

The role of national bodies with a human rights remit in ensuring
fundamental rights compliance of EU funds - Slovakia

Title: The role of national bodies with a human rights remit in ensuring fundamental rights compliance of EU funds - Slovakia

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1. Introduction

The report is focused on the Slovak National Centre for Human Rights' ("the Centre") potential role in the implementation of the fundamental rights conditionalities in the Slovak Republic based on the analysis of the structure of the implementation of European Union ("EU") Funds in the Slovak Republic. The aim of the report is to explore the role that the Centre, fulfilling its mandate of a national human rights institution, could play in the implementation procedure of the fundamental rights conditionalities as set out in Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy¹ ("Common Provisions Regulation").

As regards the methodology and scope, the purpose of the research was to provide an overview of how EU funds operate in the national context, identifying challenges and opportunities for fundamental rights, and exploring the role and involvement of national bodies with a human rights remit in ensuring fundamental rights compliance of EU funds. The initial step of the research included conducting an in-depth analysis and desk research on operational structure of EU funds in the Slovak Republic. Based on the outcomes of the desk research, the Centre also identified the key stakeholders and experts at the national level. Subsequently, the Centre conducted expert interviews to gain insight on the challenges and opportunities for fundamental rights in the implementation of EU funds in the national context and to further explore the role of national bodies with a human rights remit in ensuring fundamental rights compliance of EU funds.

For instance, for this purpose the Centre conducted expert interviews with the:

- The substantively competent department of the Ministry of Labour, Social Affairs and Family - **the Department of the Horizontal Principles** as the Gestor of the Horizontal Principles that was entrusted with the competence to ensure the compliance of EU funds with the horizontal principles as well as particular horizontal enabling conditions concerning the Charter of Fundamental Rights of the European Union ("EU Charter") and UN Convention on the Rights of Persons with Disabilities ("UNCRPD"),
- The Office of the Commissioner for Roma Communities which acts as one of the ten Intermediary Bodies.

¹ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy, OJ L 231.

2. The implementation of EU funds: challenges and opportunities for fundamental rights

The overview of the operation of EU funds in Slovakia

EU Funds in the Slovak Republic operate according following structure:

1. Cohesion policy programmes:

- The Programme Slovakia (EUR 12 593 734 933)
- The Fisheries Programme of the Slovak Republic (EUR 15 225 428)
- The Programmes for the Home Affairs area (EUR 103 625 941,98)

2. Territorial cooperation programmes:

- Interreg VI-A Slovakia - Czech Republic (EUR 85 323 597)
- Interreg VI-A Slovakia - Austria (EUR 55 500 000)
- Interreg VI-A Poland - Slovakia (EUR 129 839 952)
- Interreg VI-A Hungary - Slovakia (EUR 129 000 000)
- Interreg VI-A Poland - Slovakia Interreg NEXT HU - SK - RO - UA (EUR 66 092 505)
- Interreg Danube Region Programme 2021-2027 (EUR 2015 000 000)
- Interreg Central Europe Programme (EUR 224 000 000)

The following objectives are to be supported **by the Programme Slovakia**:

- **A more competitive and smarter Europe** (EUR 1 890 150 000)
 - Priorities:
 - Science, research and innovation
 - Digital connectivity
 - Managing Authority: Ministry of Investment, Regional Development and Informatisation of the Slovak Republic
 - Intermediate bodies:
 - Ministry of Education, Science, Research and Sport of the Slovak Republic
 - Ministry of Economy of the Slovak Republic
 - Ministry of Health of the Slovak Republic
- **A greener, low carbon transitioning towards a net zero carbon economy** (EUR 4 197 548 170)
 - Priorities:
 - Energy efficiency and decarbonisation
 - Environment
 - Sustainable urban mobility
 - Managing Authority: Ministry of Investment, Regional Development and Informatisation of the Slovak Republic
 - Intermediate bodies:
 - Ministry of the Environment of the Slovak Republic
 - Slovak Innovation and Energy Agency
 - Ministry of Transport and Construction of the Slovak Republic
 - Ministry of the Interior of the Slovak Republic
 - Office of the Government of the Slovak Republic/Office of the Government Plenipotentiary for Roma Communities
- **A more connected Europe by enhancing mobility** (EUR 2 003 127 273)
 - Priority:

