

National Report Hungary

ILAG Harvard 2023

It would be much appreciated if you could fill in what you can for your jurisdiction. We know it's a lot of information to ask, so do not worry if you can only provide some of the information. Please highlight any recent significant changes in your legal aid programme if time and energy permits.

1. Country details :

Name, Population, GDP, Poverty line / % of population deemed to be living in poverty, number of practising lawyers in the jurisdiction.

Name: Hungary

Population: ca. 9.7 million¹

GDP: EUR 24,471 (in 2021)²

Poverty line / % of population deemed to be living in poverty: According to the Central Office for Statistics, in 2021, the poverty line in Hungary was HUF 1.5 million (ca. EUR 3,980) for one-person households and HUF 3.2 million (ca. EUR 8,490) for households with two adults and two children.³ In 2021, 12.2% of the population lived under the poverty line, with 8.3% living in serious financial deprivation.⁴

Number of practising lawyers in the jurisdiction: there are 14,383 lawyers who may in principle participate in the provision of legal aid services (11,733 lawyers, 456 employed lawyers, 2194 trainee lawyers).⁵

2. Legal Aid Organisation / Authority:

Name and Status of LAO: The Legal Aid Service (*Jogi Segítségnyújtó Szolgálat*) has been integrated into the network of Government Offices, which are bodies vested with several different administrative tasks ranging from providing citizens with identification documents to issuing building permits. The legal aid services are performed by the responsible units of the Government Office of Budapest and the 19 County Government Offices.⁶ The Minister of Justice is vested with the task of overseeing the provision of legal aid services, and he/she concludes the contracts with the legal aid service providers.

Delivery method: In terms of Article 66 of Act LXXX of 2003 on legal aid (hereafter: LAL), besides attorneys and law firms, legal aid services can also be delivered by civil society

¹ <https://www.ksh.hu/interaktiv/korfak/orszag.html>

² <https://www.ksh.hu/nemzeti-szamlak-gdp>

³ https://www.ksh.hu/stadat_files/ele/hu/ele0003.html

⁴ <https://www.ksh.hu/eletkorulmenyek>

⁵ <https://magyarugyvedikamara.hu/html/nyilvanos-kereso/>

⁶ Article 6 of Government Decree 362/2016. (XI. 29.)

organisations and national minority self-governments, but only if they are contracted with lawyers to perform such activities. Universities may also provide legal aid services through either contracted lawyers or their own teachers provided that they have passed the bar exam or hold a doctoral degree. Most of the legal aid providers are individual attorneys. At present, there are 223 registered legal aid providers, including 38 law firms and 5 civil society organisations.⁷

What payment methods are used to recompense any private lawyers in your system: The system for paying lawyers providing legal aid services is rather complex. Its rules are prescribed in Decree 32/2017. (XII. 27.) of the Minister of Justice [32/2017. (XII. 27.) *IM rendelet a pártfogó ügyvéd, az ügygondnok és a kirendelt védő részére megállapítható díjról*]. The hourly rate is determined annually by the law on state budget. In 2023, the hourly fee is HUF 6,000 (EUR 16).⁸

Article 3 of Decree 32/2017, determines lump sums to be paid to lawyer for providing representation in different procedures:

- litigious first instance civil or administrative court procedure: 10 times the hourly fee;
- non-litigious civil or administrative court procedure: 5 times the hourly fee;
- criminal procedure (where the lawyer provides representation, and not defence): 10 times the hourly fee
- second instance procedures: 50% of the amount prescribed for first instance procedures.

If the legal aid lawyer wins a civil case (and therefore, the other party is obliged to pay his/her fees, and not the state), another ministerial decree⁹ determines the amount to be paid by the losing party to him/her based on the value of the object of the lawsuit. If the value of the object of the lawsuit cannot be determined, the fee to be paid shall be the hourly fee multiplied by the number of actual hours spent on the trial, but no less than HUF 12,000 (i.e. the fee for two hours). If the legal aid lawyer wins the case, the fee to be paid to him/her by the losing party shall not be less than the amount that would be payable in case the party represented by the legal aid lawyer lost the case.

The costs of the legal aid lawyer shall be reimbursed on the basis of a detailed statement of costs. If the lawyer requests so, or fails to submit a detailed statement, he/she shall be paid 25% of the total fee as a lump sum reimbursement.

