received by the Ombudsman.

1.2. The basis for execution of this Agreement is a Reference received by the Expert and submitted to the Ombudsman by the head of the relevant legal association, containing express confirmation of the special knowledge, qualifications and experience of the legal Expert in the areas of activity indicated by the Expert in Annex No. 1 to the Agreement on areas of activities.

2. Main Directions of Cooperation

2.1. The cooperation of the Parties within the framework of this Agreement shall be effected for the purposes of examination of entrepreneurs' applications received for examination by the Ombudsman on the merits and development of legal recommendations for protection of entrepreneurs' rights.

2.2. The Expert shall effect assessment of the materials of applications submitted by the Ombudsman free of charge (*pro bono publico*).

2.3. The Expert shall effect preparation of the legal expert report (hereinafter - "the Legal Report") based on the applications and areas as defined in Annex No. 1 to this Agreement, in compliance with documentary forms and methods approved by the Ombudsman, for preparation of a Legal Report and being guided by the valid legislation of the Russian Federation and the Republic of Tatarstan.

2.4. The Expert shall be entitled to approach the Ombudsman for the purposes of sending enquiries in the Ombudsman's name to various authorities in order to obtain additional materials on the merits of the application.

2.5. During preparation of the legal report and providing legal aid the Expert shall be guided by the principles of lawfulness, good faith, objectivity and impartiality, integrity and comprehensiveness, consistency as well as reasonableness.

2.6. In case it is found out that the Expert is an interested or affiliated person or there emerges any other conflict of interests within the framework of the application sent to the Expert for preparing a legal report, the Expert shall be obliged to bring such information to the knowledge of the Ombudsman not later than within 3 days from the moment when the fact of such interest, affiliation or any other conflict of interest was established.

2.7. The Expert shall send its own report to the Ombudsman within the time-frame indicated in the cover letter attached with the materials of the application which has been forwarded for legal assessment by the Ombudsman by e-mail (Tatarstan@ombudsmanbiz.ru).

2.8. The working communications with the Expert and solution of current administrative issues related to the Expert's activities within the framework of this Agreement shall be effected by the Coordinator - a representative of the Ombudsman's Office acting on behalf of the Ombudsman.

2.9. If necessary, the Coordinator shall provide for the Expert's attendance of the events in the course of which is effected examination of the application submitted to the Expert for legal assessment or shall provide for public announcement of the conclusions made in the Legal Report on the application.

2.10. The Coordinator shall provide for keeping the inner Register of Experts involved in legal assessment of entrepreneurs' applications. The Register shall contain the Expert's full name, data on his/her association with the organisation, contact data, the number of legal reports effected as well as other necessary data.

2.10.1. The Ombudsman shall be entitled to publish the Register of Experts in the official website.

2.11. The Coordinator:

- shall provide for placement the information about the Expert and its activities within the framework of this Agreement in the Ombudsman's official website and distribution at events and in publications concerning the applications on which the Expert has given a Legal Report, for the purposes of informing the public on the results of the Expert's activities;
- shall provide for submitting, as per the Expert's request, references and data on the Expert's activities within the framework of this Agreement, for providing to third persons, except for the information which is regarded as confidential;
- Shall be entitled to take a decision on issue reference letters in the name of the Expert as well as other honourable distinctions the information about which must be published in the Ombudsman's website.

2.12. In case of non-fulfilment or improper fulfilment by the Expert of the Ombudsman's commissions aimed at examination of entrepreneurs' complaints on the merits and development of legal recommendations on protection of entrepreneurs' rights, the Ombudsman may give negative characteristics to the Expert in public.

3. Term of Agreement

3.1. This Agreement comes into legal force and becomes binding for the Parties from the moment of its signing.

3.2. This Agreement shall be valid during 1 year from the moment of its signing.

3.2. If one of the Parties notifies the other Party in writing on early termination of the Agreement it shall become invalid after expiry of one month from the date of receipt the notification on termination of the Agreement by the other Party.

3.3. This Agreement shall be deemed automatically prolonged for each consecutive year if neither of the Parties notifies the other Party on expiry of the term of the Agreement and its refusal to prolong it.

3.4. Early termination of the Agreement is envisaged in case the Ombudsman receives a revocation of the earlier submitted Reference sent by the same legal association in the person of the head of such association, expressly stating the grounds for such revocation.

4. Final Provisions

4.1. The Expert shall provide for confidentiality of the information obtained within the framework of this Agreement. The data and materials received by the Expert from the Ombudsman for fulfilment of the terms and conditions of this Agreement may be used by the Expert for the purposes beyond the framework of this Agreement only based on the Ombudsman's written approval.

4.2. Any amendments and supplements to this Agreement shall be valid only if executed in writing and signed by both Parties.

