



Pro Bono Practices and Opportunities in Slovakia¹

INTRODUCTION

The growing involvement of the Legal Aid Centre, a governmental platform for legal aid, along with other initiatives, have created many pro bono opportunities in Slovakia, resulting in more established mechanisms for diverse participation, especially in the governmental sphere. Private initiatives such as the Pro Bono Advocacy have also been launched, creating a platform to allow for voluntary pro bono by law firms. Both state-run legal aid and privately run pro bono continue to undergo significant changes with an outlook for further growth in the future.

OVERVIEW OF THE LEGAL SYSTEM

The Justice System

The Constitution and Governing Laws

The Slovak legal system is a civil law system based on the Austro-Hungarian codes. Since its separation from the Czech Republic in 1993, Slovakia has undergone major changes as a consequence of its transition from a totalitarian government to a parliamentary democracy and its accession to the European Union. Slovakia's legal code (primarily statutory and supplemented with case law) has been modified over the years to comply with obligations of the Organization for Security and Co-operation in Europe. The National Council of the Slovak Republic is responsible for enacting the appropriate legislations; meanwhile, executive powers are exercised by its president, prime minister and ministers.

The Courts

The Slovak Ministry of Justice is the central government body responsible for administration of the courts. The court system consists of courts with general jurisdiction and the Constitutional Court of the Slovak Republic.² The courts with general jurisdiction consist of District and Regional courts, the Supreme Court and the Special Criminal Court. District courts decide in the first instance civil, commercial, criminal and administrative cases. The Regional courts act as courts of second instance in civil and criminal cases heard by district courts at first instance and decide in the first instance administrative cases.³ The courts of special jurisdiction have authority to review matters specified by statute. For example, the Specialized Criminal (Penal) Court hears certain grave criminal offenses. Moreover, the Supreme Court has appellate jurisdiction over questions of law in respect of allegations brought by parties or the General Prosecutor and otherwise over matters designated to it through statute. On the other hand, the Constitutional Court has special jurisdiction to review the constitutionality of legislation, international treaties and fundamental rights issues relating to natural and legal persons.⁴ Judges of the Constitutional Court are appointed by the President on the recommendation of the National Council (the parliament of Slovakia). Meanwhile, judges of the Supreme Court are appointed by the President on the recommendation by the Judicial Council (body of judicial legitimacy).

¹ This chapter was drafted with the support of Kinstellar.

² See EUROPEAN E-JUSTICE, Judicial Systems in Member States – Slovakia, available at https://e-justice.europa.eu/content_judicial_systems_in_member_states-16-sk-en.do?member=1 (last visited on September 4, 2015).

³ See ORDINARY COURTS, available at https://e-justice.europa.eu/content_ordinary_courts-18-sk-en.do?member=1 (last visited on September 4, 2015).

⁴ See EUROPEAN E-JUSTICE, Judicial Systems in Member States – Slovakia, available at https://e-justice.europa.eu/content_judicial_systems_in_member_states-16-sk-en.do?member=1 (last visited on September 4, 2015).



The Practice of Law

The Slovak Bar Association is a self-regulated independent organization, representing approximately 5,600 lawyers and 2,500 trainee lawyers.⁵ To practice as a lawyer, a person must meet all legal requirements set forth under Act No. 586/2003 Coll. dated December 4, 2003 on the Legal Profession, as amended, and must also be admitted to the Slovak Bar Association.⁶ Generally, for registration as a lawyer with the Slovak Bar, a person must hold “a university degree in law, have acquired at least five years’ experience as an articulated clerk, have passed a bar examination, be of good character.”⁷ Lawyers’ fees are governed by an implementing decree of the Ministry of Justice.⁸

Moreover, Slovak legislation allows “Euroadvocates” to practice law in the Slovak Republic on a guest or established basis.⁹ Foreign-registered lawyers and international legal practitioners may also practice or provide legal services in Slovakia in accordance with provisions of the Act on the Legal Profession. Such foreign-registered lawyers and international practitioners are registered in the register of the Bar Association and must comply with all legislative requirements of that required of a domestic attorney and also observe legislation in his or her state of registration. Foreign-registered lawyers and international legal practitioners may not represent a party to proceedings before a court or other public authority, act as a defense attorney in criminal proceedings or administer client’s property.¹⁰ A number of international law firms operate in Slovakia as well.

LEGAL RESOURCES FOR INDIGENT PERSONS AND ENTITIES

The Right to Legal Assistance

The legal basis for the provision of legal aid arises out of the Constitution, under which everyone has the right to legal aid in proceedings before courts and state agencies, subject to limitations laid down by law. The system for granting legal aid for indigent natural persons in civil, commercial, administrative and asylum matters is comprehensively regulated by the Act no. 327/2005 on Provision of Legal Aid for People in Material Need, as amended (the “**Legal Aid Act**”).