- Transport
 - Managing Authority: Ministry of Investment, Regional Development and Informatisation of the Slovak Republic
 - Intermediate bodies
 - Ministry of Transport and Construction of the Slovak Republic
 - Office of the Government of the Slovak Republic/Office of the Government Plenipotentiary for Roma Communities
- **A more social and inclusive Europe** (EUR 3 251 604 336)
 - Priorities:
 - An adaptable and accessible labour market
 - Quality and inclusive education
 - Capacities for better adaptability and inclusion
 - Youth guarantee (youth employment)
 - Active inclusion and accessible services
 - Active inclusion of Roma communities
 - Social innovation and experimentation
 - Food and material deprivation
 - Managing Authority: Ministry of Investment, Regional Development and Informatisation of the Slovak Republic
 - Intermediate bodies:
 - Ministry of Labour, Social Affairs and Family of the Slovak Republic
 - Ministry of Education, Science, Research and Sport of the Slovak Republic
 - Ministry of Health of the SR
 - Office of the Government of the Slovak Republic/Office of the Government Plenipotentiary for Roma Communities
- **Europe closer to citizens by fostering the sustainable and integrated development of all types of territories** (EUR 400 413 611)
 - Priority:
 - Modern regions
 - Managing Authority: Ministry of Investment, Regional Development and Informatisation of the Slovak Republic
- **The specific objectives are separately supported by the Just Transition Fund** (EUR 440 658 242)
 - Managing Authority for this fund is the Ministry of Investment, Regional Development and Informatisation of the Slovak Republic
 - The aim is to enable regions and populations to address the social, economic and environmental impacts caused by the transition in the context of meeting the EU's 2030 energy and climate target and achieving a climate-neutral Union economy by 2050 under the Paris Agreement.²

² Ministry of Investment, Regional Development and Informatization of the Slovak Republic, 'Creating a Better Slovakia Brochure', available in Slovak at: https://drive.google.com/file/d/1p8lQdjw_jEV-cj1b_C97P6-gXMz1IK1L/view.

The responsibility for the implementation of the entire programme is vested in the managing authority, which monitors whether:

- the objectives of the programme are being met,
- the rules of the programme are complied with,
- EU funding is used effectively.

The managing authority for the Programme Slovakia 2021-2027 is the Ministry of Investment, Regional Development and Informatisation of the Slovak Republic.³ In addition to the managing authority, intermediate bodies may be established by the managing authority to conduct tasks assigned to them by the managing authority.⁴ There are ten intermediate authorities/bodies:

- Ministry of Labour, Social Affairs and Family of the Slovak Republic,
- Ministry of Education, Science, Research and Sport of the Slovak Republic,
- Ministry of Transport and Construction of the Slovak Republic,
- Ministry of Environment of the Slovak Republic,
- Ministry of Economy of the Slovak Republic,
- Ministry of the Interior of the Slovak Republic,
- Ministry of Health of the Slovak Republic,
- Office of the Government of the Slovak Republic - Office of the Government Plenipotentiary for Roma Communities,
- Slovak Innovation and Energy Agency,
- Office for Public Procurement.⁵

2.1 The implementation of EU Funds – The new cohesion policy 2021-2027

The EU investment policy for 2021-2027 is based on the **new cohesion policy**. It aims to strengthen economic, social and territorial cohesion in the European Union resulting in correcting imbalances between countries and regions.⁶ The Policy is to be achieved via **5 policy objectives**:

1. a more competitive and smarter Europe;
2. a greener, low carbon transitioning towards a net zero carbon economy;
3. a more connected Europe by enhancing mobility;
4. a more social and inclusive Europe;

³ For more information, please see, Ministry of Investment, Regional Development and Informatization of the Slovak Republic, 'EU funds', available in Slovak at: <https://www.eurofondy.gov.sk>.

