

Dear colleagues,

There are two general comments which we would like to present with regard to the draft Law on the Bar (hereinafter – “Draft Law”). Please apologies us our suggestions in English as we afraid our suggestions in Lithuanian might lack relevant expertise.

SUGGESTION #1

The Draft Law prescribes as follows (highlighted by us):

1 straipsnis. 2 straipsnio pakeitimas

1. Papildyti 2 straipsnį nauja 4 dalimi:

„4. Trečiųjų šalių teisininkai teises paslaugas teikia šio Įstatymo keturioliktojo skirsnio nustatyta tvarka. Toliau šiame Įstatyme vartojama sąvoka „trečioji šalis“ apima valstybes, kurios nepatenka į šiame Įstatyme vartojamą sąvoką „Europos Sąjungos valstybė narė“ ir su kuriomis Lietuvos Respublikos sudarytose tarptautinėse sutartyse numatyta teisė teikti teises paslaugas, o sąvoka „trečiųjų šalių teisininkai“ apima trečiųjų šalių teisininkus, turinčius teisininko profesinį vardą. Teisininko profesinio vardo netekusiems trečiųjų šalių teisininkams teisė teikti teises paslaugas Lietuvos Respublikoje gali būti suteikta šio Įstatymo 76 straipsnyje nurodytu atveju.“

In our opinion, it worth to consider if the highlighted fragment is correct enough in terms of wording. Maybe it shall include not only international treaties concluded by Lithuania and such third country, but other international treaties where Lithuania and such third country are parties (as not all agreements are concluded only *between* Lithuanian and a Third Country, e.g. GATS). For example:

„...Valstybes ... su kuriomis Lietuvos Respublikos sudarytose tarptautinėse sutartyse or in other international agreements, which the Republic of Lithuania and such Third Country are parties to, numatyta teisė teikti teises paslaugas...“

SUGGESTION #2

The Draft Law prescribes as follows (highlighted and struck-off by us):

74 straipsnis. Trečiosios šalies teisininko, įregistruoto į Trečiųjų šalių teisininkų sąrašą, teisės ir pareigos

1. Trečiosios šalies teisininkas, įregistruotas į Trečiųjų šalių teisininkų sąrašą, Lietuvos Respublikoje turi teisę teikti tik tokias teises paslaugas, kurios yra susijusios su tos trečiosios šalies, kurioje jam suteiktas teisininko profesinis vardas, nacionaline teise ir (ar) tarptautine viešąja teise, o paslaugas bylų procese teikti tik kartu su advokatu, įrašytu į Lietuvos praktikuojančių advokatų sąrašą, jeigu Lietuvos Respublikos sudarytose tarptautinėse sutartyse nėra nurodyta kitaip. Šiuo atveju neatsiranda kliento ir advokato, įrašyto į Lietuvoje praktikuojančių advokatų sąrašą, sutartiniai santykiai, nebent šalys susitartų kitaip.

We suggest to remove the definition “*viešąja*” from the article based on the following research of the bar legislation of several EU member states. In the countries indicated in the table below, the legislator includes definition “*international law*” instead. We believe this approach corresponds with the interest of state and people as well as provides less ground for a potential dispute in defining what is international public law (we have not found its definition in Lithuanian legislation).

Links to legislation is attached in footnotes.

Country	Legislation
Poland	<p>1. Act on the provision of legal assistance by foreign lawyers in the Republic of Poland 2022.07.05¹</p> <p>Art. 18. Rights resulting from an entry on the list of a non-EU lawyer</p> <p>A lawyer from outside the European Union entered on the list kept by the District Bar Council is entitled, as part of his regular practice, only to provide legal advice and to draw up legal opinions regarding the law of the home country or international law, to the extent relevant to the profession of an advocate, and a lawyer from outside the European Union entered on the list kept by the council of the regional chamber of attorneys-at-law is entitled, as part of his regular practice, only to provide legal advice and prepare legal opinions on the law of the home country or international law, to the extent relevant to the profession of attorney-at-law.</p>
France	<p>Law No. 71-1130 of December 31, 1971 reforming certain judicial and legal professions²</p> <p>Article 101</p> <p>Any lawyer registered with the bar of a State that is not a member of the European Union is authorized to practice in France, under the conditions provided for in this title and within the framework of the international treaties concluded by the European Union, whether on a temporary basis and occasionally or on a permanent basis, the activity of legal consultation and drafting of private deeds for others, in international law and in the law of the State in which he is registered and of the States in which he is authorized to practice the activity of lawyer, with the exception of European Union law and the law of the Member States of the European Union</p>
Slovakia	<p>Law no. 586/2003 Coll. Act on Advocacy and on Amendments to Act No. 455/1991 Coll. on trade entrepreneurship (Trade Act) as amended³</p>

¹ <https://lexlege.pl/ustawa-o-swiadczeniu-przez-prawnikow-zagranicznych-pomocy-prawnej-w-rzeczypospolitej-polskiej/>

² <https://www.legifrance.gouv.fr/loda/id/LEGITEXT000006068396>

³ <https://www.zakonypreludi.sk/zz/2003-586>

	<p>§ 51 (1) An international lawyer is authorized to provide legal services in the legal order of the state of registration and <i>in international law</i> under the conditions and in the manner established by this law.</p>
Hungary	<p>Act LXXVIII of 2017 on Legal Practice⁴</p> <p>XVI. CHAPTER THE FOREIGN LEGAL ADVISOR</p> <p>§ 82. (1) Based on a cooperation agreement concluded with a Hungarian lawyer or law firm, the foreign legal adviser provides legal advice on the domestic law of the foreigner's place of registration as a lawyer, as well as <i>on international law</i> and related jurisprudence. The foreign legal advisor may not perform other legal activities in Hungary.</p>

⁴ <https://net.jogtar.hu/muk?docid=A1700078.TV&getdoc=1&dbnum=62&searchUrl=/muk-kereso/gyors>