

Legal Framework for Provision of Pro Bono Legal Services in Mexico

This memorandum briefly outlines the relevant rules, laws and regulations applicable to the provision of pro bono legal services in Mexico by Mexican lawyers and was prepared together with and, as to Mexican law, based on the advice and analysis of Jaime Cortes Rocha and Martin Sanchez Breton of the law firm of Mijares, Angoitia, Cortes y Fuentes, S.C. of Mexico City.

SUMMARY CONCLUSION

There are no prohibitions on the provision of pro bono legal services by Mexican lawyers in Mexico. However, as a practical matter, there are no rules effectively requiring such service or aspirational norms or ethical considerations specifically setting forth such goals.

There is legislation in Mexico related to the regulation of the provision of professional services by lawyers, doctors, engineers, architects and other professionals. These laws ostensibly create fairly significant obligations on professionals with respect to the provision of pro bono services. However, in practice, there is no enforcement mechanism if there is a failure by a professional to fulfill this obligation. As a result, it is not the case that a significant level of pro bono legal work is provided as a result of these general laws and regulations.

In addition, Barra Mexicana, Colegio de Abogados, A.C. (the “Mexican Bar Association”), the most important bar association in Mexico, has adopted a code of ethics that includes an obligation to provide pro bono services to those in need. Membership in the Mexican Bar Association is not a requirement for the practice of law. This means that not all Mexican lawyers are subject to this code. Furthermore, because there is no effective enforcement mechanism or history of enforcement of the obligation to provide pro bono services, this obligation does not result in any significant pro bono service by members.

THE LAW OF PROFESSIONAL SERVICES

Mexico is a federal government like the United States and regulation of professions is on a State by State basis. The following discussion is limited to a discussion of pro bono legal services in the Federal District (Mexico City). Laws and regulations of other States of Mexico applicable to the provisions of pro bono services, as well as the activities of state bar associations, may differ from the laws and regulations applicable in Mexico City.

Article 5 of the Mexican Constitution guarantees individuals the right to work in the field or practice the profession they choose and provides further that each State shall enact laws to establish the terms and conditions for the practice of certain professions. The Distrito Federal (which includes Mexico City where the majority of legal professionals are based) has promulgated a Law of Professional Services (*Ley de Profesiones*). This law generally regulates the provision of professional services in the Federal District by doctors, engineers, architects, lawyers and other professionals. Apart from criminal and civil laws of general application to certain aspects of professional conduct, including the attorney-client relationship, the Law of Professional Services is essentially the only legal framework applicable to professional service providers, including lawyers.

Chapter VII of the Law on Professional Services provides that every professional has a “social service obligation”. “Social service” is understood to be “temporary pro bono work executed by professionals and students in the interest of society and the State” (free translation).

Under the Law of Professional Services, professionals are required to provide, through their corresponding professional association, pro bono social services consisting of professional work, advice and research activities or assistance to research institutions. Under the Law of Professional Services, professional associations have an obligation to report to the General Department of Professions of the Ministry of Public Education (*Dirección General de Profesiones de la Secretaría de Educación Pública*) the manner in which its members comply with the obligation to provide social services. Professionals are required to provide a report of the most relevant pro bono professional activities, experience and research every three years to their respective association. In practice, these obligations are very leniently enforced if at all. The Mexican Bar Association is the only professional association of lawyers in the Federal District. Because membership in a professional association is not required there is a lack of an appropriate enforcement mechanism in the Law of Professional Services on this point. The Mexican Bar Association’s requirements on pro bono service are described below.

Recognized universities and institutions require post-graduate students to perform social service for at least six months in order to obtain a law degree. This requirement is not enforced with any vigor.

BARRA MEXICANA, COLEGIO DE ABOGADOS, A.C.

The Charter and Code of Ethics of the Mexican Bar Association establishes ethical rules applicable to members. As mentioned above, membership is not a condition to practicing law. Based on informal observation, less than half of lawyers at larger firms in Mexico City are members of the Mexican Bar Association.

Chapter VII of the Charter of the Mexican Bar Association establishes certain fairly significant obligations for bar members to provide social service. Specifically, the Charter requires that members provide “social service” in at least one year of every ten years of professional service, through:

- (i) the provision of pro bono legal advice to indigent individuals or to social service institutions;
- (ii) the provision of pro bono legal advice to the *Asociación de Servicios Legales* (the “Legal Services Association”), the body within the Mexican Bar Association responsible for providing and coordinating pro bono legal services by members of the Mexican Bar Association;
- (iii) teaching in a university and contributing all or part of compensation for such services to the *Asociación de Servicios Legales*;
- (iv) legal research; and
- (v) providing legal advice on social service activities to governmental authorities.

The Mexican Bar Association reports to the General Department of Professions of the Ministry of Public Education in compliance with the Law on Professional Services. However, the Mexican Bar Association has no enforcement mechanism with respect to the requirements of pro bono service set forth in their Charter and no history of seeking compliance with these obligations.

TRENDS

In general, there are initial attempts towards the development of pro bono work in Mexico. The Mexican Bar Association through the *Asociación de Servicios Legales* recently initiated a project to grant a pro bono award on an annual basis to lawyers involved in providing and developing pro bono work. In addition, there is a recognition on the part of lawyers who work in the international field or have studied in the United States or Europe that pro bono legal services should be an integral part of the legal culture. However, to date, pro bono work in Mexico has not been institutionalized or considered as part of the culture at most law firms.