

Country report on the occasion of 53rd European Conference of Presidents of Bar Associations and Law Societies in Vienna on 28th February 2025

Slovak Bar Association

- **Governing bodies and statistics**

The Slovak Bar Association Presidency elected in 2021 continued its mandate under the leadership of President Martin Puchalla.

Currently the number of registered lawyers is 6697 (increase by 96) and there are 1553 trainee lawyers (decrease by 133). There are also about 245 registered lawyers with foreign status (EU lawyers, foreign lawyers from OECD countries and international practitioners from WTO countries) (decrease by 3).

- **Interinstitutional dialogue**

The Slovak Bar Association is an independent and apolitical organization. It aims to contribute to the improvement of the legal environment, respect for the law and effective protection of the rule of law in all circumstances. In order to meet these goals, the Bar strives to hold a professional dialogue with representatives of all relevant institutions with an impact on the rule of law (Ministry of Justice, Ministry of Interior, National Council of the Slovak Republic Constitutional and Legal Committee of the National Council, Supreme Court, Supreme Administrative Court, Constitutional Court, Prosecutor General, Ombudsman, etc.). In the past year, the Bar has entered into a bilateral agreement on mutual cooperation with the Association of Judges in Slovakia and Union of in-house lawyers.

- **Independence of the legal profession**

Slovak Bar Association considers it of crucial importance that all legal professionals are free of attacks, harassment and threats. In the press release of 4 April 2024, the Bar expressed its long-term position: *Slovak Bar Association is consistently critical of a so-called media justice, when the guilt or innocence, or other forms of failures are addressed through press conferences. When a judicial power failure occurs, it can, and it should be followed by legal implications in the form and scope provided by the law. In political struggle, the reflection on these matters can and should be accompanied by substantial criticism, even a harsh one. However, in a democratic society verbal attacks of executive power directed against judicial power should not occur. It is a serious interference to independence of judicial power and impeachment of one of the most important pillars of the rule of law. Therefore, the Bar denounced such acts in the past and we feel the urge to speak again today. We appreciate the reflection of the Minister of Interior, who in the past publicly apologized for similar political statements on judicial power.*

Slovak Bar Association initiated a proposal presented to the supreme judicial institutions and the Ministry of Justice aiming at unequivocal anchoring of the protection of independence of lawyers in the Constitution of the Slovak Republic in 2023. In 2024 the Bar continued in these efforts.

- **The voice of Slovak lawyers heard through anonymous surveys**

The Slovak Bar Association gathers data related to current topics via online survey conducted among its members. The data serves as a knowledge base and background for adopted positions of the Bar.

The Bar has carried out a second internal survey regarding the legality of the actions taken by law enforcement authorities (LEA). The survey confirmed that illegal coercion is often part of the practice

of LEA (up to 64%), especially in pre-trial proceedings. Compared to the internal survey conducted in 2021, this is only a slight decrease in the perception of this undesirable phenomenon. The Slovak Bar reiterates in the context of the survey that criminal activity can be investigated only by legal means. Otherwise, there is a risk that not only specific proceedings will be thwarted, but also, ultimately, people's mistrust of the rule of law would deepen.

The Bar also conducted a second survey on the new court map, i.e. reform of the organization and jurisdiction of courts in Slovakia. The evaluation of the reform was carried out in a relatively short time since it took effect (less than a year). Nevertheless, the answers confirmed the assumption that the adopted change of the judicial system would worsen the access to courts. Most of the lawyers stated that the court map reform did not bring faster and better decision-making, nor did they perceive an increase in transparency, which was one of the main goals of the reform. However, the expectations that the court map reform would have a significant impact on the daily practice of lawyers were confirmed to a lesser extent than expected. The justice system currently faces the consequences of the new court map. The publicly presented idea behind the new court map was to tackle the issue of corruption in courts. However, legal professionals considered it unrealistic to justify the reform of the judicial map by the goal of breaking the existing corruption ties. The causes and effects in this respect were misidentified. The reform of the court map resulted in greater court delays, lower competence, organizational and technical complications, reduction in the quality of decision-making, the burden on judges increased. The effectiveness of the justice system was reduced by changing the statutory judge, long-term specialized judges decide cases from other areas of expertise due to the moving of the court workplace premises.

Slovak Bar has conducted a survey on the use of AI tools and proposed to organise a roundtable at the beginning of 2025 for supreme judicial institutions, ministry of justice, judicial academy and faculty of law to discuss the best approach to use of AI in justice sector.

Another survey among lawyers focused on the level of interest in accepting law students as interns in the law offices. It resulted in the execution of a project in cooperation with the law faculties that enables students to undertake internship as one of the courses at the law faculty.