Under the Legal Aid Act, “legal aid means the granting of legal services to persons entitled under the Legal Aid Act in connection with the exercise of their rights, principally in the form of legal advice, assistance in out-of-court proceedings (including, without limitation, assistance in resolving the matter through mediation), the drawing up of submissions for courts, representation in court and the

⁵ See SLOVAK BAR ASSOCIATION, Profile, available at <https://www.sak.sk/blox/cms/sk/sak/sak/about> (last visited on September 4, 2015).

⁶ Id.

⁷ See LEGAL PROFESSIONS - SLOVAKIA, http://ec.europa.eu/civiljustice/legal_prof/legal_prof_svk_en.htm (last visited on September 4, 2015).

⁸ See EUROPEAN E-JUSTICE, Costs of proceedings – Slovakia, available at https://e-justice.europa.eu/content_costs_of_proceedings-37-en.do (last visited on September 4, 2015).

⁹ A “guest euroadvocate” is an attorney practicing on a temporary or occasional basis. A guest euroadvocate may not execute instruments on the transfer of immovable property, and must cooperate with a locally registered lawyer when representing a party to proceedings before a court or other public authority and when acting as the defense attorney in criminal proceedings. On the other hand, an “established euroadvocate” is one who provides systematic and continuous legal services in the Slovak Republic and who is registered in the register of euroadvocates of the Bar Association. Such established euroadvocate must comply with all legislative requirements of that required of a domestic attorney and to observe legislation in his state of registration. See LEGAL PROFESSIONS - SLOVAKIA, supra n.7.

¹⁰ Part 3 of the Act on Legal Profession.



performance of acts in connection therewith, as well as the full or partial coverage of the associated costs.”¹¹

In internal disputes (i.e., disputes involving parties exclusively from Slovakia), legal aid may be granted to any natural person. In cross-border disputes, legal aid may only be granted to natural persons domiciled or resident in a Member State of the European Union.¹² With respect to internal disputes, legal aid may be granted in civil, commercial, labor, asylum and family law cases, matters of court revision of administrative decisions and in proceedings before the Constitutional Court. Cross-border legal aid may be granted in civil, labor, family and commercial law cases.¹³ In addition, legal aid in asylum matters covers matters of administrative expulsion, the court review of such decisions and proceedings before the Constitutional Court.

The Centre for Legal Aid (the “Centre”) was created pursuant to the Legal Aid Act as a state budgetary organization under the Slovak Ministry of Justice. The objective of the Centre is to provide quality and complex legal aid through lawyers of the Centre, advocates registered within the Bar Association or mediators to persons who, due to a lack of means, are unable to use legal services. The Centre provides legal aid via its offices located in 14 Slovak cities. The Centre is often the first stop for obtaining legal aid services and consultation for people in material need.

The Legal Aid Centre may approach any lawyer registered with the Slovak Bar Association to provide free legal assistance at the Centre.¹⁴ In 2011, the Slovak Bar Association adopted a resolution imposing an obligation on lawyers to accept legal aid representation up to four times per year.¹⁵

State-Subsidized Legal Aid

In order to qualify for legal aid, one must apply to the Centre;¹⁶ however, interim legal aid can be granted in emergencies before a decision has been made on an application.¹⁷ The provision of legal aid is conditional upon the declaration of income. In addition, the dispute must not lack a legal basis (in particular, if the claim is barred by statute or if the party cannot muster any evidence) and the value of the dispute (if a valuation is possible) must exceed the amount of the minimum wage.¹⁸

Alternative Dispute Resolution

Alternative forms of dispute resolution are available in Slovakia. Parties may mediate civil, family, commercial and labor law matters.¹⁹ With respect to mediation, an entitled party may seek judicial enforcement, provided that such decision (i) is in the form of a “notarial act;” and (ii) is endorsed as conciliation in court by an arbitration body.²⁰ Meanwhile, arbitration is available for property disputes (both domestic and international commercial law) excluding real estate, as well civil law disputes.

¹¹ Section 4 of the Legal Aid Act; see also EUROPEAN JUDICIAL NETWORK, Legal aid – Slovakia, available at http://ec.europa.eu/civiljustice/legal_aid/legal_aid_svk_en.htm (last visited on September 4, 2015).

¹² Section 3 of the Legal Aid Act.

¹³ See generally *id.*; see also EUROPEAN JUDICIAL NETWORK, Legal aid – Slovakia, *supra* n.11.

¹⁴ *Id.*; ADVOKÁT SLOVENSKÁ KOMORA, Lukratívni právnicki budú tiež pro bono (31.10.2011), available at <https://www.sak.sk/blox/cms/dispatch/news/71> (last visited on September 4, 2015).

¹⁵ See SLOVAK BAR ASSOCIATION, *supra* n.5; see also Resolution no. 26/10/2011 of 10 Nov. 10, 2011.

