



## Pro Bono Practices and Opportunities in Hungary<sup>1</sup>

### INTRODUCTION

In the aftermath of the fall of communism in the late 1980s, Hungary went through an important transitional period and in 2004, the country joined the EU. Pro bono in the modern sense has recently been gaining in importance within the legal profession, namely following the entry into the legal market of US and UK based international law firms as well as the creation of PILnet, a public interest law initiative.

### OVERVIEW OF THE LEGAL SYSTEM

The Hungarian legal system belongs to the civil law tradition predominant in continental Europe,<sup>2</sup> as opposed to the common law tradition of the UK, the US and Commonwealth countries.

#### Constitution and Governing Laws

The main sources of law are the Constitution (the Fundamental Law), acts of Parliament, and governmental, ministerial and municipal decrees.<sup>3</sup> The supreme law is the Fundamental Law, which regulates state administration (national government, local governments, and organizations for the protection of rights) and the listing of the basic rights and duties of citizens.

The chapters of the Fundamental Law cover the following areas: general decrees, the Parliament, the President of Hungary, the Government, autonomous regulatory organs, the Constitutional Court, courts, the Prosecution Service, the Commissioner for Fundamental Rights, local governments, public finances, the Hungarian Defence Forces, the police and national security services, decisions on participation in military operations, special legal orders in case of national crisis and state of emergency, basic rights and obligations of citizens, electoral principles, the nation's capital, national symbols of Hungary, and the decrees for implementation.<sup>4</sup>

#### The Courts

The judicial system has several levels, namely, the Supreme Court (*Curia*), the regional courts of appeal, the regional courts, the district courts, and the administrative and labor courts.

In total, 111 district courts have jurisdiction at first instance for all actions not delegated to the competence of the regional courts. There are 20 regional courts, proceeding at first instance in cases defined by law, and reviewing appeals against decisions of district, administrative and labor courts. There are five regional courts of appeal, reviewing appeals at second and third instance.

The Supreme Court, which is located in Budapest, is the highest court in Hungary, having three departments (criminal, civil and administrative-labor law) each composed of various chambers. The Supreme Court guarantees the uniform application of law and its decisions are binding on other courts.<sup>5</sup>

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<sup>1</sup> This chapter was drafted with the support of Szecskay Attorneys at Law, Budapest, Hungary.

<sup>2</sup> Attila Harmathy, "On Legal Culture of Hungary. Reports to the XVIIIth International Congress of Comparative Law", Washington D.C. 2010.

<sup>3</sup> The Law Society, How to practice in Hungary, available at <http://communities.lawsociety.org.uk/international/regions/europe-and-cis/hungary/how-to-practice-in-hungary/5047713.fullarticle> (last visited on September 4, 2015).

<sup>4</sup> Zsuzsanna Antal, "Introduction to Hungarian Law Research", available at <http://www.nyulawglobal.org/globalex/Hungary1.htm> (last visited on September 4, 2015).

<sup>5</sup> Overview of the Hungarian Judicial System, <http://birosag.hu/en/information/hungarian-judicial-system> (last visited on September 4, 2015).



The typical way of becoming a judge in Hungary is to obtain a university law degree (five years) and then apply for a trainee judge's position (there are 359 positions in Hungary). An entrance exam is organized by the Hungarian Judicial Academy and the President of a tribunal or High Court can only select a judge from applicants, who have passed this exam.

The applicant then works as a trainee judge for a minimum of three years and following that must pass a professional legal examination organized by the Ministry of Justice. The applicant must then apply for a court secretary position (there are 614 positions in Hungary). There is no special procedure for this application and the President of the tribunal or High Court appoints the successful applicant who then works as a court secretary for a minimum of one year. During this period, the court secretaries receive training at the Hungarian Judicial Academy. Finally, they can apply for a judge's position (there are 2914 positions in Hungary) and the successful candidates are appointed by the President of Georgia.<sup>6</sup>

## The Practice of Law

### Education and Licensure

To be admitted to the Hungarian Bar, an applicant must meet the following criteria: citizenship in a member state of the European Economic Area, no criminal record, university degree,<sup>7</sup> passing the Hungarian professional examination in law, engaged in legal practice for at least three years as an attorney, articulated clerk or assistant attorney, having liability insurance and suitable office space.<sup>8</sup>

In order to become familiar with Hungarian legal practice, attorneys from other EU member states may first practise and give legal advice as "European Community Lawyers" under their respective professional designation given by their home countries. After three years' permanent practice in Hungary, European Community Lawyers may demonstrate their experience with the Hungarian rules of law and legal terminology at a hearing organized by the Bar Association. On their successful hearing, they are admitted to the regional Bar Association under the territorial scope of which they intend to run their legal practice in the future. By that act, European Community Lawyers become fully-fledged Hungarian ügyvéd and may provide legal services in Hungary, with the same rights and obligations as fellow Hungarian lawyers.