In June 2024, the Slovak Bar Association conducted a survey among its members on the methodology for calculating alimony prepared by the Ministry of Justice. The purpose of the survey was to obtain first-hand information on practical experience with the methodology used in court proceedings. The answers showed some positive aspects, mainly simplification of alimony calculation. However, there were many comments which pointed out that the methodology is used in a way too formal and does not reflect children's real needs or financial situation of their parents. Recommendations resulting from the survey suggest elimination of too formalistic application of the methodology. Judges should pay more attention to individual circumstances and adjust decisions accordingly. The methodology should be applied only as a directive and not a binding measure. Otherwise, a risk of unjust decision is imminent.

Slovak Bar Association therefore recommended to the Ministry of Justice that a clear statement should be issued to the courts explaining the advisory character of the methodology or to remove the methodology directive from the website. It may also affect decision-making of judges who deal with cases they are not specialised in after the implementation of the new court map.

In November 2024, the DEKK Institute carried out a survey among lawyers in cooperation with the Slovak Bar. The study was inter alia based on the results of public opinion research, which was carried out by the FOCUS agency for the DEKK Institute in September 2024. The results of this research showed the following order of trustworthiness/credibility of legal professions among citizens: 1. notary, 2. lawyer, 3. prosecutor, 4. judge, 5. police officer (investigator), 6. bailiff.

In recent years, on average, 25-30% of citizens trust the courts. Lawyers who responded to the survey were more sceptical when perceiving the credibility of the courts by citizens and estimated that only 9% of Slovaks actually trust in them. It is therefore interesting that although lawyers trust Slovak courts (69.4% trust them completely or to some extent), they do not think that citizens do.

More than 80% of respondents confirmed that the profession of a lawyer is a profession with a higher social mission, which should contribute to strengthening of justice in the society.

Lawyers agreed that the higher the social responsibility of the profession is, the more important it is to act in conformity with ethical rules. Therefore, it should be a standard in the legal profession to consider that it is important to act ethically, even if this may lead to a more difficult path in order to achieve one's goals. Ethical action is therefore a source of prestige and honour in the profession. The results of the survey showed that more than one third of respondents consider this attitude to be common. However, almost 60% said they encounter this approach only at times.

The survey also focused on what lawyers expect from the Bar. The majority of respondents (66.7%) prefer that the Slovak Bar Association does not enter into political and ethical disputes in public outside the field of legal profession.

- **Legislative activities**

The Slovak Bar Association is actively involved in the legislative processes. Among other things, comments and position papers prepared by the working groups of the Bar are prepared in response to legislative proposals, and representatives of the Bar also participate in follow up meeting in which the parties have the opportunity to discuss the intent of the proposal or comments and to seek common or compromise solutions. Over the past year, the Bar sent comments on several legislative proposals, but the amendment to the decree on lawyers' fees and compensation, which directly affects every active lawyer, and the reform of the criminal codes resonated the most.

In January 2023 the Slovak Bar Association submitted to the Ministry of Justice a proposal to amend the Regulation on Lawyers' Fees and Compensations. The aim of the proposed amendment was mainly to address the amount of compensation for ex offa defense and remuneration for providing legal aid. The amendment to the Regulation, which is effective from the beginning of 2024, took some suggestions of the Bar into account, but only to a limited extent – mostly in parts that do not increase state budget expenditures. As a result, despite many improvements, the decree will not adequately reflect the level of inflation and the real increase in the costs of legal representation over 14 years.

Another important legislative topic within the Slovak Bar, as well as in public, was the amendment of criminal codes. In February 2024, the Parliament approved an extensive amendment to the Criminal Code and Criminal Procedure Code. The President of the Slovak Republic submitted a proposal to the Constitutional Court to review the compliance of the adopted law with the Constitution. The Slovak Bar Association, as the professional organization of lawyers, was invited by the Constitutional Court to provide an opinion. The Bar's position was a general reflection of its public statements and long-term positions in criminal law for more than 20 years. Despite that the opinion of the Slovak Bar Association became the subject of media (mis)interpretation and was accused of siding with the ruling party. On the contrary, the Bar criticized the fast-track legislative procedure applied in this reform right from the start. At the same time, together with the majority of professional public, the Bar has long and consistently pointed out that the criminal policy of the Slovak Republic is disproportionately strict.

As for the business environment, the Slovak Bar advocates for involvement of lawyers in various procedures in order make use of their professional qualities and to avoid that non-professional entities step in the process to eliminated mistakes but also to fasten the procedure. In this respect the Bar was represented in the working group of the Ministry of Justice on the new system of registrations to the Companies/Commercial Register. The entries in the register are made by notaries based on the documents drafted by lawyers and it is expected to be more effective, to eliminate the incentives for corruption due to the length of the proceedings and to stop the entities that provide related services illicitly.

