**Response of the Slovak Republic to Questionnaire on the role, composition and functions of bar associations**

1. **Organisation and regulation of legal profession in Slovakia**

**The way the legal profession is organised and regulated in Slovakia**

In Slovakia, the **legal profession in general** is organised in the following way:

* Judges
* Court staff: principal administrator – assistant, court registrar, senior judicial officer/higher court official, assistant to supreme court judge
* Lawyers (Slovak Bar Association)
* Solicitors/Legal Advisors (Slovak Centre for Legal Aid)
* Prosecutors
* Notaries
* Executors

(source: e-justice portal; <https://e-justice.europa.eu/content_legal_professions-29-sk-restore-en.do?member=1>):

The **legal profession in the narrower meaning** is represented by **lawyers** (attorney) who are associated in the Slovak Bar Association. The main legal act regulating the profession of lawyers is **Act No.** 586/2003 Coll. on the Legal Profession as later amended.

Professional regulations of the legal profession further include the Rules of Professional Conduct for Lawyers (“Code of Conduct”) adopted by the General Assembly of Lawyers on 10 June 2017 and other internal regulations of the Slovak Bar Association.

The qualification required to legally practice law as a lawyer/attorney is university degree in the study programme "Law" (standard length of the programme – 5 years in total: 3 years Bachelor in "Law" + 2 years Master programme in "Law").

Other main requirements to qualify as a lawyer under the Act on the Legal Profession (Act No. 586/2003 Coll. on the Legal Profession, para. 3 (1)) include full legal capacity, 5 years of practice as a trainee lawyer, completing training prescribed by the Slovak Bar Association. (For the full list of requirements qualifying to practice law see below).

**Legal bases for its establishment (e.g. constitutional provisions, ordinary law or other)**

**Pursuant to the Act No.** 586/2003 Coll. on the Legal Profession as later amended (Section 2 (3) thereof), l**egal profession is a liberal profession, which may be practiced and pursued only under this Act. Legal basis for the establishment of the legal profession in the Slovak Republic is thus found in the ordinary law.**

**The Slovak Constitution (Act No. 460/1992 Coll.) guarantees the right of everyone to a free choice of profession and to training for it, as well as the right to engage in entrepreneurial or other gainful activity. The Constitution also states that conditions and restrictions with regard to the execution of certain professions or activities may be laid down by law. (Articles 35 (1) (2) of the Constitution). The Constitution does not contain specific provisions on the legal profession.**

**Main legal provisions protecting the right of lawyers to freely join or create a local, national or international association**

**The right of lawyers to freely join a professional association falls under the constitutional right to freedom of association (Article 29 of the Constitution). Article 35 stipulates that everyone has the right to a free choice of profession and to training for it, as well as the right to engage in entrepreneurial or other gainful activity. Conditions and restrictions with regard to the execution of certain professions or activities may be laid down by law.**

**According to the Section 66 of the Act on the Legal Profession the Slovak Bar Association is hereby established. The Bar is an independent professional organisation associating all the practising lawyers admitted to the Bar. The Bar is a legal entity with its registered seat in Bratislava.**

**Existing associations**

Slovak Bar Association as an independent self-governing organisation is an association at national level and it is the only association of lawyers in Slovakia. Prior 2004 there was a Chamber of Commercial Lawyers but it was eventually dissolved. There are no associations at regional level. All lawyers must be registered with the national bar.

International/European associations, of which the Slovak Bar Association is a **collective member**:

* CCBE – Council of Bars and Law Societies of Europe
* IBA – International Bar Association
* AIJA – International Association of Young Lawyers (Association International de Jeunes Avocats)

International/European associations, in which Slovak lawyers **can** participate **individually**, for example in these associations (among others):

* IBA – International Bar Association
* AIJA – International Association of Young Lawyers (Association International de Jeunes Avocats)
* ECBA - European Criminal Bar Association
* UIA – International Association of Lawyers (Union Internationale des Avocats)
1. **Role of a professional association of lawyers in the regulation of the profession**
2. **The exact denomination of the body**

 The Slovak Bar Association.

1. **The legal basis for its establishment (e.g. constitutional provisions, ordinary law or other)**

The Slovak Bar Association was established by Act No. 132/1990 Coll. on the Legal Profession that became effective on July 1, 1990. The Slovak Bar Association under Act No. 132/1990 Coll. was succeeded by the Slovak Bar Association established by the Act No. 586/2003 Coll. on the Legal Profession as amended which is effective since 1 January 2004 and which repealed the Act No. 132/1990 Coll.