The operation in Hungary of foreign legal counsel from outside the territory of the EU (typically USA, Canada, and Australia) falls under different rules of law with a more limited scope of activities. Foreign legal counsel may only provide legal advice concerning the law of their home country and international law (but not Hungarian or Community law).<sup>9</sup>

Currently there are no continuing legal education requirements for qualified lawyers

### Demographics

Approximately 30,000 people work in the legal profession in Hungary, generally as attorneys, judges, prosecutors, public notaries, public servants or legal counsel.<sup>10</sup> Although detailed databases are not

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<sup>6</sup> The typical way of becoming a judge in Hungary, available at [http://birosag.hu/sites/default/files/allomanyok/english/f\\_alod-d11-3.pdf](http://birosag.hu/sites/default/files/allomanyok/english/f_alod-d11-3.pdf) (last visited on September 4, 2015).

<sup>7</sup> The university degree does not have to be from a university in Hungary; however, recognition of the foreign university certificates and degrees is required for legal practice and the professional examination in law. There are no other pro bono specific rules and requirements in order to obtain the degree.

<sup>8</sup> European Judicial Network in Civil and Commercial Matters, Legal professions – Hungary, available at [http://ec.europa.eu/civiljustice/legal\\_prof/legal\\_prof\\_hun\\_en.htm](http://ec.europa.eu/civiljustice/legal_prof/legal_prof_hun_en.htm) (last visited on September 4, 2015); The Law Society, "How to practice in Hungary," available at <http://communities.lawsociety.org.uk/international/regions/europe-and-cis/hungary/how-to-practice-in-hungary/5047713.fullarticle> (last visited on September 4, 2015).

<sup>9</sup> See website of Budapest Bar Association, "Attorneys in Hungary", available at [http://regi.bpugyvedikamara.hu/attorneys\\_in\\_hungary/](http://regi.bpugyvedikamara.hu/attorneys_in_hungary/) (last visited on September 4, 2015).

<sup>10</sup> This estimate was obtained orally from the Hungarian Lawyers Association in 2012.



available, it is estimated that 15,000 legal practitioners work at law firms,<sup>11</sup> approximately 4,000 are employed by the courts<sup>12</sup> and about 900 people work at public notary offices.<sup>13</sup> The Budapest Bar Association is by far the largest regional bar association in Hungary representing about 60% of all attorneys in Hungary.<sup>14</sup> The vast majority of Hungarian lawyers work either individually or in small law firms. However, an increasing number of lawyers work in firms of 20 to 30 lawyers.<sup>15</sup> These law firms are mostly international and active in the corporate sector.<sup>16</sup>

## Legal Regulation of Lawyers

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.<sup>17</sup> The Act on Attorneys does not fix legal fees, which must be negotiated between the lawyer and client.

Attorneys are independent in the course of their professional work, and can provide legal representation in all cases before all authorities. Certain activities can only be covered by attorneys, including representation and defence in criminal cases, legal consulting, preparing and editing legal documents, and handling money and valuables as deposits in relation to these cases.<sup>18</sup>

## LEGAL RESOURCES FOR INDIGENT PERSONS AND ENTITIES

### The Right to Legal Assistance

The Hungarian Constitution provides an individual with the right to representation at any time during a judicial or criminal proceeding.<sup>19</sup> In fact, legal representation is required for certain types of detentions and if a detained person has not contacted a lawyer within 72 hours of their detention, the Hungarian state has an obligation to provide that person with an attorney.<sup>20</sup>

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<sup>11</sup> The estimated number of attorneys is: 12,500; trainees: 2,000; employed (salaried) attorneys: 520; European Community lawyers: 70 (oral information from the Hungarian Bar Association, effective as of December 2014).

