

# CCBE recommendation on qualifications of Ukrainian lawyers

24/06/2022

## EXECUTIVE SUMMARY

In light of the difficult situation in which Ukrainian lawyers find themselves after the Russian invasion of Ukraine, this document aims at providing recommendations regarding qualifications of Ukrainian lawyers and takes into consideration the Recommendation of the European Commission on the recognition of qualifications for people fleeing Russia's invasion of Ukraine. The CCBE notes that recognition of professional qualifications could only be done in accordance with the rules and exceptions provided for in GATS and is regulated at national level. The approach to Ukrainian lawyers varies from one Member State to another. Therefore, the CCBE declares itself ready for any coordination activity that may be useful and addresses a series of recommendations to the Bars and Law Societies of the EU Member States, to encourage steps that assist Ukrainian lawyers.

The Council of Bars and Law Societies of Europe (CCBE) represents the bars and law societies of 46 countries, and through them more than 1 million European lawyers.

The CCBE condemned the Russian invasion of Ukraine in a [statement](#) on 25 February 2022. Hoping that hostilities would cease as soon as possible, it called on its members to implement immediate measures of solidarity with people fleeing the war in Ukraine. The CCBE Bars and Law Societies have set up contact [points for initial legal assistance](#) in their various states. Moreover, [other solidarity initiatives were promoted](#) in support of Ukrainian lawyers and for the defence of the Rule of Law.

On 4 March 2022, the European Union (EU) [has granted](#) Ukrainian citizens fleeing the war temporary protection, which implies, among other things, access to the labour market in the EU. On 5 April 2022, the European Commission published [Recommendation \(EU\) 2022/554](#), inviting Member States to adopt specific measures on the recognition of qualifications for people fleeing Russia's invasion of Ukraine.

The CCBE, while welcoming this initiative and noting that the instrument of a recommendation is appropriate as it relates mainly to national competences, considers opportune to provide some clarifications on the recognition of qualifications of lawyers.

The CCBE by noting that the profession of lawyer is fundamental for the proper functioning of the judicial system, the defence of rule of law and the rights and interests of citizens, observes that this implies a genuine link and knowledge to and of the national legal system where the activity is performed. In the EU, this concept has crossed national borders thanks to the adoption of European directives on the internal market concerning the recognition of professional qualifications and training

courses, the freedom to provide services and the freedom of establishment of lawyers.<sup>1</sup> However, in the absence of EU legislation regulating the recognition of a third-country lawyer's qualification, Member States have full competence to regulate the access to the legal profession for third country citizens. As a result, EU regulations on recognition of qualifications, freedom of movement and freedom to provide services of lawyers are reserved for EU citizens and thus cannot be extended to third-country lawyers.

Moreover, the CCBE notes that recognition of professional qualifications could only be done in accordance with the rules and exceptions provided for in the General Agreement on Trade in Services (GATS)/World Trade Organisation (WTO). For example, under GATS the status of the Foreign Legal Consultant (FLC) is foreseen, which implies limited to out-of-court advice on the law of the country of origin and international law (excluding national and EU law).

However, some EU Member States have expressed reservations about the liberalisation of services under GATS or have not adopted at national level a regulation governing the status of the FLC. This implies that Member States do not have a similar approach to the recognition of the qualification of lawyers of a third country and on their access to the profession at national level.

This situation is reflected also in the case of the approach to Ukrainian lawyers, with conditions varying from one Member State to another. [The CCBE has noted in the past](#) that it would be desirable for the EU Member States to have as similar a discipline as possible in this matter, inspired by the minimum requirements of the FLC status. In fact, such a discipline would be useful for the recognition of the qualification of Ukrainian lawyers. Considering that little progress can actually be recorded in this field and that significant differences remain in the laws of the Member States, the CCBE can only reiterate its wish for greater common ground of national rules subject to international treaties and declares itself ready for any coordination activity that may be useful, especially in view of the current contingency.

In view of the above, drawing on and analysing the relevant points of [Commission Recommendation \(EU\) 2022/554](#), **the CCBE invites the Bars and Law Societies of the EU Member States:**

- With reference to the chapter on 'Organising recognition of professional qualifications for people enjoying temporary protection' (points 3, 4, 6 of the Recommendation), to attempt to reduce the formalities for recognition of professional qualifications. This means that when this is a competence of national bar to carry out formalities, examples given by the recommendation can be used, for example: to accept other forms of proof than original documents, to dispense with certain requirements or certified translations, to reduce or eliminate costs, such as annual fees.
- Take into consideration, that in Ukraine operates the Ukrainian National Bar Association (UNBA)<sup>2</sup>, the single professional organization of advocacy. Membership in this organization is mandatory for all advocates who conduct their professional activities in Ukraine. The organization maintains a special Unified Register of Advocates of Ukraine<sup>3</sup>, in which all basic information about the advocate and his professional activities is preserved.
- With reference to the chapter on 'Information provision and use of electronic tools' (points 11, 12 and 13 of the Recommendation), to organise clear, transparent and easily accessible information (also online), possibly also in Ukrainian language (through the use of the e-translation tools suggested by the Commission itself) concerning the procedure for recognition of diplomas and

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<sup>1</sup> Directive 98/5/EC, so called Lawyers Establishment Directive, Council Directive 77/249/EEC, so called Lawyers' Services Directive, and Directive 2005/36 on the recognition of professional qualifications.

<sup>2</sup> <https://en.unba.org.ua/>

<sup>3</sup> <https://erau.unba.org.ua/>

professional qualification, or in any case of the path to become a lawyer or to allow the exercise of an activity in the field of legal services according to the national legislation. Moreover, it is recommended to create links to the portal that the UNBA will launch in June 2022 with useful information for the activities of the Ukrainian lawyers.

- With reference to the chapter 'Facilitating the exercise of regulated professions' (points 21, 22, 23 and 24 of the Recommendation), to consider possible measures that could simplify the path to recognition of the qualification of lawyer, also considering the possibility of recognising a specific professional qualification that would allow Ukrainian lawyers to be able to offer legal opinions on the territory of their respective States in the field of Ukrainian and international law.
- With reference to the chapter 'Specific requirements for certain professions' (points 16, 17, 18, 19 and 20 of the Recommendation), to consider recognising functional qualifications for Ukrainian lawyers, to be obtained on the basis of the existing Ukrainian qualification or by means of simplified training courses conducted in a language accessible to those concerned. Such qualifications could be useful for auxiliary work in different areas of legal practice (e.g., as intercultural mediators, jurists, etc.), and primarily in assisting Ukrainian citizens in understanding their rights in the Member State where they are established.
- With reference to the chapter 'Follow up of proposed measures' (points 25, 26 and 27 of the Recommendation), calls for increased cooperation between the Bars and Law Societies of the EU, and between the latter and the UNBA and its Representative Offices, including through the regular exchange of information and best practices (e.g. regarding original documents, such as a digital copy of the Extract from the Unified Register of Advocates of Ukraine; Certificate of Good Standing) which could be very useful to improve the implementation of the previous points and to think of innovative shared solutions.<sup>4</sup>
- In general, to contact their national authorities for the fair and effective implementation of the Commission Recommendation.

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<sup>4</sup> In case of doubts about the authenticity of documents provided by an advocate from Ukraine / to facilitate the process of confirming a person's qualifications, inquiries can be made to an official representative of the organization by e-mail [h.yarkova@unba.org.ua](mailto:h.yarkova@unba.org.ua).