In criminal cases, the legal aid defence counsel shall be paid on the basis of the actual hours spent at the different procedural acts (interrogation, confrontation, court hearing, etc. – as certified by the investigating authority, the prosecutor or the court, depending the stage of the procedure). For preparation, the defence counsel is entitled to 20% of his/her fee (but no less than HUF 18,000 and no more than HUF 180,000). If the procedural act to which the counsel was summoned is cancelled, the counsel is to be paid 50% of the hourly fee for each hour that passed between the beginning of the act as indicated in the summons and the time when it became clear that the act must be cancelled. If the counsel consults with a detained defendant, he/she shall be paid 70% of the hourly fee for each hour spent consulting with the client.

⁷ <https://szakrendszerek.im.gov.hu/nevjegyzek/>

⁸ Article 69 of Act XXV of 2022 on the 2023 Budget of Hungary

⁹ Decree 32/2003. (VIII. 22.) of the Minister of Justice

The court determines the fee to be paid for preparing a petition for an extraordinary review. It cannot be less than HUF 6,000 or more than HUF 60,000.

The costs of the legal aid defence counsel shall be reimbursed on the basis of a detailed statement of costs. If the lawyer fails to submit a detailed statement, the investigating authority, the prosecutor or the court determines the costs on the basis of the information at their disposal.

3. Budget and Spend:

The legal aid budget is funded by the central government, and it is not capped. It is however not possible to provide the budget for legal aid, as its budget is integrated into the budget of the 20 different Government Offices, and the offices – which perform several different functions – do not publish their budgets in a manner that is broken down by the type of activity/service. In addition, the expenditure for criminal advice/defence is integrated into the budget of the investigating authorities, prosecutorial offices, courts in a manner that does not make it possible to differentiate between expenditures that are advanced by the state (in cases of mandatory defence) and those that are borne by the state (defence provided on the basis of indigence). It would require numerous freedom of information requests (to the 20 Government Offices and to different police, prosecutorial and court administrations) to try to obtain this information with no guarantee that the offices and the different criminal justice institutions would actually be able or willing to provide the information.

4. Scope, Caseload and Eligibility:

Total number of applications and grants for the last two years. Please break down by civil, criminal administrative, children, asylum? and initial advice as well as by year. Proportion of the population eligible for civil legal aid and/ or initial Advice. Eligibility limits for criminal legal aid. Are means tested contributions part of your (a) civil (b) criminal (c) initial advice eligibility requirements? In your jurisdiction, are legal aided litigants who lose their case liable to pay the other side's legal expenses/ costs?

Scope: In litigious and non-litigious court procedures and in criminal cases, there are no restrictions on scope in the Hungarian system.

With regard to the proceedings of administrative bodies, legal aid is only available for advice and the drafting of petitions, but not for representation.

Under Article 3 of the LAL, legal aid is available, among others, for the following matters:

- Client is involved in a legal debate which may lead to a lawsuit;
- Client is involved in a legal debate that can be settled out of court;
- Client is involved in a mediation procedure;
- Information on legal matters concerning client's everyday subsistence (housing, labour law, public utilities) is necessary;
- Advice on how and where client can initiate proceedings to protect his/her rights, and preparation of petitions aimed at the commencement of such action;
- Client is victim of crime: advice on launching legal proceedings aimed at the enforcement of damages or rights infringed by the criminal offence, or preparation of a petition to the same end;

- Preparation of petition for extraordinary remedies in a civil case.
- If the party takes part in an administrative procedure, and he/she is in need of legal advice in order to become aware of his/her procedural rights and liabilities, or a petition has to be prepared for a legal statement to be made (e.g. proceeding by the construction authority);
- A document needs to be drafted with a view to securing the permanent accommodation for a young adult who is about to be released from state care.

Under Article 3 of the LAL, no legal aid may be granted in relation to

- contractual matters, unless signatories thereto jointly apply for the aid and all of them are equally eligible for legal aid;
- legal advice concerning:
 - the conditions for raising loans disbursed by a bank,
 - legal transactions in which legal documents may only be drafted by an attorney or notary public, except for the sale or mortgaging of the real estate used by the party or his/her family as a domicile;
- the entrepreneurial activities conducted by private persons with two exceptions:
 - the client is the victim of a crime that is related to his/her business activities; or
 - the case is related to a quasi-employment relationship (i.e. when the individual entrepreneur is paid a certain amount for performing a task at a designated place, with the fee paid in instalments and with the exclusion of employing sub-contractors).
- cases related to the establishment or operation of associations;
- customs matters.