<sup>12</sup> Judges: 2,910; secretaries: 776; trainees: 348; legal officers employed in the courts: 7,073 (Annual Report of the President of the National Office for the Judiciary, available at [http://birosag.hu/sites/default/files/allomanyok/obh/elnoki-beszamolo/obh\\_beszamolo\\_2014.pdf](http://birosag.hu/sites/default/files/allomanyok/obh/elnoki-beszamolo/obh_beszamolo_2014.pdf), effective as of 30 June 2014) (last visited on September 4, 2015).

<sup>13</sup> Public notaries: 316, vice-notaries and trainees: 500-600 (Hungarian Chamber of Civil Law Notaries (June 2015)).

<sup>14</sup> Márta Pardavi, "The Legal Profession in Hungary," Organization for Security and Cooperation in Europe ("OSCE") Paper (October 2008), available at <http://www.osce.org/odihr/36305> (last visited on September 4, 2015).

<sup>15</sup> Budapest Bar Association, <http://www.bpuogyvedikamara.hu/> (last visited on September 4, 2015).

<sup>16</sup> See Pardavi, supra n6.

<sup>17</sup> The following acts apply to 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, Act CLXIII of 2011 on public prosecutors, Act XLI of 1991 on public notaries and the Decree No. 3 of 1983 on legal councils.

<sup>18</sup> The Law Society, "How to practise in Hungary", available at <http://communities.lawsociety.org.uk/international/regions/europe-and-cis/hungary/how-to-practice-in-hungary/5047713.fullarticle> (last visited on September 4, 2015).

<sup>19</sup> 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 (March 22, 2002), [www.un.org/news/Press/docs/2002/hrct618.doc.htm](http://www.un.org/news/Press/docs/2002/hrct618.doc.htm) (last visited on September 4, 2015).

<sup>20</sup> Id.



Pursuant to the Act on Legal Aid, legal aid services may be provided by non-governmental organizations (“NGOs”), foundations, minority local governments, universities offering legal education, or lawyers (including European Community lawyers permanently working in Hungary).<sup>21</sup>

In out-of-court proceedings, all registered legal service providers may provide legal aid.<sup>22</sup> However, in court proceedings, only attorneys, law firms and certain other entities (e.g. NGOs, foundations etc) 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.<sup>23</sup>

## State-Subsidized Legal Aid

Hungary offers legal aid in both civil and criminal proceedings. People can also obtain aid when seeking legal advice or drafting legal documents.<sup>24</sup> If a person needs legal services during court-administered judicial proceedings, the court will administer such services.<sup>25</sup> 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 enforcement of the court’s decision.<sup>26</sup>

The State must pay a party’s legal services fees if the party’s monthly net income (wage, pension, or other regularly paid cash allowances) does not exceed the current minimum retirement pension (HUF 28,500 or approximately €93 per month) established on the basis of their period of employment, and that the party has no property.<sup>27</sup>

In addition, irrespective of their income and financial situation, further categories of persons are considered in need, including:<sup>28</sup>

- a party who is eligible for benefits provided to persons of active age, or living in the same household with a close relative of a party who is eligible for benefits provided to persons of active age;
- a party who receives public health care or whose entitlement to medical services has been established;
- a party who is a homeless person spending nights at temporary lodgings;
- a party who is a refugee or temporarily protected person, or seeking refugee status or temporary protection or stateless status and, on the basis of their statement regarding their income and financial situation, is entitled to the care and benefits they have been granted;
- any party who is requesting legal aid in connection with obtaining a visa, obtaining authority to reside or permanent resident status, or in a naturalization case, whose ascendant is or has previously been a Hungarian citizen and the party is engaged in a repatriation procedure; or
- a party who cares for a child in their family who has been declared eligible to receive regular child welfare subsidies.

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<sup>21</sup> Article 66 of the Act LXXX of 2003 on Legal Aid was adopted to encourage the creation of institutions for the socially disadvantaged in which they will be able to receive professional legal advice and representation in court in the course of asserting their rights and resolving legal disputes.

<sup>22</sup> Id. § 68.

<sup>23</sup> Id. § 68.

<sup>24</sup> 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](https://e-justice.europa.eu/content_rights_of_victims_of_crime_in_criminal_proceedings-171-HU-en.do?clang=en&idSubpage=4) (last visited on September 4, 2015).

<sup>25</sup> Id.

<sup>26</sup> Id.

<sup>27</sup> Act LXXX of 2003, § 5.

<sup>28</sup> Act LXXX of 2003, § 5.