4.3. Use of facsimile signature reproduced by mechanical and other copying devices, digital electronic signature or any other substitute of a personal signature is allowed in the cases and as per the procedure stipulated by the existing legislation.

4.4. Any amendments to the text of the Agreement shall have legal force only if confirmed by the Parties in any separate case.

4.5. This Agreement is made in two copies having equal legal force, one copy for each Party. In all issues not stipulated or defined by this Agreement the Parties shall be guided by the valid legislation of the Russian Federation.

4.6. The person in charge of fulfilment of the Agreement on the part of the Ombudsman:
_____ (tel.: _____; e@mail: _____).

The person in charge of fulfilment of the Agreement on the part of the Expert:
_____ (tel.: _____; e@mail: _____).

Business Ombudsman at the
President of the Republic of
Tatarstan

Head:

T.D.Nagumanov

Agreement on Areas of Activities

1. The Expert within the framework of implementation of this Agreement shall work with not more than 10 applications per month.

2. The Expert within the framework of implementation of this Agreement agrees to be involved in work with applications from entrepreneurs referring to the following

a) areas:

- Tax regulation
- Technical regulation including veterinary and phytosanitary control
- Licensing of certain types of activities
- Government procurement
- Tariff regulation
- Customs regulation
- Non-tariff regulation (quota allocation)
- Anti-monopoly regulation
- Intellectual property regulation

b) As per types of economic activities:

- Transport (shipment of foreign trade goods)
- Foreign economic activities
- Entrepreneurial activity related to customs business

c) Inter-industry areas:

- Law enforcement issues
- Small and medium enterprise protection
- Fighting corruption
- Judicial practice
- Protection of investors' rights abroad
- Organisation of customs business and procedure in this area
- Measures for state support of exports
- Subsidies and other measures for support of local manufacturers

As the proof of existence of special knowledge, qualifications and experience in the sphere of jurisprudence in the aforementioned 2 areas the Expert shall attach the Reference from

_____ signed by _____ dt.
_____ 201__ .

Business Ombudsman at the
President of the Republic of
Tatarstan

Head:

T.D.Nagumanov

7.4 Sample pro bono agreement from the Republic of Kalmykia

AGREEMENT on expert legal aid rendered free of charge (*pro bono*)

Elista, October, 2013

Lawyer [Full Name] acting based on Lawyer Certificate No.xxxx issued by the Directorate of the Ministry of Justice of the Russian Federation for the Republic of Kalmykia _____, hereinafter referred to as "the Expert", on the one part, and Business Ombudsman for the Republic of Kalmykia Sergey Anatolyevich Nesterov, hereinafter referred to as "the Ombudsman", on the other part, further jointly referred to as "the Parties", have concluded this Agreement on Expert Legal Aid rendered Free of Charge (*pro bono*),

1. General Provisions

1.1. This Agreement defines the general principles and obligations of the Parties with regard to providing free expert legal aid (*pro bono*) for legal analysis of applications from entrepreneurs received by the Ombudsman.

1.2. The basis for execution of this Agreement shall be the Reference received by the Expert and provided to the Expert by a dedicated legal association in the person of its CEO and containing direct evidence of the Expert's special knowledge, qualification and expertise in the sphere of jurisprudence as indicated by the Expert in Annex No.1 to the Agreement on Areas of Activities.

2. Main Directions of Cooperation

2.1. The Parties' cooperation within the framework of this Agreement shall be effected for the purposes of examination on the merits of the entrepreneurs' applications received by the Ombudsman and development of legal recommendations of protection of the entrepreneur's rights.

2.2. The Expert shall effect assessment of the applications materials submitted to the Expert by the Ombudsman free of charge (*pro bono publico*).

2.3. The Expert prepares an Expert's Legal Report (hereinafter - "the Expert's Report") on the applications within the areas defined in Annex No. 1 to this Agreement, in compliance with the documentary forms and methods approved by the Ombudsman for the purposes of preparation of Legal Reports and being guided by the Russian Federation legislation.

2.4 The Expert shall be entitled to approach the Ombudsman for sending enquiries in his name to various authorities in order to obtain additional materials on the merits of the application.

2.5. During preparation of the Legal Report the Expert shall be guided by the principles of lawfulness, good faith, objectivity and impartiality, integrity and comprehensiveness as well as consistency.

2.6. In case it is found out that the Expert is an interested or affiliated person or there emerges any other conflict of interests within the framework of the application sent to the

Expert for preparing a Legal Report, the Expert shall be obliged to bring such information to the knowledge of the Ombudsman not later than within 3 days from the moment when the fact of such interest, affiliation and any other conflict of interests was established.