1. **Has the association been established as an “independent” and self-governing association**

Yes. The Slovak Bar Association has been established as an independent professional organisation associating all the practising lawyers admitted to the Bar (Section 66 (1), Act No. 586/2003 Coll.).

The Bar has been established as a self-governing association. The governing bodies of the Bar (Section 66 (4), Act No. 586/2003 Coll.) are: General Assembly, Bar Association Council consisting of 9 members and 3 substitutes, Supervision Committee consisting of 9 members and 3 substitutes, Disciplinary Committee consisting of 31 members and 10 substitutes, Disciplinary Committee of Appeal consisting of 10 members and 3 substitutes

1. **The composition and appointment process of the executive body of the association**

**Composition:**

The **Bar Association Council** is the executive body of the Bar that manages the Bar Association´s affairs between General Assemblies. The Bar Association Council consists of 9 members and 3 substitutes.

**Appointment:**

The members of the Bar Association Council are just like the members of other governing bodies of the Bar, elected by the General Assembly (Section 67). The General Assembly thus elects and recalls members of the Council (Section 69).

The General Assembly shall have a quorum with the number of lawyers present. A resolution adopted at the General Assembly shall be valid if voted for by a simple majority of votes. In the election of members and substitute members of the governing bodies, the candidates with the highest number of votes cast by the lawyers present shall win the election. (Section 68 (2)).

The Bar´s governing bodies are elected for a period of four years.

**Powers:**

Section 71 of the Act No. 586/2003 Coll:

(1) The Bar Association Council shall decide about:

a) appointing a lawyer´s substitute pursuant to Sec. 17(1) [if a lawyer is prevented from practicing law and does not take other actions to protect his client's rights or legitimate interests]

b) any other issues within the meaning of this Act, unless they fall within the scope of powers of any other Bar Association´s governing bodies.

(2) The Bar Association Council shall further:

a) convene the General Assembly,

b) maintain the roll of lawyers, European lawyers, foreign registered lawyers and international legal practitioners, list of partnerships of lawyers, limited liability partnerships, general commercial partnerships, limited liability companies, list of international law corporations, branches of foreign law corporations and trainee lawyers, make all entries and changes therein, inform the competent authorities in home Member States about registration of registered European lawyers, foreign registered lawyers or international legal practitioners, or about its refusal to register them in the appropriate list, as well as about other changes of their status in the Slovak Republic,

c) handle and manage the Bar Association´s Social Fund,

d) approve the Bar Examination Rules for the Bar examinations and for the aptitude tests, and appoint members of the Examining Committee from among the lawyers or judges, prosecutors and any other experts in the field of law,

e) administer the Bar Association´s assets,

f) represent, protect, promote and enforce the lawyers´ interests in all the fields of their activity,

g) regularly inform lawyers about the Bar Association´s activities. For this purpose, it will arrange for any study, publication, documentary and information activities,

h) cooperate with the competent bodies in individual home Member States when discharging the duties herein laid down,

i) perform any other activities according to this Act unless they fall within the scope of powers of any other Bar Association´s governing bodies,

j) issue the Bar´s Official Journal.

k) issues a binding confirmation of the form of the exercise of legal profession under Section 12 of the Act [whether as a sole practitioner, in a partnership, etc.] and of self-employed person status under a separate legal rule.

(3) The President and Vice-presidents of the Council are elected and recalled by the Bar Association Council from among its members. The President shall represent the Bar Association in relation to third persons and act on its behalf in all the matters. He shall also make any urgent decisions between the meetings of the Bar Association Council and manage the Bar´s staff. The President is obliged to inform the Council at any next meeting about the decisions made and measures taken between the Council´s meetings. The Council may change any decision made or any measure taken by the President. Vice-presidents shall substitute for the President within the scope of powers laid down in the Bar´s internal rule.

(4) The Council shall usually meet once a month. Meetings of the Council shall be convened by the Bar Association President.

1. **Relationship between the association of lawyers and the Executive, Legislative and Judiciary powers, in particular the role of the Ministry of Justice and/or the judiciary in relation to the establishment and functioning of this association.**

The Bar has been established by law. Given the status of the Bar as an **independent** professional organisation, neither the Ministry of Justice nor any other executive power have the powers to interfere in the functioning of the Bar.