Eligibility: There are three basic categories of indigence, with one additional group:

- If the client’s net monthly income does not exceed the so-called “social projection-basis” (approx. EUR 76) and he/she has no assets beyond what is necessary for normal life, he/she is granted full cost exemption (i.e. the state pays for legal aid).¹⁰
- For persons whose monthly net income exceeds the amount of the “social projection-basis” but does not exceed 43% of the national average salary of the second year preceding the year of request as defined by the National Office for Statistics (approx. EUR 500 in 2023), the legal aid law provides for exemption from having to advance the costs of procedures: costs are advanced by the state and shall be paid back within one year.¹¹
- Certain categories of persons are automatically deemed indigent, such as homeless persons and beneficiaries of social welfare assistance.¹²

The LAL also makes it possible for the authorities to qualify as indigent a person if his/her income exceeds the threshold but other circumstances (e.g. disability, illness, debated salary) make it impossible for his/her to get legal aid on the market.¹³

Eligibility for legal aid exempts parties in civil lawsuits from having to pay court fees if they lose, but not from having to pay the other party’s legal costs.

¹⁰ Article 5 of the LAL

¹¹ Article 6 of the LAL

¹² Article 5 of the LAL

¹³ Article 8 of the LAL

Caseload: There are no publicly accessible data on case on the number of applications and grants. As in the case of the budget, numerous freedom of information requests would have to be submitted in order to obtain statistics related to legal aid.

5. Quality Assurance:

There is no effective quality assurance system in Hungary, which is most probably due to the very low fees and the low number of lawyers who have registered with the legal aid system.

As far as entry conditions are concerned, any attorney can provide legal aid, provided that he/she has not been suspended in the course of a disciplinary procedure and is not under the effect of a disciplinary sanction. As far as general requirements to practice law are concerned, the following can be said: upon his/her request, everyone shall be admitted to the bar association who meets the following requirements: he/she (i) is the citizen of a country that is a member of the European Economic Area, (ii) has a law degree, (iii) has passed the Hungarian bar exam, (iv) was a trainee attorney for at least a year within the 10 years preceding the submission of the petition for admission, (v) has a liability insurance guaranteeing that pecuniary or non-pecuniary damages caused by his/her activities as an attorney can be paid, (vi) has (within the geographical area of the bar association's competence) an office that is suitable for conducting legal work, (vii) meets the requirements necessary for the electronic processing of cases, (viii) has concluded an agreement for substitution with an attorney or a law firm (or is a member of a law firm), and (ix) does not fall under any of the clauses excluding the performing of attorneys' activities.¹⁴

Legal aid lawyers must register with the legal aid service and conclude a legal aid contract with the Minister of Justice. In addition, in terms of Article 66 of the LAL, the lawyer wishing to register as a legal aid provider must undertake to complete the Hungarian Bar Association's training for legal aid providers within one year.

The disciplinary procedure carried out by the bar associations is the only process available for clients that can be regarded as some sort of quality assurance. In addition to keeping the registers of attorneys, the regional bar associations are also vested with the task of conducting disciplinary proceedings against them (in relation to both criminal and civil cases). Such a proceeding is started when the suspicion of a disciplinary violation arises. A disciplinary violation is committed by a member of the bar association if (i) within the framework of carrying out attorneys' activities, he/she intentionally or out of neglect violates his/her professional obligations stemming from a law, the statutes of the Hungarian Bar Association or a regional bar association, or the Code of Ethics; or (ii) his/her intentional or neglectful behaviour outside the professional context severely threatens the prestige of the legal profession. If found to be at fault, the lawyer can be sanctioned with: written reprimand, fine, ban from participating in the affairs of the bar association, ban from employing a trainee attorney, exclusion from the bar association.¹⁵

There are no easily accessible data on disciplinary complaints and their outcomes, especially not broken down on the basis of whether those complaints were related to the lawyer's performance while providing legal aid services.

¹⁴ Act LXXVIII of 2017 on Attorneys (Attorneys Act), Article 58(1).

¹⁵ Attorneys Act, §§ 107-108.

6. Public Legal Education:

Since the integration of the legal aid service into the network of Government Offices, the intensity of awareness raising, which has been rather low for quite some time has further decreased due to the simple fact that Government Offices' portfolio is huge, and within a large organisation responsible for several issues, the individual issues inevitably receive less attention.