⁴ Creating a Better Slovakia Brochure, Ministry of Investment, Regional Development and Informatization of the Slovak Republic, available in Slovak at: https://drive.google.com/file/d/1p8lQdjw_jEV-cj1b_C97P6-gXMz1IK1L/view.

⁵ The Intermediate Bodies, Eurofunds (gov.sk), Ministry of Investment, Regional Development and Informatization of the Slovak Republic, available at: <https://www.eurofondy.gov.sk/program-slovensko/sprostredkovatelske-organy/index.html> and Government Resolution No 641/2021 on the proposal for the designation of entities to perform the tasks of intermediate bodies for the Operational Programme Slovakia, available in Slovak at: <https://rokovania.gov.sk/RVL/Resolution/19624/1>.

⁶ New Cohesion Policy, European Commission, available at: https://ec.europa.eu/regional_policy/2021-2027_en.

5. Europe closer to citizens by fostering the sustainable and integrated development of all types of territories.⁷

Moreover, the new policy provides simplification through introducing one set single rules for the eight Funds – the Common Provisions Regulation⁸, that is intended to govern the eight EU Funds⁹ shared with Member States and regions. Objectives of each of the funds are governed by their respective Fund-specific regulations.¹⁰

2.2 The implementation of EU Funds in the Slovak Republic – The Partnership Agreement and the Programme Slovakia 2021-2027

Partnership Agreements are strategic plans negotiated and signed between the European Commission and EU Member States outlining each country's investment priorities covering the EU Funds. The partnership agreement is broken down through Operational Programmes that overarch strategic objectives agreed in the Partnership Agreement into investment priorities, specific objectives and further into concrete actions. Unless the Partnership Agreement is adopted, the Operational Programmes cannot be approved.¹¹

The Partnership Agreement of the Slovak Republic for the period 2021-2027 ("the Partnership Agreement") as a key document that determines how the EU funds will be used in the new programming period, was signed on 18 July 2022 in Brussels by the Deputy Prime Minister and Minister for Investment, Regional Development and Informatisation of the Slovak Republic, Veronika Remišová, the Commissioner responsible for Cohesion Policy and Reform, Elisa Ferreira, and the Commissioner for Jobs and Social Rights, Nicolas Schmit.¹²

The objectives of cohesion policy are pursued through the programmes. These programmes are the basic implementing documents that define the scope and form of support provided for a particular thematic area and define the objectives to be achieved by this support.¹³ For the programming period 2021-2027, the basic programming document is **Programme Slovakia 2021-2027**. This programming document for the new EU funds has been prepared by experts from the Ministry of Investment, Regional

⁷ Priorities for 2021-2027, European Commission, available at: https://ec.europa.eu/regional_policy/policy/how/priorities_en.

⁸ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions.

⁹ European Regional Development Fund (ERDF), European Social Fund Plus (ESF+), Cohesion Fund, Just Transition Fund (JTF), European Maritime, Fisheries and Aquaculture Fund (EMFAF), Asylum and Migration Fund (AMIF), Internal Security Fund (ISF) and Border Management and Visa Instrument (BMVI).

¹⁰ The single rulebook of EU funds jointly delivered with member states and regions, European Commission, available at: https://commission.europa.eu/funding-tenders/find-funding/funding-management-mode/common-provisions-regulation_en

¹¹ Q&A on the "Partnership Agreements" between the European Commission and the EU Member States on European Structural and Investment Fund investments for 2014-2020, European Commission, available at: https://ec.europa.eu/commission/presscorner/detail/en/MEMO_14_331.

¹² Partnership Agreement SR, Ministry of Investment, Regional Development and Informatization of the Slovak Republic, available in Slovak at: <https://www.mirri.gov.sk/sekcie/cko/politika-sudrznosti-eu/dokumenty/partnerska-dohoda-sr/index.html>.

¹³ Creating a Better Slovakia Brochure, Ministry of Investment, Regional Development and Informatization of the Slovak Republic, available in Slovak at: https://drive.google.com/file/d/1p8lQdjw_jEV-cj1b_C97P6-gXMz1IK1L/view.

