

Memorandum of Understanding

concluded between

The Centre for Legal Aid
(hereinafter "the Centre for Legal Aid")

and

The Office of the United Nations High Commissioner for Refugees
(hereinafter "UNHCR")

PREAMBLE

The Centre for Legal Aid and the Office of the United Nations High Commissioner for Refugees (hereinafter referred to individually as the "Party" and collectively as the "Parties"),

Recognising the right of all persons to seek and enjoy asylum, a fundamental right enshrined, *inter alia*, in the Universal Declaration of Human Rights and the Constitution of the Slovak Republic;

Considering that the fundamental right of access to courts and legal assistance is guaranteed by Article 16 of the 1951 Convention relating to the Status of Refugees and Article 16 of the 1954 Convention relating to the Status of Stateless Persons, while the right to a fair trial is laid down in Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms;

Bearing in mind that the Constitution of the Slovak Republic acknowledges and adheres to the general rules of international law, international treaties by which it is bound, and its other international obligations;

Noting the following constitutional provisions:

- (a) Everyone has the right to legal aid in proceedings before the courts, other state bodies or public authorities from the commencement of the proceedings, under the conditions laid down by law¹.
- (b) All human beings are free and equal in dignity and rights. Their fundamental rights and freedoms are inviolable, inalienable, imprescriptible, and indefeasible².
- (c) Fundamental rights and freedoms shall be guaranteed to everyone in the territory of the Slovak Republic, regardless of sex, race, colour, language, religion, political or other conviction, national or social origin, membership of a nationality or ethnic group, property, descent or other status. No one shall be aggrieved, privileged or disadvantaged for these grounds.³

Observing provisions of the 1951 Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, the Charter of Fundamental Rights of the European Union, Law No. 480/2002 Coll. on Asylum and Law No. 327/2005 Coll. on the Provision of Legal Aid for People in Material Need;

¹ Constitution of the Slovak Republic available at <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1992/460/20210101> (Article 47(2))

² Article 12(1)

³ Article 12(2)

Recognising the importance of the 1994 Agreement between the Government of the Slovak Republic and the Office of the United Nations High Commissioner for Refugees concerning the legal status, immunities and privileges of UNHCR and its personnel in the Slovak Republic, which this Agreement does not in any way amend;

Considering the respective mandates and responsibilities, the Parties have agreed on cooperation that will be guided by the following provisions:

Article 1

GENERAL PROVISIONS

- 1.1 The Centre for Legal Aid is a state budgetary organisation under the Ministry of Justice of the Slovak Republic created pursuant to Law No. 327/2005 Coll. on the Provision of Legal Aid for People in Material Need. The mission of the Centre is to provide comprehensive legal aid to persons who, due to lack of means, are unable to use paid legal services.
- 1.2 UNHCR is a subsidiary organ of the United Nations mandated to provide international protection and seek durable solutions for refugees, stateless persons and other persons of concern, through operational engagement as well as through its supervisory responsibilities.
- 1.3 The Parties acknowledge that certain refugees, asylum-seekers, beneficiaries of temporary protection, stateless persons, and people at risk of statelessness, are often economically and socially disadvantaged making them unable to efficiently and effectively access legal services that can help them understand, protect and enforce their legal rights and interests.
- 1.4 The Parties undertake, within the limits of their mandates and competencies, and subject to the availability of funds, to carry out the activities provided in this Memorandum of Understanding (hereinafter "MoU") and to participate in regular coordination meetings, the exchange of relevant information, including on statistics and training and other capacity-building activities to which the Parties may contribute.
- 1.5 Each Party shall bear its own costs of this collaboration, unless otherwise expressly agreed by the Parties in writing. The Parties will carry out the implementation of activities under this MoU in accordance with their respective rules and procedures.
- 1.6 The Parties shall conduct all activities with due diligence, in a humane, dignified, safe and sensitive manner, in line with the 'do no harm' principle.