The Ministry of Justice, however, has competences in certain aspects related to the work of lawyers, such as their **remuneration**. Lawyer´s fees (remuneration) are set contractually in an agreement between the lawyer and the client; in the absence of an agreement the lawyer is entitled to a tariff fee set by the Decree of the Ministry of Justice No. 655/2004 Coll. The decree also regulates the compensation of legal costs incurred by lawyers.

The Ministry of Justice does not have the same powers of oversight towards the Bar, as it has towards the Slovak Chamber of Executors, or the Chamber of Notaries of the Slovak Republic, and towards the work of judicial executors and notaries.

Disciplinary procedure lies entirely within the competences of the Bar Association. An appeal against the final order on the respondent's professional misconduct by which he was found guilty may be subject to a review by a court on the basis of an administrative justice petition. The disciplinary proceeding shall commence upon application submitted by the Chairman of the Supervision Committee or by the Minister of Justice of the Slovak Republic.

1. **The role that professional associations of lawyers play with regard to:**
2. **The admission process to the legal profession and the licensing of lawyers**

**Access** to the legal profession is conditional upon admission to the Slovak Bar Association. A lawyer is a person whose name is entered on the **roll maintained by the Bar**. Legal profession is a profession, which may be practiced and pursued only under the Act No. 586/2003 Coll. on the Legal Profession.

The requirements to be met for being put on the roll maintained by the Bar are listed in the Act No. 586/2003 Coll. on the Legal Profession. The requirements set for the Bar examination and further specified in the decree of the Bar Association Council No. 32/12/2013 on Bar Examination.

The Bar prepares and administers the **bar examination**. The President of the Bar is the President of the Examination Commission. The exam for the admission to the Bar is composed of the written test, written assignments and oral exam. A judicial, notarial or prosecutor´s exam passed in the Slovak Republic is recognized by the Bar Council equivalent to the Bar exam.

Besides the Bar examination, the Bar reviews the fulfilment of other legal requirements for admission to the Bar; these are that a person applying for admission to the Bar (Act No. 586/2003 Coll., Section 3 (1):

a) has full capacity to do legal acts and is under no guardianship,

b) has a Master´s degree in law of a law school in the Slovak Republic (both bachelor and master degree must be completed in law),4) or holds a recognised university diploma whereby the Master´s degree was awarded to him by a law school in a foreign country other than the Slovak Republic,

c) served as a trainee lawyer to a practising lawyer for at least five years fulfilling minimum practical requirements laid down in Section 62a; the traineeship process is certified by the daily record on practice

d) passed the initiative legal education scope and conditions of which are prescribed by internal Bar regulation

e) passed the prescribed Bar examination,

f) is a person of integrity and good character

g) was not imposed any final disciplinary action of disbarment, or a disciplinary action of removal from the roll of trainee lawyers Sec. 56(2), item e) ,

h) was not subject to any disciplinary action of being struck off the roll of commercial lawyers, or any disciplinary action banning his practice as a notary, or any disciplinary action banning his practice as a bailiff, or any disciplinary action of being removed from the roll of prosecutors, or any disciplinary action of being removed from a judicial position under separate legal rules,5)

i) at the time of being admitted to the Bar is not employed by any employer, or does not serve in any other similar capacity, except for pedagogic, publishing, literary, research or art activities or capacity of member of the Governmental advisory body and does not carry out any activities that are incompatible with the nature and ethical principles of the legal profession; the decision on incompatibility is upon the Bar

j) met all requirements laid down in Sec. 12(3), Sec. 27 and Sec. 28(1) below, and

k) took the oath in accordance with Subs. 6 below

1. **The conduct of disciplinary proceedings against lawyers**

The disciplinary proceedings against lawyers are conducted by the Bar, in particular its Disciplinary Committee.

Oversight of the proper exercise of the work of lawyers is entrusted in the Supervision Committee of the Slovak Bar Association.

The disciplinary proceeding shall commence upon application submitted by the Chairman of the Supervision Committee of the Slovak Bar Association or by the Minister of Justice of the Slovak Republic (Act No. 586/2003 Coll., Section 58 (1)).

The **disciplinary proceeding** is conducted by the **Disciplinary Committee**. The Disciplinary Committee shall decide about the cases of professional misconduct committed by lawyers, European lawyers, trainee lawyers, foreign registered lawyers and international legal practitioners, whereas its orders shall be made by disciplinary panels. It shall also elect its Chairman, who shall manage its affairs, from among its members. The Disciplinary Committee Chairman shall appoint the chairmen and members of disciplinary panels from among the Disciplinary Committee members. (Act No. 586/2003 Coll., Section 74).

