Legal aid

Slovacia

1 What costs are involved in legal proceedings and who normally has to bear them?

The costs of proceedings are, in particular, the expenses of the parties and their representatives, including court fees, the lost earnings of the parties and their legal representatives, the cost of gathering evidence, notarial expenses and fees for acts executed as a court commissioner, fees and expenses of the executor in inheritance proceedings, interpreting fees and representation fees where representation is by a lawyer.

The parties to the proceedings pay the costs of the proceedings that they personally incur and those of their representatives. Shared costs are paid by the parties in proportion to their involvement in the case and the proceedings.

Where parties are assigned a lawyer to represent them, the State covers the lawyer's expenses and representation fee.

In inheritance proceedings, the notarial fees and expenses are paid by the heir, provided the estate is not insolvent. If there are several heirs, they pay these costs in proportion to the net value of their share of the estate. In other cases these costs are borne by the State.

2 What exactly is legal aid?

The term 'legal aid' is defined in Act No 327/2005 on the provision of legal aid to persons in material need and amending Act No 586/2003 on the legal profession and amending Act No 455/1991 on trading activity (the Trading Act), as amended by Act No 8/2005 (the 'Legal Aid Act'). Section 4(a) of the Legal Aid Act reads as follows: '*(L)egal aid means the provision of legal services to persons entitled under this Act in respect of the exercise of their rights, including, in particular, legal advice, assistance with out-of-court proceedings, including the facilitation of dispute resolution through mediation, the drawing up of submissions for courts, representation in court proceedings and the performance of acts in connection therewith, as well as defrayment in full or in part of the associated costs.*.'

For more information, see the Legal Aid Centre's website, which is also available in English.

3 What are the requirements for legal aid to be granted?

The Legal Aid Centre also provides preliminary consultation.

Any natural person can make use of preliminary consultation. Preliminary consultation focuses on:

(a) explaining the conditions under which legal aid is granted;

(b) providing basic legal advice;

(c) pointing out the risk of missing a deadline in a particular case;

(d) assisting in filling in an application for legal aid.

A preliminary consultation is provided for one legal case, once only and for no more than one hour. A fee of EUR 4.50 for the provision of one preliminary consultation is laid down by the Legal Aid Act.

Under the conditions laid down in the Legal Aid Act, in the case of in-country disputes, legal aid may be granted to any natural person, whereas in the case of cross-border disputes it may be granted only to natural persons domiciled or habitually resident in a Member State (this includes all Member States of the European Union except Denmark).

'Eligible persons' are natural persons granted entitlement to legal aid by a final decision of the Legal Aid Centre upon proving that they meet the conditions laid down in Section 6 of the Legal Aid Act.

'Foreign eligible persons' are natural persons who meet the conditions laid down in the Legal Aid Act for entitlement to legal aid in a cross-border dispute and whose entitlement has been granted by a final decision of the Legal Aid Centre.

'In-country eligible persons' are natural persons who are permanently or temporarily resident in the Slovak Republic and seek legal aid in another Member State in which the competent court is handling the cross-border dispute.

Natural persons are entitled to receive legal aid if they simultaneously meet the following three conditions (These conditions must be met by natural persons in the case of in-country disputes; personal insolvency proceedings are not covered by these provisions.):

(a) the natural person is in material need, i.e. they are in receipt of a material-needs allowance and the associated benefits, their income does not exceed 1.4 times the subsistence minimum (or does not exceed 1.6 times the subsistence minimum where legal aid is provided with the applicant's contribution under the conditions laid down by the law) and they are unable to access legal services using their own assets (the documents proving the level of income may not be more than three months old);

(b) the dispute is not manifestly without merit;

(c) the value of the dispute exceeds the value of the minimum wage laid down by the relevant legislation (this does not apply to disputes where the value of the dispute cannot be determined, for example when parental rights and obligations in respect of minors are being decided upon).

4 Is legal aid granted for all types of proceedings?

Under the Legal Aid Act, legal aid may be granted in civil law, labour law and family law cases, debt discharge proceedings under special legislation, in proceedings before an administrative court and, in such cases, also in proceedings before the Constitutional Court of the Slovak Republic ('in-country disputes').

In cross-border disputes, legal aid may be granted under the Legal Aid Act in civil law, family law, commercial law and asylum cases, in administrative expulsion proceedings, in proceedings relating to the detention of a third-country national, in proceedings relating to an applicant's detention, in proceedings relating to the granting of asylum and, in such cases, also in proceedings before an administrative court and proceedings before the Constitutional Court of the Slovak Republic, and to persons in respect of whom the validity of a labour-law act has been suspended under special legislation in proceedings concerning the submission of an application for an emergency measure.

Matters of criminal law are outside the scope of the Legal Aid Centre.

5 Are there special procedures in cases of need?

Yes, where applicants are at risk of missing a deadline, they may apply to the Legal Aid Centre for provisional legal aid at the same time as submitting their application; they have to demonstrate the risk of missing a particular deadline. The Legal Aid Centre then takes a decision without undue delay on granting provisional legal aid, before taking its decision on granting legal aid entitlement.