On 31 May 2021, the Minister of justice announced in a Facebook post that the Ministry had concluded an agreement of cooperation with the Hungarian Bar Association "with the purpose of raising awareness among professionals about legal aid activities, since very few know that in Hungary, indigent persons have the possibility to request professional legal assistance with a view to asserting their rights and resolving their legal disputes. For these reasons we:

- simplify the procedure for registering legal aid providers;
- develop new professional recommendations;
- launch a training for legal aid providers;
- found an award for excelling legal aid providers."¹⁶

However, it seems that apart from two higher-level conferences held at the premises of the Hungarian Bar Association in October 2021 and November 2022,¹⁷ not much progress has taken place in this area. The problem is shown by the fact that while in 2021, 302 legal aid providers participated in the system (including 50 law firms), by 2023, this number has decreased to 223 registered providers (including 38 firms).

7. Alternative Sources of Legal Aid services:

Trade unions traditionally provide legal aid (primarily legal advice, but sometimes representation as well) to their members. Legal aid is also provided by some associations of disabled people, certain NGOs, and also some local governments (which sometimes provide this service through contracting law firms). These schemes however are not legally regulated.

It is difficult to assess the volume of these alternative sources of legal aid, as there is no central data base for this type of assistance. Numbers must be gathered from the annual reports of the different organisation (and not all of them publish this data, or not in an accessible, user friendly manner).

By way of example, in 2021, the Hungarian Helsinki Committee¹⁸ provided legal advice and/or representation to altogether 1,914 persons with the following thematic distribution:

- Asylum, statelessness expulsion: 813
- Detention and criminal proceedings: 317
- Ill-treatment by authorities: 42
- Unlawful police measures: 73

¹⁶ <https://www.facebook.com/VargaJuditMinisterofJustice/posts/4456289274389994>

¹⁷ See: <https://vansegitseg.im.gov.hu/i-jogi-segitoi-es-aldozatsegitesi-konferencia/> and <https://vansegitseg.im.gov.hu/szinergiak-az-igazsagugyi-szolgaltatasok-kozott-ii-jogi-segitoi-es-aldozatsegitesi-konferencia/>

¹⁸ https://helsinki.hu/en/wp-content/uploads/sites/2/2022/06/Hungarian_Helsinki_Committee_Annual_Report_2021_small.pdf

- Rule of law-related rights violations: 34
- General legal information or referral: 635

According to the Hungarian Civil Liberties Union's annual report for 2021, they have provided legal assistance to 4185 persons via e-mail or telephone, and had 204 ongoing court cases during the year.¹⁹

In 2021, the LGBTIQ support organisation Háttér Society provided legal advice and/or representation in 374 cases, and continued to provide legal aid in 111 cases pending from previous years.²⁰

8. Holistic legal services:

The state-run Victim Support Services offer combined services, which include legal advice, legal representation, emotional-psychological support and financial support.²¹ Some NGOs also combine legal services with social work or psychological assistance.²²

9. UN SDG Standard 16.3

Access to justice is not among the priorities of Hungary with regard to achieving SDG 16. In a report on Hungary's priorities and activities with a view to the realisation of SDGs, the following was stated: "The main priorities of Hungary under Goal 16 are the prevention of trafficking in human beings (THB), labour exploitation, prostitution coming from children's homes, counter terrorism, and public esteem. In addition, the Government has pledged to guarantee the achievement of transparent institutions and free access to information."²³ Legal aid services are not mentioned in the detailed description of the efforts aimed at achieving these goals.

10. Other

The most disappointing trend is the continued decrease of the number of legal aid providers (see above), and the obvious unwillingness of the government to increase legal aid fees, which, especially in the light of the outstandingly high inflation rate (over 25% in January 2023),²⁴ is likely to further exacerbate the problem. Unless there is willingness to invest in the system, it is likely to become completely dysfunctional. Signs of this can already be seen in the complaints that the Hungarian Helsinki Committee receives from inmates who cannot launch certain court procedures, because there is mandatory legal representation, but they cannot find a legal aid provider in the limited list who would be willing to take their case.

¹⁹ https://tasz.hu/a/img/Eves-jelentes-2021-TASZ-v4_compressed.pdf, p. 53.

²⁰ <https://hatter.hu/sites/default/files/dokumentum/konyvlap/hatter-tevekenysegi-2021.pdf>, p. 2.

²¹ See: <https://igazsagugyiinformaciok.kormany.hu/aldozatsegito-szolgalat>

²² See for example: <https://www.patent.org.hu/en/how-we-can-help>

²³ See:

https://sustainabledevelopment.un.org/content/documents/20137Voluntary_National_Review_of_Hungary_v2.pdf, pp. 57-60.

²⁴ See: <https://tradingeconomics.com/hungary/inflation-cpi>