Furthermore, the State shall pay a party's legal services fees if the party in question is single, and considered poor according to the Act on Providing Legal Aid and their available income does not exceed 150% of the prevailing minimum pension.<sup>29</sup>

### Eligibility

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.<sup>30</sup>

In addition, a person seeking legal aid from the Hungarian state must be one of the following:

- a Hungarian national;
- a foreign national registered as a resident in Hungary or involved in asylum proceedings in Hungary;
- a non-Hungarian national of a country that has an international treaty with Hungary with an agreement on reciprocity;
- a national of an EU member state; or
- a national of a non-EU country but still a legal resident within an EU member state.<sup>31</sup>

The application form must be submitted to the County Office of Justice. The Office makes its decision within five days where applications are made in person, or ten working days for written applications.<sup>32</sup> If the Office approves the application, the applicants may then choose, under certain conditions, a legal aid provider from the Register of legal aid service providers.<sup>33</sup> Depending on the status of the applicant, the State either pays or advances the fees and costs of the lawyer providing the legal aid, as well as expenses such as phone calls, traveling, parking and copying documents.<sup>34</sup>

### Mandatory Assignment to Legal Aid Matters

According to the Act on Legal Aid, apart from the above mentioned NGO's, foundations, minority local governments and universities offering legal education, the only persons who may be entered into the Register of persons providing legal aid<sup>35</sup> are attorneys, law firms and European Community lawyers permanently working in Hungary. There are no such restrictions in the context of pro bono.

Registration as a legal aid provider is not compulsory for all attorneys, i.e. this is not mandatory for attorneys, just an opportunity. Those lawyers and NGOs, who want to provide legal aid, can voluntarily apply to the Ministry of Justice and may specify their area of practice (i.e. criminal, civil or public administrative law) and the number of cases per month they are willing to take on.<sup>36</sup> The Ministry of Justice will then contract with an entity to provide legal aid when the need arises.

Decree No. 7/2002 of the Ministry of Justice regulates the fees to be paid to lawyers who provide legal aid services in judicial cases. Such lawyers are entitled to legal aid fees and costs. The legal aid fee is

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<sup>29</sup> Act LXXX of 2003, § 6.

<sup>30</sup> Id.

<sup>31</sup> Act LXXX of 2003 on Legal Aid , § 4.

<sup>32</sup> Id. § 23.

<sup>33</sup> For legal aid for cases heard by a court, the legal representative is chosen by the court. Conversely, for legal aid for cases not heard by a court, the applicants may choose their representative from the registry kept by the Central Justice Office. See European Judicial Network in Civil and Commercial Matters, available at [http://ec.europa.eu/civiljustice/legal\\_aid/legal\\_aid\\_hun\\_en.htm](http://ec.europa.eu/civiljustice/legal_aid/legal_aid_hun_en.htm) (last visited on September 4, 2015).

<sup>34</sup> Act LXXX of 2003, supra n23, § 1.

<sup>35</sup> Act LXXX of 2003, § 66.

<sup>36</sup> Id. § 65.



calculated on the basis of the hourly fee of advocates, as set forth by the Central Budget Act, which is currently HUF 5,000 (or approximately €16).<sup>37</sup>

The following statutorily mandated legal fees apply:

#### Legal aid fees in extra-judicial cases

Legal aid fees and costs are regulated by Decree No 11/2007 of the Ministry of Justice, and the hourly fees of legal aid providers are established by the Parliament in the Central Budget Act. Details of the fees are as follows:

- Hourly legal aid fee in extra-judicial cases is currently HUF 5,000 (or approximately €16).
- 15% of the total hourly fee (i.e. currently HUF 450 / hour) is paid as costs.
- If the lawyer is obliged to pay VAT, 27% VAT shall be paid beyond this amount.

#### Legal aid fees in judicial cases

Decree No 7/2002 of the Minister of Justice regulates the fees to be paid for lawyers providing legal aid services in judicial cases. Such lawyers are entitled to:

- the legal aid fee, which is calculated based on the hourly fee of advocates as set forth by the Central Budget Act, which is currently HUF 5,000 (or approximately €16); and
- costs (e.g. phone calls, travelling, copying), which are calculated based on an itemized statement provided by the lawyer. Without this statement, the lawyer is entitled to 25% of the legal aid fee, covering his or her costs.