Article 2

SCOPE AND PURPOSES

- 2.1 The scope of this MoU is to outline and establish a framework for cooperation and collaboration between the Centre for Legal Aid and UNHCR with regard to access to free legal assistance, counselling and representation of refugees, asylum-seekers, beneficiaries of temporary protection, stateless persons, and people at risk of statelessness (hereinafter 'beneficiaries') in the Slovak Republic, and to strengthen partnership and collaboration to protect the human rights of beneficiaries.
- 2.2 Considering the principle that the State has the primary responsibility for the protection of beneficiaries and provision of legal services to them, the Parties will cooperate in good faith to provide support for the protection and respect of individual rights in the Slovak Republic in accordance with International Human Rights Law.

2.3 The Parties will cooperate in facilitating access to free and accessible legal assistance, counselling and representation to beneficiaries, subject to existing laws, rules and regulations. The legal framework for the activities of the Legal Aid Centre is mainly based on Act No. 327/2005 Coll. on the provision of legal aid to persons in material need, under which the Legal Aid Centre provides legal aid in civil law cases, commercial law cases, labour law cases, family law cases, in proceedings on debt relief under a special regulation, in proceedings before the court in the administrative justice system, and in these cases also in proceedings before the Constitutional Court of the Slovak Republic, in asylum cases, in administrative expulsion proceedings, in proceedings for the detention of a third-country national, in proceedings for the detention of an asylum seeker, and in these matters also in proceedings before the court in administrative justice and in proceedings before the Constitutional Court of the Slovak Republic, and persons against whom the effectiveness of an employment act has been suspended in proceedings for the protection of whistleblowers of antisocial activity. The Act also lays down the specific conditions under which the Legal Aid Centre provides legal aid in particular types of proceedings.

Article 3

ROLES AND RESPONSIBILITIES

- 3.1 The Parties agree to collaborate on a range of issues aimed at improving the situation of beneficiaries in the Slovak Republic, as outlined below. In line with their respective mandates and competencies, and subject to the availability of funds, the Parties will:
- a. Contribute to increasing awareness among legal practitioners and officials of the Government of the Slovak Republic (hereinafter referred to as the "Government") on the issues and concerns of beneficiaries and strengthening the capacity of legal practitioners nationwide in rendering free and accessible legal assistance, counselling and representation particularly within the asylum, temporary protection and statelessness context and in line with international standards on the subject;
 - b. Develop and implement strategies and action plans to enhance referral mechanisms for the effective rendering of legal aid, and facilitate the provision of legal counselling, advice and representation of beneficiaries in accordance with the Act. No. 327/2005 Coll. on the provision of legal aid to persons in material need, regarding the rights and obligations of refugees, asylum-seekers, and stateless persons.
 - c. Share statistical trends and information on individual cases (the latter shall be subject to a separate data sharing agreement signed between the Parties and referenced to in Article 4 below), and liaise with relevant entities of the Government to ensure that human rights of beneficiaries are respected, including but not limited to asylum, legal identity, freedom of movement, right to work, education and healthcare, equal access to justice, a fair trial, and an effective remedy;
 - d. Promote understanding of, and respect for, human rights of beneficiaries in host communities and among relevant Government entities;
 - e. Organize training and other capacity-building activities, including in collaboration with the Judicial Academy of the Slovak Republic, to improve the knowledge and awareness of human rights standards and prevent, mitigate and respond to human rights violations against beneficiaries;
 - f. Raise awareness on the issue of statelessness to ensure the enjoyment of human rights and promote actions for the prevention of statelessness, including among children. ;, raise

awareness of their human rights, and coordinate with the Government to ensure their rights are fulfilled and protected.

3.2 Subject to the applicable laws, rules, and regulations, the Centre for Legal Aid shall:

- a. Provide free and accessible legal assistance, counselling and representation, including judicial appeal in cases involving beneficiaries, including on asylum cases, temporary protection, proceedings on administrative expulsion and immigration detention, and other areas according to the Act no. 327/2005 Coll.;
- b. Maintain legal counselling desks or organize mobile desks for beneficiaries of temporary protection at the large capacity centers or other places based on the applicable law;
- c. Organize regular visits to and legal counseling desks at the immigration detention centres;
- d. Develop methodological and information materials and organize capacity-building activities for legal practitioners, Government officials, judges and other stakeholders on concepts, issues, and principles relating to asylum, temporary protection and statelessness;
- e. Organize and contribute to training of interpreters on interpretation in asylum context;
- f. Further strengthen the relevant policy and legislation and streamline the effective implementation of free and accessible legal assistance, counselling and representation to beneficiaries.