The Slovak Bar Association continued the dialogue with the Land Registry Office to improve the access to lawyers to the registry data.

In order to improve the system of allocation of cases of legal aid representation, the Legal Aid Centre and the Bar created a bilateral working group in 2024 to analyse the issues both sides consider relevant.

As for the court fees and costs related to the court proceedings, the Bar pointed out that the newly adopted transaction tax applied to all business transactions will directly increase the amounts of fees and costs as most of the clients pay and receive these amounts via their lawyer. These amounts are either free from tax or decided on by court will change their value after their transfer.

- **Fast-track legislative procedure**

In the past years, Slovak Bar Association repeatedly and critically addressed the excessive application of fast-track legislative procedure. This practice is particularly problematic when applied to amendment procedures in the case of key legal codes.

Among other fast-track legislative procedures, the Government of the Slovak Republic approved the draft Act on Measures Improving Security Situation as well as the proposal for applying an abbreviated legislative procedure. Article VII of the draft Act contained proposal for amendment to the Criminal Code. This fact was openly objected by Slovak Bar Association also in the case of governmental amendment to the Criminal Code and Criminal Procedure Code that led to the constitutional review: *"We considered necessary to express similar position to abovementioned legislative proposal, so called lex assassination. Slovak Bar fully respects intention of the Government to find appropriate solutions for improving security situation in Slovakia as well as a legitimate protection of highest state officials. It equally respects that adoption of certain security measures in an abbreviated*

legislative procedure may indeed come into consideration. However, it was not the case of proposed amendment to the Criminal Code and some other relevant parts of the draft Act.

According to the Slovak Bar Association there were also substantial professional objections to the draft. Despite the absence of standard legislative procedure, the Bar tried to address these concerns.

Firstly, the Bar has fundamental reservation to the draft amendment to the Criminal Code. The core of the proposal is to provide for possibility to use criminal law measures for nonpayment of pecuniary fines imposed by State authorities. In our opinion, this is a typical example of breaching the ultima ratio principle when using the criminal law measures for goals which can be achieved by other measures (in this case, standard decision enforcement according to the Law Enforcement Code).

Secondly, the Bar objects to the draft article on electronic communications, which shall enable law enforcement authorities to demand sensitive information from mobile network operators also when investigating minor offences. According to our opinion this is a disproportionate intervention.”

- **Supporting arbitration to unburden the courts**

Slovak Bar actively promotes arbitration by organising arbitration conferences and thanks to the functioning of the Arbitration Court of the Slovak Bar Association (<https://info.sak.sk/sud/>).

- **Cooperation with law faculties and schools**

Slovak Bar Association appreciates recently enhanced cooperation with law faculties in Slovakia. The Bar signed memoranda of cooperation with Deans of all law faculties. The Bar aims to contribute to fulfilling ideas expressed in memoranda and during the past year the Bar organised interactive discussions of Bar leaders with the law students on the academic grounds of law faculties. Many students used the opportunity to ask questions regarding the state of justice and democracy, issues of professional ethics but also more practical questions regarding current challenges of modern legal profession, the impact of AI on legal services, the market of legal services, etc.

In cooperation with the Faculty of Law, the Slovak Bar Association lately introduced a new internship programme for law students putting together legal practitioners and law firms wishing to provide an opportunity to students who appreciate a chance to gain practical experience in the law firm. The pilot project started in Autumn 2024 with 50 students.

In order to raise awareness about rule of law issues among younger people, the Bar initiated a project of pro bono lectures at primary and secondary schools. The call for volunteer was published in December 2024 and 60 lawyers signed for this activity.

- **MPs proposal to recognise the PhD title for lawyer’s exam**

In relation to the adequate preparation of trainee lawyers for the profession of a licenced lawyer, Slovak Bar appealed to the Parliament not to accept the MPs proposal to recognise the PhD title for lawyer’s exam in the presented wording due to being substantively incorrect. The bar exam is an important element of the regulation of the legal profession and one of the components of the system ensuring the level of standards of legal services provided. This is the initial and basic quality guarantee of the legal service provider in relation to clients. Legal profession that meets regulatory requirements contributes to the correct application of the legal system and more effectively ensures independent access to justice. On the contrary, the weakening of the internal standard of the legal profession is not beneficial for the beneficiaries of legal services, who’s right to legal aid is guaranteed in Art. 47 par. 2 of the Constitution of the Slovak Republic. At the same time, we point out that the submission of such a proposal without a professional and objective discussion is not justified.