The Decree does not provide for the reimbursement of VAT. Therefore, the lawyer should inform the court, the prosecutor or the investigating authority determining the legal aid fees and costs in that case, whether he or she is obliged to pay VAT (currently 27%).

This compensation provided by the state is quite low, which sometimes forms an obstacle to legal aid being offered to certain marginalized groups. This results in the current legal aid system not satisfactorily meeting the requirements of certain indigent and marginalized members of society. For instance, in the case of asylum seekers, the Hungarian Helsinki Committee has claimed that the low financial compensation for legal assistance providers is an obstacle for lawyers to engage effectively in the provision of legal assistance. In addition, there is a lack of sustainability of legal aid funding, and the fact that it is project financed means that the funding is not sufficiently flexible.<sup>38</sup> The amount of the budget allocated by the Hungarian Government to legal aid (with the exception of public defenders) was HUF 249m (approximately €800,000) in 2015.

## Alternative Dispute Resolution

Hungary also provides for the following means of alternative dispute resolution:

### Mediation

The objective of the Act on Mediation<sup>39</sup> is to offer an alternative for natural and other persons to settle disputes arising in connection with personal and property rights. Mediators are responsible for mediating negotiations between the parties to the best of their abilities in an unbiased and conscientious manner in order to reach an agreement in conclusion of the dispute. Mediators are entitled to remuneration for their

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<sup>37</sup> Act LXXX of 2003, supra n26, § 1; Act C of 2014 (Central Budget Act of Hungary in 2015) § 63(4).

<sup>38</sup> For example, due to the big influx of asylum seekers in 2013, the integration center in Bicske started to accommodate asylum seekers as well; however since no legal aid was foreseen in this center in the initial project application, it took the service provider more than 10 months to be able to assure asylum seekers that a lawyer will visit the center, see <http://www.asylumineurope.org/reports/country/hungary/asylum-procedure/procedures/regular-procedure#sthash.fLUkVSwu.iSJPQ0uf.dpuf> (last visited on September 4, 2015).

<sup>39</sup> Act LV of 2002 on Mediation.



services and are compensated for all substantiated expenses. Mediators also have the right to request advance payments for fees and expenses. The fees for any given case are subject to negotiation between the parties and the mediator.

### Arbitration

The Act on Arbitration<sup>40</sup> generally applies to arbitration if the venue (or seat) of the "ad hoc" or standing arbitration tribunal is in Hungary. Instead of the court of law, disputes may be settled by way of arbitration if:

- at least one of the parties is professionally engaged in business activities and the legal dispute arises out of or in connection with this activity;
- the parties may dispose freely of the subject-matter of the proceedings; and
- the arbitration was stipulated as a dispute resolution process in an arbitration agreement.

Any standing arbitration tribunal operating within the structure of a specific organization may be chartered by a national chamber of economy in Hungary, unless otherwise provided by law. Several national chambers of economy may also establish a standing arbitration tribunal collectively. There are also specific arbitration boards, which have competence to resolve a certain areas of dispute, in order to reach an extra-judicial settlement between the parties.

### Ombudsman

In Hungary there are also different types of ombudsmen, such as the Commissioner for Fundamental Rights and their deputies. The Commissioner is responsible for the protection of the rights of future generations, nationalities and ethnic groups living in Hungary.<sup>41</sup> Anyone may turn to the Commissioner for Fundamental Rights, if in their judgment, the activity or omission of, for example, a public administration organ, governmental body, the Hungarian Defence Force, law-enforcement organ, or an investigation organ infringes a fundamental right of that person, provided that they have exhausted all available administrative legal remedies (not including judicial review of an administrative decision) or no legal remedy is otherwise available.<sup>42</sup>

The proceedings of the Commissioner for Fundamental Rights are free of charge, as the costs of inquiries are advanced and borne by the Office of the Ombudsman.<sup>43</sup> The Ombudsman makes a report on the inquiry he or she has conducted, which contains the uncovered facts, and the findings and conclusions based on the facts. This report is public.<sup>44</sup> If, on the basis of an inquiry conducted, the Ombudsman comes to the conclusion that impropriety in relation to a fundamental right does exist, in order to redress it he or she may address a recommendation to the authority or the supervisory organ of the authority subject to the inquiry. The Ombudsman may take several measures, for example initiating proceedings for the supervision of legality by the competent prosecutor or contacting the Constitutional Court or the Parliament.<sup>45</sup>

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<sup>40</sup> Act LXXI of 1994 on Arbitration.