¹⁶ See EUROPEAN JUDICIAL NETWORK, Costs of proceedings – Slovakia, *supra* n.8.

¹⁷ See *id.*

¹⁸ As of Jan. 1, 2015, the minimum wage is set at EUR 380.00.

¹⁹ Governed by the Mediation Act no. 420/2004.

²⁰ GAR, Commercial Arbitration, Slovakia, available at <http://globalarbitrationreview.com/know-how/topics/61/jurisdictions/75/slovakia/> (last visited on September 4, 2015).



Arbitration decisions are enforceable through the courts.²¹ As of January 1, 2015, a substantial amendment of the Arbitration Act has been adopted; it seeks to introduce more protection to consumers in arbitration cases and it increased the requirements for the establishment and operation of arbitration courts aiming to improve the quality of commercial arbitration. Persons entitled under the Legal Aid Act may also apply for legal aid in respect of assistance in resolving their matter through mediation via the Centre. The applicant must meet the same requirements as when applying for any other form of legal aid at the Centre. Upon acceptance of an application, the Centre assigns an applicant to a mediator registered with the Register of Mediators (kept by the Slovak Ministry of Justice). The Centre has successfully mediated disputes concerning ownership rights and family law.

Unmet Needs Analysis

The Legal Aid Act distinguishes between two types of legal aid, fully covered and partially covered. A person is entitled to fully covered legal aid in the event his or her income is less than 1.4 times the minimum living standard²² and he or she cannot finance the legal aid from its assets. Partially covered legal aid applies to persons with income between 1.4 and 1.6 times the minimum living standard. Partially covered legal aid recipients are responsible for 20% of the statutory remuneration set forth in the Decree no. 655/2004 Coll. on the Remuneration of Lawyers, as amended. The Centre received a total of 5,655 new applications for the provision of legal aid.²³ In 2014, the Centre provided legal aid in 454 cases through lawyers of the Centre and in 3,002 cases through advocates registered with the Bar Association; however, only nine cases through mediators.²⁴ With respect to clearinghouses, only one, the Pro Bono Advocacy program, currently operates to connect attorneys with NGOs for the provision of pro bono services. Accordingly, pro bono initiatives for assisting persons not qualified under the Legal Aid Act, who are in need of subsidized representation and legal advice, as well as programs for connecting private attorneys to existing initiatives, along with any other private alliances and programs, especially with respect to mediation, are likely to be most responsive to unmet legal needs in Slovakia.

PRO BONO ASSISTANCE

Pro Bono Opportunities

In May 2011, the Pro Bono Advocacy program was launched, a broker for non-profit organizations, which connects lawyers to non-profit organizations in Slovakia and provides pro bono advice to the non-profit sector. This program is sponsored by The Global Network for Public Interest Law, a global pro bono clearinghouse, and administered by the Pontis Foundation.²⁵ The program was developed by The Global Network for Public Interest Law in conjunction with Slovak law firms.²⁶ This program has been endorsed by the Slovak Bar Association and the Slovak Minister of Justice.²⁷

In 2010, the number of operating non-profit organizations were 64,460. In the area of asylum law, *Liga za ľudské práva* (the “**Human Rights League**”) provides free legal advice for asylum seekers. The Human

²¹ Arbitration is principally governed by the Act No. 244/2002 Coll., as amended.

²² The minimum cost of living standard as of 2015 is EUR 198.08 per month.

²³ CENTRE FOR LEGAL AID, Annual Report of the Centre for Legal Aid in 2014, available at http://www.centrumpravnejpomoci.sk/doc/vyrocnna_sprava_2014.pdf (last visited on September 4, 2015).

²⁴ CENTRE FOR LEGAL AID, Annual Report of the Centre for Legal Aid in 2014, available at http://www.centrumpravnejpomoci.sk/doc/vyrocnna_sprava_2014.pdf (last visited on September 4, 2015).

²⁵ Kinstellar, Pro Bono Advocacy programme launched in Slovakia, available at <http://www.kinstellar.com/expertise/news-and-insights/detail/energy/37/pro-bono-advocacy-programme-launched-in-slovakia> (last visited on September 4, 2015).

²⁶ Id.

²⁷ Id.



Rights League not only provides legal advice, but also helps write appeals, monitors the immigration points at Bratislava Airport and accompanies asylum seekers to interviews at the Migration Office. Furthermore, the Human Rights League educates law students in the Asylum Clinic at the Faculty of Law Trnava University.²⁸ The United Nations Refugee Agency for Central Europe has also worked with the Legal Aid Centre in training lawyers with respect to asylum law.²⁹

In addition to the above, there are a few more renowned non-profit organizations engaged in pro bono work, such as Via Iuris, which represents citizens before courts and agencies,³⁰ Nadácia Charty 77 (the “**Charter 77 Foundation**”), involved in the protection of human rights,³¹ and Centrum Nádej (the “**Centre of Hope**”) an organization that deals with domestic violence.³²

In the past, the provision of legal aid was decided upon by courts, and prior to January 1, 2012, whenever a party to a proceeding requested that a court appointed him or her a lawyer (other than in criminal matters), it was at the court’s discretion to either appoint a lawyer itself or refer the matter to the Centre. Since January 1, 2012, the court must refer such party to the Centre, and accordingly, the Centre has significantly increased in importance.

