

2021 General Assembly as a hybrid event

In June 2021, the General Assembly of Lawyers (GA) was held. While preparing the GA the Bar had to respond to ever-changing measures and hardly predictable conditions related to COVID-19. The Bar Council of the SBA decided that the first round of elections will be held electronically for the first time. After successful primaries, the GA took place in a hybrid form. Lawyers could take part in the GA in person on the spot or watch it remotely via online live broadcast. Everyone could vote on changes to the Bar regulations and cast their vote in the second round of elections to the governing bodies, regardless of the form of participation. The remote participants were required to verify their identity by entering the four-digit code sent to them. Of all the lawyers registered in the SBA, 1,138 lawyers took part in the GA and voted. 297 lawyers attended the event in Bratislava in person, the others took the opportunity to take part in the conference remotely. We are very pleased that we managed to organize and carry out the GA in a new hybrid form without any technical shortcoming.

The president and other members of the elected governing bodies currently represent 6 437 lawyers (42% women) and 1 818 trainees (55% women) associated in the SBA.

Rule of law culture: interaction with public institutions

Slovak Bar Association expresses its concerns about the level of stakeholders' involvement in the legislative process. These concerns are shared with judicial institutions, academic bodies and human rights institutions. There is a tendency to avoid discussion with stakeholders if there is a significant change proposed that would most likely lead to opposing arguments. However, the Bar considers it crucial to actively maintain external relations so that the lawyers' self-government is a lively part of public life and discussions.

In this respect the Bar initiated a creation on professional forum for discussion among the representatives of the highest state judicial bodies and institutions, as well as with representatives of other legal professions or the academic legal community. The Bar equally appreciated meetings with the President of the Slovak Republic and the Prime Minister, at which current topics of legal profession and self-government were discussed. The Bar maintains contacts with the management of law faculties in Slovakia and last year the Bar supported the protest of university students for the protection of a university self-government. SBA also supports mutual cooperation by offering the opportunity for students to get involved in the Bar projects, e.g. in Legal Aid Day in April 2022.

The Bar considers an important milestone the establishment of a constructive professional cooperation with the Constitutional Court of the Slovak Republic, the Supreme Court of the Slovak Republic, the Supreme Administrative Court of the Slovak Republic and General Prosecutor's Office of the Slovak Republic. The Slovak Bar Association invited the highest representatives of abovementioned judicial institutions in Slovakia to a round table. After a fruitful discussion the representatives of these institutions signed a joint statement:

"We, the undersigned representatives of the judiciary, in view of the challenges our society has been facing in recent months, bearing in mind that trust in institutions is the basis of the stability and prosperity of the state, would like this statement to reassure citizens that institutions, which we represent, on a daily basis pursue their mission adhering to values, lawfully and strictly in accordance with the Constitution and applicable laws. We do not object to public scrutiny but it should remain scrutiny and not public coercion. Institutions are made of people who are fallible but for that very reason the legal system has been developing its checks and balances

and was crowned with the protection of fundamental rights and freedoms, guaranteed both by the Constitution and at the international level. This system, despite its faults, is functional and we want to assure all the citizens of Slovakia that we use all legal instruments so that we can live in a country where law, morality and justice prevail. Any systemic changes must be approached with caution and after a thorough professional discussion so as not to ultimately reduce the quality of protection of citizens' rights."

Since the first round table meeting in September 2021, another meetings took place early this year on current legislative topics - a reform of the court network ("new court map"), an amendment of criminal codes and a proposal to introduce a trade license for the provision of legal services.

The Slovak Bar Association strives not only to maintain and improve dialogue and the level of communication externally, but also internally. In the past, it has started to use a new tool to gather information and opinions on various topics from its members. The surveys conducted in the form of questionnaires (instead of a call for comments) attract significant number of respondents and thus the Bar gained a better picture of the opinions of its members on topics that we consider important. The Bar conducted an internal survey concerning the legality of the procedures of authorities active in criminal proceedings, i.e. the police and the prosecutor's office. The objective of the survey was to find out what experience lawyers have with law enforcement authorities. The recent survey on the use of arbitration in legal practice showed that the use of arbitration clause increases both in domestic and international business relations and that the Arbitration Court of the SBA is perceived as the most transparent.

Legislative initiatives

The SBA responds to legislative initiatives that could affect the independence of lawyers or the Bar itself. For this purpose, the SBA is actively involved in the legislative process in many areas and maintains a dialogue with representatives of both the legislative and the executive bodies.

In the past period the SBA reiterated its call for the adoption of changes in criminal law as regards the exercise of the institution of detention. It must be recalled that these are people who are not convicted and are presumed innocent. Excessive use and duration of detention and deaths in police custody are unsustainable. It is a success of the Bar alongside with other stakeholders that an amendment to the Criminal Procedure Code in 2021 reduced the duration of collusive custody from 7 to 5 months. Nevertheless, this amendment as a whole does not fully meet Bars ideas about a real change in the criminal policy. At the beginning of this year, a preparation of further amendment to the Criminal Procedure Code was announced. However, in addition to several positive changes, which may include strengthening the procedural position of the injured party or shortening the term of detention to 3 months, we perceive very sensitively and negatively efforts to strengthen the position of state power at the detriment of citizens' and defence rights. We are convinced that speeding up pre-trial proceedings can be achieved by other means while preserving fundamental rights, the rule of law and the system of checks and balances.