<sup>41</sup> The Fundamental Law, Article 30.

<sup>42</sup> Act CXI of 2011 on the Commissioner for Fundamental Rights, § 18.

<sup>43</sup> Act CXI of 2011 on the Commissioner for Fundamental Rights, § 19.

<sup>44</sup> Act CXI of 2011 on the Commissioner for Fundamental Rights, § 28.

<sup>45</sup> Act CXI of 2011 on the Commissioner for Fundamental Rights, § 31-38.



## PRO BONO ASSISTANCE

It is important to note that pro bono is not considered a substitute for the state-funded legal aid system. It is a complimentary system that NGOs and civil liberty groups can take advantage of legal assistance that they would not otherwise have access to through state or private services.<sup>46</sup>

### Pro Bono Opportunities

Private law firms and lawyers throughout Hungary are beginning to play an active role in supporting the efforts of NGOs, which serve the legal needs of the less fortunate. Many well-known international law firms, headquartered in the US or UK, have begun to establish Hungarian offices in partnership with Hungarian lawyers, which has given lawyers the opportunity to take on pro bono cases within Hungary.<sup>47</sup> Several of these law firms have also drafted and signed a declaration in which they affirm their commitment to advancing the public good by working for more clients who cannot afford to pay.

Charities and NGOs that provide legal assistance through attorneys, as well as legal clinics, can register as legal aid providers with the Ministry of Justice.<sup>48</sup> Law schools have also begun to look to pro bono and law clinics as a way for students to get hands-on practice.<sup>49</sup>

### Historic Development and Current State of Pro Bono

#### Historic Development of Pro Bono

Hungary has a tradition of pro bono legal assistance dating back to the beginning of the 20th century, when in 1915 the Budapest Bar Association stated that free legal services were part of a “noble heritage that had become part of legal practice.”<sup>50</sup> During the period of communism however, this pro bono concept was lost in practice with the requirement that attorneys get approval from the head of the labor group in order to perform pro bono work.<sup>51</sup>

Following the fall of communism, the Hungarian pro bono culture has slowly been developing again. In practice, mainly international law firms have sufficient capacity to contact NGOs and provide legal assistance free of charge.

#### Current State of Pro Bono including Barriers And Other Considerations

The communication opportunities between lawyers and NGOs needs to be enhanced, which would have a great impact on the development of the Hungarian pro bono culture.

#### Fees

Hungary embraces the “loser-pays” principle and shifts both court costs and attorney fees to the unsuccessful party; however it appears that judicial discretion may also play a significant role.<sup>52</sup>

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<sup>46</sup> See interview with Atanas Politov, supra n2.

<sup>47</sup> Various international law firms, committed to offering pro bono services in Hungary, signed the Pro bono Declaration, developed with the assistance of PILI’s pro bono project. Firms included, among others, Allen & Overy Iroda, Köver Clifford Chance and Siegler Law Office/Weil, Gotshal & Manges, which affirmed publicly their commitment to advancing the public good.

<sup>48</sup> Id. §§ 66-67.

<sup>49</sup> See interview with Atanas Politov, supra n2.

<sup>50</sup> See interview with Atanas Politov, supra n2.

<sup>51</sup> Id.

<sup>52</sup> Mathias Reimann, Cost and Fee Allocation in Civil Procedure, p. 52.





### Rules Directly Governing Pro Bono Practice

The special conditions for attorneys to provide pro bono services are the following:<sup>53</sup>

- the attorney's activity of providing legal services must not be suspended;
- no disciplinary procedure must have been initiated against the attorney for the suspension of his or her activities for the provision of legal services; and
- the attorney must not be under the effect of a disciplinary sanction.

There are no explicit prohibitions on providing free legal services, advertising pro bono successes or soliciting new pro bono clients. General rules passed by the Hungarian Bar Association apply in the case of advertising pro bono successes, for instance, the advertisement must not contain any comparison with other attorney's successes or any reference to the successful cases.<sup>54</sup>

As specified in Section II above, foreign lawyers from outside the European Union may only provide legal advice concerning the law of their home country and international law. This restriction also applies to pro bono legal services.