6 Where can I obtain a legal aid application form?

Applications are available on the Legal Aid Centre's website and in any Legal Aid Centre office.

7 Which documents need to be submitted with the legal aid application form?

These must be documents that substantiate the information given in the application form and prove the applicant's material need (documents proving material need may not be more than three months old).

8 Where do I submit my application for legal aid?

At the Legal Aid Centre office nearest to where the applicant is permanently, temporarily or habitually resident. For more information, see the Legal Aid Centre's website.

9 How do I find out whether I am entitled to legal aid?

The Legal Aid Centre decides whether to grant legal aid within 30 days of receiving the application (60 days in the case of cross-border applications); the decision is sent by registered mail and delivered to the addressee in person, or it is sent electronically with an authenticated electronic signature using the applicant's activated electronic mailbox.

10 What should I do, if I am entitled to legal aid?

Upon invitation by the Legal Aid Centre, applicants must conclude a legal aid contract directly with the Centre or with an appointed lawyer and grant power of attorney to the Centre or appointed lawyer for the acts associated with the granting of the legal aid within three months of the final decision granting legal aid being issued.

11 Who chooses my lawyer, if I am entitled to legal aid?

In the decision granting entitlement to legal aid, the Legal Aid Centre appoints a lawyer, a legal adviser from the Centre or a mediator to represent the eligible person in court or in a mediation procedure where necessary to safeguard their interests.

12 Does legal aid cover all the costs of the proceedings?

The Legal Aid Centre's decision either grants full entitlement to legal aid, entitlement to legal aid with the applicant's 20% contribution towards the legal costs, or it refuses entitlement.

13 Who bears the other costs, if I am entitled only to limited legal aid?

Not applicable.

14 Does legal aid also cover appeals?

Yes, legal aid is also granted for ordinary and extraordinary appeal proceedings and enforcement proceedings.

15 Can legal aid be withdrawn before the proceedings are concluded (or even revoked after the proceedings have terminated)?

Yes, legal aid can be withdrawn before proceedings are brought to a final conclusion. The circumstances under which legal aid may be withdrawn are governed by Section 14 of the Legal Aid Act.

The Legal Aid Centre may decide to withdraw the legal aid in the following circumstances:

- if the eligible person fails to cooperate with the Centre or appointed lawyer as required;
- if, in the course of the legal aid being provided, there are changes in the eligible person's income and financial circumstances and he or she no longer meets the condition laid down in Section 6(1)(a) for the legal aid entitlement to continue;
- if the eligible person fails to conclude a contract with the appointed lawyer or fails to grant power of attorney to the Centre or the appointed lawyer within three months of the final decision granting legal aid being issued;
- if it emerges that the applicant was granted entitlement to legal aid on the basis of false or incomplete information;
- or if the eligible person fails to act on the request referred to in Section 13(3) (i.e. the Centre's request to be provided within eight days with evidence demonstrating that the eligible person still qualifies for legal aid).

16 Can I contest a refusal to give legal aid?

Where the procedure has been discontinued pursuant to the Code of Administrative Procedure (for example because of a failure to submit the required documents), it is possible to lodge an appeal in administrative proceedings within 15 days of receiving the decision.

Where the procedure or, more precisely, the application for legal aid was not granted pursuant to Act No 327/2005 as amended (for example because the dispute is manifestly without merit or because the applicant does not meet the income criterion), it is possible to lodge an appeal with an administrative court in the form of an administrative-law action within 15 days of receiving the decision.

A decision refusing legal aid must contain the particulars stipulated in special legislation (i.e. Administrative Procedure Act No 71/1967 (Code of Administrative Procedure), as amended), and it must inform the applicant that if there is a change in their income or financial circumstances, they may re-submit an application for the same case only six months after the decision is issued.

17 Does the request for legal aid have the effect to suspend the limitation period?

In general, a request for legal aid does not have the effect of suspending the limitation period. The only exception is the time-limit for bringing an action in an administrative court. If, before bringing an action, an applicant asks the Legal Aid Centre to provide a lawyer under special legislation, the time-limit for bringing an action in an administrative court is suspended from the date of such request until the final decision on the request is issued.

Where there is a risk of missing the time-limit and where the request was not obviously submitted under time pressure (on the last day of the time-limit), the Legal Aid Centre may decide that entitlement to legal aid in respect of a specific procedural act (such as bringing an action, participating in a hearing, etc.) should be provisionally granted even before the request for legal aid has been assessed; this could even be done repeatedly for various procedural acts, provided that it is possible to accurately identify the procedures and rights that may fall foul of the statute of limitations, and provided that the documentation and evidence submitted with or specified in the request make it possible to perform the procedural act concerned.

Pursuant to the Act, the Centre may also charge *ex-post* the costs of the proceedings in the amount determined under special legislation if it follows from the assessment of the conditions for entitlement to legal aid that the applicant does not meet those conditions.

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