Development and Informatisation of the Slovak Republic in close cooperation with all relevant partners,¹⁴ in the context of the EU investment policy for 2021-2027, the **new cohesion policy**. The purpose of the Programme is to pursue the EU cohesion policy objectives: a more competitive and smarter Europe; a greener, low carbon transitioning towards a net zero carbon economy; a more connected Europe by enhancing mobility; a more social and inclusive Europe; Europe closer to citizens by fostering the sustainable and integrated development of all types of territories.

2.3 The Roadmap for Building Administrative Capacity for 2000+

The Roadmap for Building Administrative Capacity for 2000+ (“the Roadmap”) was prepared by the Ministry of Investment, Regional Development and Informatization of the Slovak Republic and taken into consideration by the Council of the Government of the Slovak Republic for Cohesion Policy 2021-2027 on 28 June 2022. It is a framework document aimed at improving the implementation of EU funds, while considering the analysis of the previous programming period and the communication between the Ministry of Investment, Regional Development and Informatization and the European Commission. As clear from the Roadmap, high quality administrative capacity is a crucial prerequisite for effective implementation of EU funds.¹⁵

The Roadmap is therefore a conceptual material that can be adjusted in accordance with the actual implementation of selected measures and the need of adoption of new measures in relevant areas. Changes to the Roadmap will be decided by the Commission established under the Monitoring Committee for Programme Slovakia 2021-2027. The document, inter alia, specifically aims at involving partners in the process of preparation and implementation of the new programming period. The Ministry of Investment, Regional Development and Informatization had worked with the Office of the Government Plenipotentiary for the Development of the Civil Society to prepare the Management System for Cooperation and Partnership with Civil Society Representatives in the Preparation, Implementation and Monitoring of EU Funds in programme period 2021-2027. The Roadmap should take into account the main recommendations of the European Commission as set out in the Country Report 2019 and the Country Report 2020. For this reason, the Roadmap measures are aimed at substantial simplification of implementation structures, increased monitoring of administrative capacities, their training and streamlining of selected implementation processes, including simplification of the public procurement process.¹⁶ The Roadmap, however, does not contain any reference to the importance of the human rights compliance of EU funds.

¹⁴ Bringing 13 billion euros for the development of Slovakia - the government approved the Slovakia Programme for 2021 - 2027, Eurofunds (gov.sk), Ministry of Investment, Regional Development and Informatization of the Slovak Republic, available in Slovak at: <https://www.eurofondy.gov.sk/prinasame-13-miliard-eur-pre-rozvoj-slovenska-vlada-schvalila-program-slovensko-na-roky-2021-2027/>.

¹⁵ Administrative capacity building roadmap for 2020+, Ministry of Investment, Regional Development and Informatization of the Slovak Republic, available in Slovak at: https://www.mirri.gov.sk/wp-content/uploads/2018/11/220630_Cestovn%C3%A1-mapa-budovania-AK-pre-2020.pdf.

¹⁶ *Ibid.*

2.4 The implementation of EU Funds in the Slovak Republic – Legislation on the national level

Legal relations, mandate of state authorities, conditions for providing financial contributions and liability for breach of conditions in connection with the implementation of financial instruments from EU funds in the programming period 2021-2027 are regulated by Act No. 121/2022 Coll. on contributions from the European Union funds, amending and supplementing certain acts (“Act on contributions from the EU funds”).¹⁷

According to the Act on contributions from the EU funds, the Government of the Slovak Republic approves the Partnership Agreement before sending it to the European Commission and also designates the managing authority.¹⁸ The Managing Authority is the body of the state administration which is appointed by the Government to implement the programme. Under the Act on contributions from the EU funds, the Managing Authority carries out the tasks conferred on it by a specific regulation, namely the Common Provision Regulation.¹⁹

The Managing Authority is eligible to establish Intermediate Bodies pursuant to the Act on contributions from the EU funds.²⁰ According to the Common Provisions Regulation, the Intermediate Body is a public or private body that acts under the responsibility of a managing authority, or which carries out functions or tasks on behalf of such an authority.²¹

2.5 The Monitoring Committee

The Managing Authority shall establish the Monitoring Committee. The composition of the Monitoring Committee shall be governed by the Statutes and Rules of Procedure of the Monitoring Committee.²² The Monitoring Committee may set up committees under the Monitoring Committee whose activities relate to specific thematic areas of the programme. These established commissions shall consider in their activities the interaction with national policies and other sources of funding from the European Union. The managing authority shall publish on its website a list of the members of the monitoring

¹⁷ Act No. 121/2022 Coll. on contributions from the European Union funds and on amendment and supplementation of certain acts, available in Slovak at: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2022/121/20220701>.