The Bar Association must, upon request, admit as an attorney anyone who, among others, is a member of the Hungarian Attorneys Insurance and Assistance Association or has other liability insurance that is accepted by the Bar Association.<sup>55</sup> The minimum amount of liability insurance is HUF 8m per claim, HUF 16m per year.<sup>56</sup>

### Socio-Cultural Barriers to Pro Bono or Participation in the Formal Legal System

As judicial procedures often take an unreasonably long time (possibly years),<sup>57</sup> alternative dispute resolution procedures have become more popular. Since the second half of 2012, mediation by judges was introduced into the Hungarian legal system, and the number of such cases is increasing.<sup>58</sup> Arbitration is also used, however the number of cases has decreased in recent years.<sup>59</sup> For further details on these procedures, see above subsection "d. *Alternative Dispute Resolution*" under the section "III. *Legal Resources for Indigent Persons and Entities*".

### Pro Bono Resources

Lawyers that would like to provide pro bono services in Hungary should contact PILnet, which promotes pro bono practice by involving the legal community in pro bono matters. PILnet introduced the concept of pro bono practice in Central Europe through its Hungarian Pro bono Clearinghouse, and later through a network of additional PILnet and partner clearinghouses. PILnet seeks to bridge the gap between NGOs and lawyers, and is currently creating a pro bono clearinghouse to match lawyers with NGO needs. In order to get a monthly listing of pro bono opportunities, interested attorneys can visit the website

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<sup>53</sup> Act LXXX of 2003, Chapter VIII.

<sup>54</sup> Rules No 8/1999 of the Hungarian Bar Association modified by the Rules No 5/2008, § 11.

<sup>55</sup> Act XI of 1998 on Attorneys, § 13.

<sup>56</sup> Rules No 7/2011 (X. 24.) of the Hungarian Bar Association about the minimum amount of liability insurance.

<sup>57</sup> The general length of a civil procedure was six to 11.5 months in the court of first instance, and four to 31.9 months in the court of second instance in the first half of 2014. Available at [http://birosag.hu/sites/default/files/allomanyok/statisztikai\\_adatok/a\\_birosagi\\_ugyforgalom\\_2014\\_i\\_felev\\_150dpi.pdf](http://birosag.hu/sites/default/files/allomanyok/statisztikai_adatok/a_birosagi_ugyforgalom_2014_i_felev_150dpi.pdf), (last visited on September 4, 2015).

<sup>58</sup> 55 new cases were initiated, 48 cases were finished in January 2014, 129 new cases were initiated, 139 cases were finished in June 2014. Annual Report of the President of the National Office for the Judiciary, available at [http://birosag.hu/sites/default/files/allomanyok/obh/elnoki-beszamolok/obh\\_beszamolo\\_2014.pdf](http://birosag.hu/sites/default/files/allomanyok/obh/elnoki-beszamolok/obh_beszamolo_2014.pdf), (last visited on September 4, 2015).

<sup>59</sup> In 2014, 23 cases were initiated by international parties and 117 cases were initiated by Hungarian parties. (Hungarian Chamber of Commerce and Industry; <http://www.mkik.hu/hu/magyar-kereskedelmi-es-iparkamara/hasznos-informaciok-8720>), (last visited on September 4, 2015).



<http://probonougyved.hu/> (last visited on September 4, 2015) and sign up. Once registered, they can choose from among the opportunities listed.

PILnet works with each of the NGOs that uses the listing service to help define and articulate their legal needs so that attorneys can get a good idea from the start of the level of expertise and time that will be needed. In practice, lawyers assisting via PILnet usually provide legal assistance in the fields of civil law, family law, criminal law, employment law and environmental law.

PILnet has organized several skill-building workshops since its establishment in Hungary and has also been organizing the Hungarian Pro bono Awards since 2011. To further network private sector lawyers and NGOs, and advance the local culture of pro bono, PILnet also convenes the annual European Pro bono Forum.<sup>60</sup>

## CONCLUSION

The pro bono culture in Hungary has been developing more efficiently since the beginning of the 21st century. Most Hungarian attorneys provide legal aid services under the Act on Legal Aid, in the course of which the Hungarian state finances the costs and fees of the attorney. However, a smaller but growing number of attorneys also provide pro bono legal assistance outside the scope of the Act on Legal Aid, in the course of which they do not request any fee from the represented persons.

September 2015

Pro Bono Practices and Opportunities in Hungary

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<sup>60</sup> For further details, please see <http://pilnet.org/> (last visited on September 4, 2015).