

FREE LEGAL AID IN SLOVAK REPUBLIC

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 VIA IURIS

Constitution of the Slovak Republic

Right to a fair trial:

- Right to seek justice at the independent and impartial judiciary or at other institution (if stated in law)
- Any administrative decision concerning fundamental rights and freedoms may not be excluded from judicial review
- No one can be deprived of his/her legal judge

Right to a fair trial involves access to legal aid.

Until 2005 (2015): judicial discretion, only general rules, different courts – different practice.



2005: Centre for Legal Aid

- 2005, state budgetary institution established by the Ministry of Justice
- Bratislava + 14 other local offices + 28 consulting offices
- 160 employees (lawyers, first contact staff, assistants, call center)
- 2019: 168.000 inquiries (69 % bankruptcy issues), 20.000 applications (80 % bankruptcy cases)
- Almost 700.000 euro per year = attorney's fees
- <https://www.centrumpravnejpomoci.sk/en>

Centre for Legal Aid: mission

- To provide legal assistance and aid in defined areas to people who cannot use legal services of attorneys:
 - *Civil law matters*
 - *Family disputes*
 - *Labour disputes*
 - *Commercial law matters*
 - *Administrative judiciary cases*
 - *Bankruptcy of natural persons*
 - *Asylum seekers, administrative expulsion, detention of third-country nationals*
 - *Representation at the Constitutional court*
 - *Cross-border disputes*

NO: *criminal proceedings*

Centre for Legal Aid: conditions

- Material need: his/her income may not exceed 1,4 (1,6) times the amount of the living wage (2020: 301 EUR, resp. 344 EUR)
- The dispute is not apparently unsuccessful (the case is not time-barred, right is not expired...)
- The value of the dispute must exceed the value of minimum wage (2020: 580 EUR)

Centre for Legal Aid: procedure

- Application for legal aid – submitted on a prescribed form
- Decision within 30 days
- Legal aid provided by in-house lawyers / by attorneys
- Mediators
- Translators, interpreters
- Preliminary consultations (anybody, max. 1 hour, 4,50 EUR)
 - *Basic legal advice*
 - *Explanation of the procedure / conditions for the free legal aid within the Centre*
 - *Guidance in completing an application*

Centre for Legal Aid: weak points

- Staff turnover (fluctuation)
- High bureaucracy in procedure
 - *Decision-making procedure on application is an administrative procedure*
 - *Clients are obliged to provide certificates and documents provided by other state offices and institutions (income, tax declaration...)*
 - *Annual reassessment of compliance of applicants*
- Reluctance of lawyers to take over the cases (very low attorney's fees, legal requirement for all lawyers)
- Rather strict income conditions (very low threshold) for applicants

2017: Legal aid to victims of crimes

- Victims of violent crimes, particularly vulnerable persons – children, elderly people, disabled people, victims of trafficking, victims of torture by close person...
- Aid includes:
 - *Legal aid to victims*
 - *Compensation to victims*
 - *Right to information (esp. on criminal proceedings, contacts on NGOs providing legal or other assistance)*
 - *Right to a professional help (e.g. psychological...)*
- Legal aid provided by:
 - *Centre for Legal Aid (only non-criminal proceedings)*
 - *NGOs (more than 35 accredited)*
 - *attorneys*
- https://www.justice.gov.sk/SiteAssets/Stranky/Ministerstvo/OBETE%20TRESTNÝCH%20CINOV/Obete-trestnych-cinov/brozura_prava_obete.pdf

Criminal proceedings

- Act 301/2005
- Accused
 - *„accused who does not have sufficient means to pay the costs of the criminal proceedings“*
 - *Right to a free legal aid (or legal aid for reduced remuneration*
 - *Decided by court, prosecutor...*
 - *Attorneys appointed randomly and evenly from a special list maintained by the respective district court*

Other proceedings – special provisions

- Constitutional Court (Act 314/2018)
 - *Constitutional Court may appoint a lawyer if justified by property relations of applicant*
 - *The claim may not be manifestly unsuccessful*
- Administrative judicial proceedings
 - *NGOs providing legal assistance in judicial asylum proceedings (must be a lawyer)*
- Slovak Bar Association
 - *More than 5.600 attorneys*
 - *Once-twice a year: „open door day“*
- NGOs
 - *Pro Bono program – Pontis Foundation*
 - *Other NGOs – depending on topics (women’s rights, environment...) – private finances*
- Legal clinics at Law Schools (Trnava, Bratislava)

Summary

- Criminal proceedings:
 - *Accused: attorneys, Criminal Procedure Code*
 - *Victims: NGOs, Centre for Legal Aid, attorneys*
- Other proceedings
 - *Centre for Legal Aid*
 - *NGOs (asylum seekers – judicial proceedings)*
- Constitutional Court
 - *Attorneys appointed by the Constitutional Court (based on property situation)*
- Attorneys
 - *Charity is an inevitable part of their profession*

Thank you.

