Country report on behalf of the Slovak Bar Association on the occasion of the Meeting of Central and Eastern Europe Bar Association Presidents

Kranjska Gora, 4th October 2019

PART I: PAYMENT OF LAWYERS SERVICES
Annex I: Regulation No. 655/2004 Coll. on Lawyer´s Fees

Payment of lawyer's services is regulated in the Ministry of Justice regulation adopted in 2004. Number of amendments was adopted since but they mostly introduced fees for new services and the basic principles have not changed since. The regulation provides for the following methods of payment:

(1) **Contractual Fee** - the advocate may agree with his/her client upon the method and the amount of the contractual fee. The amount of the contractual fee must be in accordance with good morals.
(2) **Hourly Rate** - with respect to the provision of simple legal services, hourly rate may be divided into quarter-hour rates. Upon presenting the bill, the advocate shall at the client´s request present a detailed time specification of the works.
(3) **Flat Fee** - Flat fee may be agreed for a) provision of legal services within a specified time period or for an unspecified period of time, b) for complete arrangement of a case or a series of cases.
(4) **Commission** - Commission may be agreed as a percentage of the value of the matter which is the subject of the court proceedings or proceedings before another body, if the outcome of such proceedings, depending on the circumstances, is rather uncertain, and the advocate has informed the client about this fact. Maximum amount of agreed commission shall not exceed 20 % of the value matter which is the subject of the court proceedings or proceedings before another body

The regulation allows also for pactum de quota litis, although the Ministry of Justice has recently proposed to abolish the possibility to agree on pactum de quota litis as regards legal services by advocates provided to the state bodies. This was in the course of preparation of non-legislative document on "Transparent rules for remuneration of lawyers providing services to state bodies". Final version of the proposal adopted in April 2019 shifted away from the absolute prohibition of the commission but put a cap on it: max 10% out of 100.000 EUR, max 5 % out of 100.000 to 10.000.000 EUR, max 1 % out of 10.000.000 to 100.000.000 EUR and max 0,1% out of sum exceeding 100.000.000 EUR.

Unless provided otherwise, the basic rate of the tariff fee for one act of legal services shall be calculated as follows:

- value up to 165,97 EUR = 16, 60 EUR
- value between 165,97 and 663,78 EUR = 16,60 EUR + 1,66 EUR for every 33,19 EUR of the amount exceeding 663,88 EUR or portion thereof
- value between 663,88 and 6 638,78 EUR = 41,49 EUR + 9,96 EUR for every 331,94 EUR of the amount exceeding 663,88 EUR or portion thereof
- value between 6 638,78 and 33 193,92 EUR = 220,74 EUR + 16,60 EUR for every 1659,70 EUR of the amount exceeding 6638,78 EUR or portion thereof
- above 33 193,92 EUR = 486,29 EUR + 6,64 EUR for every 3 319,39 EUR of the amount exceeding 33 193,92 EUR or portion thereof.

If it is not possible to determine the value of the matter or the right in monetary terms or its determination would give rise to disproportionate difficulties, the tariff fee basic rate for one act of legal service shall be one thirteenth of the Calculation Base (the calculation is based on the average monthly wages of employees in the economy of the Slovak Republic for the first half-year of the preceding calendar year).

Criminal law is a specific area and Slovak Bar Association must constantly make effort when it comes to obligation of the State to pay the due amounts to ex offo lawyers as it is still in delay. There are equally negotiations regarding several principles of remuneration of ex offo lawyers in criminal law area that are

undignified and without valid justification. For example, while the Calculation Base is the average monthly wages of employees in the economy of the Slovak Republic for the first half-year of the preceding calendar year (currently 980 EUR), for the purposes of setting lawyer's tariff fee for defending the client in criminal proceedings, the Calculation Base was the average monthly wages of the calendar year 4 years preceding the year in general calculation base rule (currently 858 EUR). Latest amendment to the Regulation (2019) brought a slight change by changing the four years rule to three years rule.

As for the legal aid, Centre for Legal Aid was created pursuant to the Act No. 327/2005 Coll. on the Provision of Legal Aid for People in Material Need as a state budgetary organization under the Ministry of Justice of the Slovak Republic. The Centre employs lawyers who cooperate with advocates appointed on a case-by-case basis. The remuneration of advocates for the legal aid service is also regulated by to Ministry of Justice regulation as follows: Unless otherwise specified, the remuneration shall be 130 EUR, 200 EUR in matters regulated by the Civil Code, 130 EUR in matters regulated by Family Act, 150 EUR in matters regulated by Labour Code, 200 EUR in matters regulated by Commercial Code, advocate is entitled to the same amount for representation in appeal proceeding and appellate review proceeding. Provided that the matter is settled out of court without an application being lodged, the remuneration shall be 100 EUR.

Advocates are encouraged to accept remuneration primarily in non-cash form; otherwise the cash money should be taken on the premises of the law office.

New areas of legal services that may also present new earning opportunities always come with the substantial amount of responsibility and liability. In 2017 a new Act came into force that established the Register of Public Sector Partners which aims at transparency of transactions with state and beneficial owners involved. The public sector partner is natural or legal person receiving funds, assets or other property rights from public resources, including EU funds. Advocates are one of the persons authorised to register a public sector partner but at the same time they bear responsibility and are subject to fines in case of insufficient or misleading identification of beneficial owner.

Currently the Slovak Bar Association is debating with the Ministry of Justice the possibility of new law that allows advocates to act as guardians of adults. Although it is a highly responsible and demanding task that entails various forms of activity, not only of legal character, and travelling to places of residence to regularly verify the well-being of the individual and learn his/her wishes, the Ministry of Justice suggested a monthly flat fee of 30 EUR, all services and expenses included. Slovak Bar Association does not consider it appropriate.

PART II: RENUMERATION FOR FUNCTIONS IN THE BODIES OF THE BAR
Annex II: Resolution of the Bar Council on the

According to the Act on the Legal Profession, positions in the Bar Association´s governing bodies are honorary.

However, lawyers sitting thereon may ask to be reimbursed for the loss of time and out-of-pocket expenses incurred in connection with discharging their functions. The resolution governing the reimbursement was adopted by the General Assembly in 2013. Members of the following bodies may claim the reimbursement: Presidency Board, Supervision Committee, Disciplinary Commission and Appellate Disciplinary Commission, Examination Board, Regional representatives, Working Groups established by the Presidency Board.

In 2017 the resolution was further specified by Presidency Board resolution which states that members of the Bar bodies may claim reimbursement for participation at the meetings of the respective bodies, including the personal preparation for the meeting, time spent on drafting of the materials initiated by the chair of the body (max 8,5 hours/day), time spent at negotiation with third subjects, moderating seminars, attending business trips abroad (max. 8,5 hours/day). Advocates giving lectures on behalf of the Bar are awarded 100 EUR per hour of lecture, preparation included.

With respect to acts of legal services provided in locations which are different from the advocate´s registered address, the advocate shall be entitled to receive compensation for the time spent travelling from and to such locations, amounting to 1/60 part of the Calculation Base for every 30 minutes or their portion, plus 4 EUR for every hour spent travelling and plus compensation of out-of-pocket expenses.

In order to reduce the budget allocated to working groups meetings, last year several working groups decided to fulfil their functions exclusively via electronic communication.