**Appeals in disciplinary proceedings** are handled by the Disciplinary Committee of Appeal. The Chairman of the Disciplinary Committee of Appeal shall appoint the chairmen and members of disciplinary panels of appeal from among the Committee members. (Act No. 586/2003 Coll., Section 74a).

The Bar **shall** disbar anyone, who under a final order was subject to any disciplinary action resulting in his disbarment. (Act No. 586/2003 Coll., Section 7 (1) (e)).

The Bar **shall** temporarily suspend the lawyer from the practice, if he has had a disciplinary action of temporary suspension from the practice imposed upon him. (Act No. 586/2003 Coll., Section 8 (1) (b)).

The Bar **may** temporarily suspend the lawyer from the practice, if

1. a disciplinary measure of a fine was laid upon him and he has not complied with his obligation within 3 months after the decision became final; suspension may last until the fine is paid,
2. an obligation to cover costs of the disciplinary proceedings was laid upon him and he has not complied with his obligation within 3 months after the decision became final; suspension may last until the costs are paid. (Act No. 586/2003 Coll., Section 8 (2) (c) (d)).
3. **The provision of legal aid**

The role that the Bar plays with regard to the provision of legal aid:

For the purpose of providing legal aid, the Bar cooperates with the **Centre for Legal Aid** (“the Centre”). The Centre is a state budgetary organisation providing legal aid to persons in material need. The Bar keeps the **list of lawyers providing legal aid through the Centre**. The Centre decides on the form of the legal aid to be provided. The Centre designates/appoints a lawyer for representing the client in a proceeding before the court. This lawyer is selected from the list of lawyers providing legal aid, depending on the specialisation of the lawyer and the circumstances of the case.

1. **The protection of individual lawyers from any form of intimidation, hindrance, harassment or improper interference in the exercise of their functions**

The role that the Bar plays with regard to the protection of individual lawyers from intimidation etc.:

The Bar Association Council, which manages the Bar´s Association´s affairs between General Assemblies, shall represent, protect, promote and enforce the lawyers´ interests in all the fields of their activity. (Act No. 586/2003 Coll., Section 71 (2)).

1. **The development and implementation of legislation concerning the free exercise of the legal profession and the administration of justice**

The role that the Bar plays with regard to the development and implementation of legislation concerning the free exercise of the legal profession and the administration of justice.

The Ministry of Justice of the Slovak Republic is a central body of state administration responsible for courts (administration of justice) and also for legal professions. When the Ministry submits legislative proposals in areas within its competence (for e.g. regulation of certain legal professions), it consults the proposals with relevant stakeholders.

1. **Is membership in the professional association of lawyers mandatory to practice law in your country?**

Yes, the membership in the Bar is mandatory to practice law as a lawyer/attorney in Slovakia.

**In case membership is a prerequisite to practice law, please provide detailed information on the measures the State has taken to ensure access to justice in cases where there is a shortage of lawyers in the whole country or part of its territory.**

**Representation** **by lawyers** in courts or in carrying out certain legal acts **is not always obligatory**. Lawyers have exclusive right to act as defence counsels in criminal proceedings (Criminal Code – Act No. 301/2005 Coll.). Also in proceedings before administrative courts, the representation by a lawyer is obligatory (save for some exceptions). In civil proceedings, lawyers have exclusive right of representation only in a few selected types of proceedings (Act No. 160/2015 Coll. on Civil Procedure, para. 89 – 91.).

The Constitution guarantees the right to judicial and other legal protection, in particular the right to legal aid in proceedings before courts, other state bodies or bodies of public administration (Act No. 460/1992 Coll., Article 46 and following).

To ensure access to justice, especially for people in material need, the state has established the **Centre for Legal Aid** (the “Centre”). The Centre was created as a state budgetary organisation under the Ministry of Justice of the Slovak Republic. It provides legal aid in domestic disputes to natural persons in material need. A person is entitled to the provision of legal aid if three conditions are met:

1. a person is in material need,
2. it is not an obviously unsuccessful dispute,
3. dispute value exceeds the minimum wage set by the law.

The Centre provides its services through lawyers of the Centre (who are not attorneys) or through lawyers/attorneys whom the Centre may appoint for the protection of interests of the clients.

A lawyer may refuse to provide legal services, except when he/she has been appointed ex offo (Act No. 586/2003 Coll., Section 20 (2)). The Bar keeps the list of all ex offo lawyers.