The other major issue of the past period was the proposal to reform the "court map", adopted in a revised version in April this year. While SBA supported the basic goal of the reform to improve the quality of the judiciary, both in terms of reducing the number of courts and enhancing the specialization of judges, including the completion of the administrative justice system, there were also many radical changes that the Bar considered important to be revised. To this end, the Bar have devoted a great deal of energy and time to preparing factual and professional comments that we have made in the legislative process. At the same time, the Bar (together with other key judicial institutions called intensively upon the Ministry of Justice to achieve the widest possible professional agreement on the basic principles of the reform. A number of proposals submitted in the official interdepartmental comments procedure to the draft of the court map had not been heard and had not undergone regular assessment procedure. Nevertheless, today we sincerely wish the effects of the reform of the judicial map to be only positive and to bring about a real improvement in the functioning of the courts.

At the beginning of 2022, the SBA faced the parliamentary proposal for the creation of a trade license for the provision of legal services. Representatives of the Supreme Court, the Supreme Administrative Court, the General Prosecutor's Office and the SBA expressed the following unanimous opinion on this proposal: *"We categorically disagree with the establishment of a parallel system of legal service providers in the form of a trade license, in addition to the legal profession. It is a step back in the protection of quality and imposition of*

ethics in the provision of legal services to citizens. We consider the proposed change to be unfounded and reject it as a whole." The proposal was not approved by the National Council and sent for revision.

In addition to involvement in active legislative procedures, the SBA repeatedly draws attention to negative phenomena recurring in practice which directly affect the basic principles of legal profession. We perceive above all that the purpose of defence is still misinterpreted and misunderstood by the media and society. Unfortunately media often use expressions that intensify the wrong impression of lawyers and the concept of defence of rights. Fulfilment of lawyer's obligation to represent a client does not mean that the lawyer approves of the client's doing and lawyers cannot be harassed or prosecuted for the fulfilment of their statutory and constitutional duties. This was confirmed by the Constitutional Court of the Slovak Republic and Supreme Court of the Slovak Republic in several cases.¹

Venice Commission asked to assess the efficiency of the Slovak Bar Association

Ministry of Justice requested the Venice Commission to assess whether it would be in accordance with the rule of law principles if the Bar was fragmented by the government on territorial or sectoral principle and if the disciplinary competence was transferred from the Bar to the newly established Supreme Administrative Court. The Venice Commission stated that one of the main functions of the Bar is its representative role - it is entrusted with the task of protecting the rights and interests of its members, even before the state. It had previously expressed preference for disciplinary proceedings to be conducted within in the Bar itself. The Venice Commission stated that the Minister did not provide the rapporteurs with adequate evidence during their visit to Bratislava that would suggest that the Slovak Bar Association was not undertaking its obligations properly. The Slovak Bar Association should be independent from the State, or at least to enjoy a significant autonomy. The Venice Commission also stated that there were no visible indications that the Bar was overburdened with its tasks or unable to provide quality services to its members therefore it recommends not to pursue the creation of multiple Bars based on voluntary membership. We are pleased that the Venice Commission did not identify any shortcomings in the functioning of the Slovak Bar Association in its report.²

Social responsibility and legal aid

SBA and its members respond to the social situation and implement projects and activities that are desirable in terms of goals, values and current needs of our society. The past period was marked above all by two circumstances - the COVID-19 pandemic and the recent war in Ukraine.

Immediately at the outbreak of the pandemic, the Bar organized a "Legal Aid in Quarantine" project to offer legal advice by e-mail to citizens. As questions from citizens, businesses, public authorities, local and regional self-government increased in relation to the legislation governing the fight against the COVID 19 pandemic, the Bar responded by introducing a new professional specialization of lawyers "COVID19-related administrative law" in an effort to improve public access to legal assistance within this area. Lawyers could add this label to their profile and thus make it easier for citizens to find a lawyer effectively for their legal problem. The Foundation of the Slovak legal profession supported materially and financially medical facilities and social services facilities.

Given the difficulties to access lawyers by domestic violence victims during COVID-19 period, the Bar decided to organize a year-long program in 2021 of free legal aid to victims by trained lawyers. Involved lawyers participated in the Council of Europe HELP tutored course on Violence against women and domestic violence. The Bar created an awareness-raising campaign in social media and website: <http://advokatinavasejstrane.sk/>

¹ **Examples.** A lawyer has been kept in collusive custody for 565 days and the accusation was based on the fact that he provided defence to members of organised crime group. Lawyers were detained by National Criminal Agency without proper grounds. Lawyers were put under surveillance after taking over defence of certain persons. Hate speech against lawyers performing their profession, coming even from politicians. Statutory guarantees for protection of confidentiality during searches of offices is often breached in practice by Police and prosecutors. Several defence counsels have drawn Bar's attention to the tendency to criminalize lawyers' activities, not only in the scope of the lawyer's activities in criminal proceedings, but also in representing clients' rights in all types of court proceedings and other proceedings before public authorities.

² Opinion available here: [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2021\)042-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)042-e)

The Bar took a similar step in February this year, when displaced persons began to arrive in Slovakia after the outbreak of war in Ukraine. We have created a new professional specialization for lawyers and at the same time a new publicly available list of lawyers who are willing to provide pro bono legal aid to persons from Ukraine. The Bar also promptly organized two training events for lawyers on the topic of asylum and migration law, including the newly adopted Slovak legislation related to situation in Ukraine. We were pleased with the great interest in training and in the provision of free legal aid as well. At the same time, the SBA creates conditions for the professional work of Ukrainian lawyers in Slovak law firms. The SBA has set up a special list in which Ukrainian colleagues who have come to Slovakia and are interested in the positions of professional employees of law firms have the opportunity to apply.

In addition to these activities responding to exceptional social events, the SBA organized provision of free legal advice in eight Slovak regional cities on the occasion of the Day of the Legal Profession again after two years, as the tradition was interrupted due to the pandemic.