2.7. The Expert shall submit his/her Report to the Ombudsman within the period indicated in the cover letter attached to the application materials, which have been forwarded by the Ombudsman for legal assessment, by email (Kalmykia@ombudsmanbiz.ru).

2.8. The Ombudsman's Assistant shall be acting in the Ombudsman's name in working communications with the Expert and for the purposes of solution of all administrative issues related to the Expert's activities carried out within the framework of this Agreement.

2.9. The Ombudsman's Assistant shall, if necessary, provide for the Expert's presence at the events within the framework of which is effected examination of the application submitted to the Expert for effecting legal assessment thereof, or provide for public announcement of the conclusions made in the Legal Report on the application.

2.10. The Ombudsman's Assistant shall provide for keeping the inner Register of Experts involved in legal assessment of entrepreneurs' applications. The Register shall contain the Expert's full name, position, position in the company, contact data, the number of issued legal assessments and other necessary data.

2.10.1. The Ombudsman shall be entitled to publish information on the Register of Experts in the official website.

2.11. The Ombudsman's Assistant shall:

- provide for placement the information about the Expert and his/her activities within the framework of this Agreement in the Ombudsman's official website and distribution at events and in publications concerning the applications on which the Expert has given a Legal Report, for the purposes of informing the public on the results of the Expert's activities;
- provide for submitting, as per the Expert's request, references and data on the Expert's activities within the framework of this Agreement, for providing to third persons, except for the information which is regarded as confidential;
- be entitled to take a decision on issue reference letters and diplomas in the name of the Expert as well as other honourable distinctions the information about which must be published in the Ombudsman's website.

2.12. In case of non-fulfilment or improper fulfilment by the Expert of the Ombudsman's commissions aimed at examination of entrepreneurs' complaints on the merits and development of legal recommendations on protection of entrepreneurs' rights, the Ombudsman may give negative characteristics to the Expert in public.

3. Term of Agreement

3.1. This Agreement comes into legal force and becomes binding for the Parties from the moment of its signing.

3.2. This Agreement shall be valid during 1 year from the moment of its signing.

3.3. If one of the Parties notifies the other Party in writing on early termination of the Agreement it shall become invalid after expiry of one month from the date of receipt of the notification on termination of the Agreement by the other Party.

3.4. This Agreement shall be deemed automatically prolonged for each consecutive year if neither of the Parties notifies the other Party on expiry of the term of the Agreement and its refusal to prolong it.

3.5. Early termination of the Agreement is envisaged in case the Ombudsman receives a revocation of the earlier submitted Reference sent by the same legal association in the person of the head of such association, and expressly stating the grounds for such revocation.

4. Final Provisions

4.1. The Expert shall provide for confidentiality of the information obtained within the framework of this Agreement. The data and materials received by the Expert from the Ombudsman for fulfilment of the terms and conditions of this Agreement may be used by the Expert for the purposes beyond the framework of this Agreement only with the Ombudsman's written approval.

4.2. Any amendments and supplements to this Agreement shall be valid only if executed in writing and signed by both Parties.

4.3. Use of facsimile signature reproduced by mechanical and other copying devices, digital electronic signature or any other substitute of a personal signature shall be allowed in the cases and as per the procedure stipulated by the existing legislation.

4.4. Any amendments to the text of the Agreement shall have legal force only if confirmed by the Parties in every separate case.

4.5. This Agreement is made in two copies having equal legal force, one copy for each Party. In any issues not stipulated or defined by this Agreement the Parties shall be guided by the valid legislation of the Russian Federation.

4.6. The person in charge of fulfilment of the Agreement on the part of the Ombudsman shall be: the Ombudsman's Assistant [Full Name] (tel. (84722) 6-26-91, email: Kalmykia@ombudsmanbiz.ru).

The person in charge of fulfilment of the Agreement on the part of the Expert shall be: Full Name

Business Ombudsman for the Republic
of Kalmykia

Expert
Full Name

_____/S. A.Nesterov/

Annex No.1 to Agreement dt.
October 4, 2013 No.1
"on expert legal aid rendered free
of charge (*pro bono*)"

Agreement on Areas of Activities

1. The Expert [Full Name] within the framework of implementation of this Agreement shall work with not more than 10 applications per month.
2. The Expert [Full Name] within the framework of implementation of this Agreement agrees to be involved in work with applications from entrepreneurs referring to the following
 - a) areas:
 - Tax regulation
 - Land relations
 - Town planning
 - b) Types of economic activities:
 - Construction
 - Energy
 - c) Inter-industry areas:
 - Law enforcement issues
 - Small and medium enterprise protection
 - Judicial practice

Business Ombudsman for the Republic
of Kalmykia

Expert

_____/S. A.Nesterov/