Historic Development and Current State of Pro Bono

Slovak legislation provides for no express limitations on pro bono services by law firms. There are, however, some practical aspects that may affect the provision of pro bono services. For example, under the applicable VAT legislation, even if a pro bono service is provided for no consideration, the provider should charge VAT on it. In practice, providers sometimes evade this by charging a symbolic sum of €1 for the service. On the other hand, no legislation requires that lawyers charge minimum fees for pro bono services. Some limitations may arise in respect of particular projects. For example, the Pro Bono Advocacy platform is limited to the participation of certain lawyers (e.g., in-house lawyers are not involved in the initiative). Also, commercial and criminal matters may not be referred within the Pro Bono Advocacy platform. In addition, in-house lawyers may not provide legal aid through the Centre.

As the largest and most complex private initiative, the Pro Bono Advocacy program appears to have been received positively among practitioners, although there was slight skepticism over the initiative initially.³³

However, it should also be noted that many of these organizations do not provide genuine pro bono work, as the lawyers are mostly paid through their respective organizations’ budgets. Other than the Centre, which is an agency established by law, the Pro Bono Advocacy project is the only unofficial platform for the provision of genuine pro bono work by law firms. The Pontis Foundation, which operates the initiative, is the only actual clearinghouse of pro bono services in Slovakia. Since there is no centralized platform for pro bono services, many law firms provide pro bono services through their own initiative without appointment by a court, and some firms have long-standing partners (e.g., local non-profit organizations) to whom they provide pro bono services.

²⁸ See FAHAMU REFUGEE LEGAL AID, Pro Bono Legal Aid, available at <http://www.frlan.org/node/587> (last visited on September 4, 2015).

²⁹ See UNHCR, Operations in Slovakia, available at <http://www.unhcr.org/pages/49c3646c206.html> (last visited on September 4, 2015).

³⁰ See <http://www.viaiuris.sk/index.html> (last visited on September 4, 2015).

³¹ See <http://www.charta77.sk/> (last visited on September 4, 2015).

³² See <http://www.centrumnadej.sk/> (last visited on September 4, 2015).

³³ SLOVENSKÁ ADVOKÁT KOMORA, BSA (Aug. 2011).



Pro Bono Resources

For lawyers interested in pro bono work in Slovakia, the first place to look is the Pro Bono Advocacy program which is generally the most comprehensive resource to link lawyers in Slovakia with non-profit organizations in need of pro bono work.³⁴

As outlined above, there are a few additional NGOs that are involved in pro bono legal aid on a private basis:

- Via Iuris: <http://www.viaiuris.sk/index.html> (last visited on September 4, 2015)
- Nadácia Charty 77: <http://www.charta77.sk/> (last visited on September 4, 2015)
- Centrum Nádej: <http://www.centrumnadej.sk/> (last visited on September 4, 2015)
- Liga za ľudské práva (Human Rights League): <http://www.hrl.sk> (last visited on September 4, 2015)
- Slovak Humanitarian Council: <http://www.shr.sk> (last visited on September 4, 2015) or <http://www.nasiutecenci.sk> (last visited on September 4, 2015)
- Nadácia Pontis (the Pontis Foundation): <http://www.pontisfoundation.sk> (last visited on September 4, 2015)

CONCLUSION

In Slovakia, the culture of pro bono continues to grow through facilitators such as pro bono clearinghouses. The Pro Bono Advocacy program provides many opportunities for lawyers interested in providing pro bono services to the non-profit sector. This initiative has united international law firms, as well as local law firms and individual practitioners. Lawyers interested in providing pro bono services can either enroll with the Pro Bono Advocacy Project or contact one of the local NGOs specializing in specific areas of law.

September 2015

Pro Bono Practices and Opportunities in Slovakia

This memorandum was prepared by **Latham & Watkins LLP** for the **Pro Bono Institute**. This memorandum and the information it contains is not legal advice and does not create an attorney-client relationship. While great care was taken to provide current and accurate information, the Pro Bono Institute and Latham & Watkins LLP are not responsible for inaccuracies in the text.

³⁴ See PONTIS FOUNDATION: ABOUT THE PRO BONO ADVOCACY PROGRAM, available at <http://www.nadaciapontis.sk/O-programe> (last visited on September 4, 2015).