3.3 Consistent with its mandate, subject to the availability of funds, and in line with the applicable rules and procedures, UNHCR shall:

- a. Provide technical guidance to the Centre for Legal Aid in the development of strategies and action plans aimed to enhance pro bono legal referral mechanisms and legal aid for the beneficiaries;
- b. Facilitate, subject to its programs, projects and resources, training and other capacity-building activities for staff of the Centre for Legal Aid and other legal practitioners, Government officials, judges, interpreters, and other stakeholders on concepts, issues, and principles and procedural aspects relating to the protection of refugees and stateless persons and the implementation by the Government of the 1951 Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, and the 1954 Convention relating to the Status of Stateless Persons;
- c. Coordinate with relevant government and non-government stakeholders on issues concerning the access of beneficiaries to legal assistance, counselling and representation; and
- d. Advocate for and facilitate the strengthening of policy and legislation and the effective implementation of free and accessible legal assistance, counselling and representation to beneficiaries in accordance with existing laws, rules and regulations.

Article 4

CONFIDENTIALITY AND DATA PROTECTION

- 4.1 Personal data relating to persons of concern to UNHCR shall be subject to special protection provided in the UNHCR Data Protection Policy⁴ and protection according to the Regulation (EU) 2016/679 (General Data Protection Regulation) and Act no. 18/2018 Coll. on the protection of personal data and on changes and amendments to other laws. Sharing of such personal data shall be subject to a separate data sharing agreement signed by the Parties.
- 4.2 The Parties shall respect the confidentiality of all information pertaining to the MoU and activities thereunder. Should one Party wish to disclose information produced in the exercise of this MoU to a third party, it must seek the other Party's prior consent to such disclosure.
- 4.3 UNHCR shall remain the sole owner of all data (including electronic data) shared with the Centre for Legal Aid by UNHCR. Both parties shall use data solely for the purposes of the activities agreed upon under this MoU. Any deviation in the use of data shall not be permitted without prior written approval of all Parties.
- 4.4 The provisions of Article 4 shall survive the termination or expiration of this MoU.

Article 5

FINAL PROVISIONS

- 5.1 Neither Party shall use the name, logo, or emblem of the other Party, or any abbreviation thereof, in connection with its activities or otherwise without the express prior written approval of the other Party.
- 5.2 This MoU shall take effect on the date of signature by both Parties and shall remain in effect for a period of three (3) years from the date it is signed by both Parties, and may be renewed upon the written agreement of both Parties. This MoU shall enter into force on the date following the date of the publication of this MoU in the Central Registry of Contracts based on the Act no. 211/2000 Coll. on the freedom of information. The publication of the MoU will be arranged by the Legal Aid Centre.
- 5.3 A Joint Work Plan setting out agreed areas of cooperation, objectives, target indicators and a provisional timeframe shall be agreed upon on a yearly basis.
- 5.4 This MoU may be terminated by either Party by giving a three (3) months' written notice to the other Party.
- 5.5 Any dispute arising from the interpretation or implementation of this MoU shall be resolved by the Parties in the most amicable way in the spirit of coordination and cooperation by negotiation or another agreed non-judicial mode of settlement (including arbitration).
- 5.6 Nothing in or relating to this MoU shall be deemed a waiver, express or implied, of any privileges and immunities of the United Nations, including its subsidiary organs or of UNHCR (as a subsidiary organ of the United Nations).

⁴ UN High Commissioner for Refugees (UNHCR), Policy on the Protection of Personal Data of Persons of Concern to UNHCR, May 2015, available at: <https://www.refworld.org/docid/55643c1d4.html> [accessed 14 July 2022]



IN WITNESS WHEREOF the duly authorized representatives of the Parties hereto have signed this MoU in Bratislava, the Slovak Republic, in two original copies in the English language.

For and on behalf of the Centre for Legal Aid

Signature

Name: Ms. Zuzana Števílová

Title: Director of the Centre for Legal Aid

Date: 13-10-2022

For and on behalf of the Office of the United Nations High Commissioner for Refugees

Signature

Name: Ms. Danijela Popovic-Efendic

Title: Head of National Office, UNHCR Slovakia

Date: 13/10/2022