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## **THE MONOPOLY OF THE BAR**

The aim of this study was to analyze the reform of the judiciary and related legal institutions, the pros and cons of the introduction of a monopoly of the Bar and its impact on the rights of attorneys, other lawyers and their clients, taking into account changes in Ukrainian legislation. On the basis of this research the data from different material were received.

On October 27, 2014, the President of Ukraine Petro Poroshenko established the Judicial Reform Council. The aim of the reform was to implement the principles of the rule of law and to ensure that everyone has the right to a fair trial by an independent and impartial tribunal.

As a result of the reform, the four-tier judicial system was transformed into a three-tier one. New qualification requirements for judges of the Supreme Court of Ukraine are legally established. The Higher Anti-Corruption Court and the Higher Court of Intellectual Property were established. The order of appointment and transfer of judges has been changed. The institute of a constitutional complaint of a citizen to the Constitutional Court was introduced. The monopoly of the Bar on representation in courts was gradually introduced [4].

According to Article 131-2 of the Constitution of Ukraine, the Bar operates in Ukraine to provide professional legal assistance. The independence of the Bar is guaranteed. The principles of organization and activity of the Bar and the implementation of advocacy in Ukraine are determined by law [1, ст. 131-2].

Also, in accordance with the third part of Article 10 of the Law of Ukraine "On the Judiciary and the Status of Judges", ensuring the right to protection from criminal charges and representation in court is carried out by an attorney [3, ст. 10].

This provision shows that only attorneys provide professional legal assistance. Therefore, it can be concluded that only they have the exclusive right to represent interests in court and criminal proceedings.

On the one hand, representation by an attorney in court has many positive aspects, such as:

- focus on improving the quality of legal services and obtain professional assistance. Attorneys are required to pass a qualification examination. According to the first part of Article 8 of the Law of Ukraine "On the Bar and Legal Practice" a person who has expressed a desire to become an attorney and meets the requirements set by law, has the right to apply to the Higher Qualification and Disciplinary Bar Commission [2, ст. 8];

- a person wants to become an attorney must improve his/her professional level every year. Appropriate actions only contribute to the renewal, maintenance and acquisition of new knowledge, which increases the professionalism of legal aid;

- the advantage is that the attorney is obliged to keep the attorney-client confidential information, while the rules do not apply to other lawyers, which can negatively affect the interests of clients;
- the attorney bears disciplinary liability for violation of the Law of Ukraine "On the Bar and Legal Practice". Disciplinary sanctions are an additional guarantee of proper legal assistance and adherence to the principles of Bar's activities;
- an important tool in gathering evidence and building a proper legal position are attorney's letters of enquiry.

But in contrast to the above, there are important factors that highlight the negative aspects of the introduction of a monopoly of the Bar and cause a great need to abolish it. These are the following factors:

- the removal of the monopoly of the Bar will give the right to specialists in the field of law to represent the interests of citizens in civil and administrative cases;
- the negative aspect is that legal entities should hire attorneys to represent their interests in the courts instead of company's lawyer;
- at the moment, Ukrainian law provides for professional training for attorneys, it is quite a long period and it is quite a significant problem for legal experts who are already working;
- it should be noted that the abolition of the monopoly will give clients more choice among defenders, which is also a positive point, because not everyone can afford the services of an attorney;
- clients will also be able to save budget resources for the provision of free legal aid, as a monopoly of the Bar may lead to the fact that some citizens will find legal aid unaffordable due to the high price.

Thus, analyzing all the above, we can say that the abolition of the monopoly of the Bar is a step forward in reforming the Ukrainian judiciary. It will create competition not only between attorneys but also between other legal specialists. It will improve not only the quality of services, but also the attitude to clients.

The monopoly of the Bar is a negative legal phenomenon in the process of judicial reform. It hasn't improved the quality of legal services. The practice shows a lot of negative facts: usurpation of power in the legal profession, destruction of legal self-government and so on.

In addition, it should be noted that the level of monopoly of the Bar that currently exists in Ukraine is far from the level of monopoly of the Bar practiced in European countries (although European practice has become an example on which the Verkhovna Rada of Ukraine relied in introducing this monopoly). After all, the Bar protects its privileges, but not the legal rights and interests of its clients. To my mind, clients should be attracted by high qualification, legal competent and irreproachable reputation. But in the same time, the force of law shouldn't be used.

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