¹⁸ Ibid. § Section 4 para. b

¹⁹ Ibid. § Section 10 para. 1

²⁰ Ibid. § Section 10 para. 4

²¹ Article 2 para. 8 REGULATION (EU) 2021/1060 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R1060&from=SK>.

²² 21 February 2023 – The Statutes and the Rules of Procedure has not been published yet. Only Members of the Monitoring Committee. The Monitoring Committee Ministry of Investment, Regional Development and Informatization of the Slovak Republic, available in Slovak at: <https://www.eurofondy.gov.sk/program-slovensko/monitorovaci-vybor/index.html>.

committee, a list of the commissions set up under the monitoring committee and the members of those commissions.²³

Obligation to set up a committee to monitor the implementation of the programme is established within 3 months of the date of notification to the Member State concerned of the decision approving the programme.²⁴ The first meeting of the Monitoring Committee took place on 16 February 2023. According to the press release, the Monitoring Committee was informed about the schedule of planned calls for 2023 and the first calls are to be announced already in the first two quarters of 2023. These should support primary schools, road reconstruction, employment support, as well as environmental protection and renewable energy sources. A total of 138 calls for EUR 5.8 billion are to be launched this year.²⁵

The Monitoring Committee has set up the following commissions for the purpose of monitoring:

- Commission to the Monitoring Committee for the Slovakia 2021-2027 Programme for Objective 1 (A more competitive and smarter Europe) of the EU Cohesion Policy,²⁶
- Commission to the Monitoring Committee for the Slovakia 2021-2027 Programme for Objective 2 (A greener, low-carbon Europe) of the EU Cohesion Policy,²⁷
- Commission to the Monitoring Committee for the Slovakia 2021-2027 Programme for Objective 3 (A More Connected Europe) of the EU Cohesion Policy,²⁸
- Commission to the Monitoring Committee for the Slovakia 2021-2027 Programme for Objective 4 (A more social and inclusive Europe implementing the European Pillar of Social Rights) of the EU Cohesion Policy,²⁹
- Commission to the Monitoring Committee for the Slovakia 2021-2027 Programme for Integrated Territorial Development and for Objective 5 (Europe closer to citizens by supporting sustainable

²³ § Section 10 para. 6 Act No. 121/2022 Coll. on contributions from the European Union funds and on amendment and supplementation of certain acts, available in Slovak at: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2022/121/20220701>.

²⁴ Article 38 REGULATION (EU) 2021/1060 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R1060&from=SK>.

²⁵ New Euro funds are launched - up to 138 calls for EUR 5.8 billion will be announced from the Slovakia Programme this year, Eurofunds (gov.sk), Ministry of Investment, Regional Development and Informatization of the Slovak Republic, available at: <https://www.eurofondy.gov.sk/nove-eurofondy-su-spustene-z-programu-slovensko-vyhlasime-este-v-tomto-roku-az-138-vyziev-za-58-miliardy-eur/>.

²⁶ Commission to the Monitoring Committee for the Slovakia 2021-2027 Programme for Objective 1 (A more competitive and smarter Europe) of the EU Cohesion Policy, Eurofunds (gov.sk), Ministry of Investment, Regional Development and Informatization of the Slovak Republic, available in Slovak at: <https://www.eurofondy.gov.sk/program-slovensko/monitorovaci-vybor/komisia-pri-monitorovacom-vybore-pre-ciel-1/>.

²⁷ Commission to the Monitoring Committee for the Slovakia 2021-2027 Programme for Objective 2 (A greener, low-carbon Europe) of the EU Cohesion Policy, Eurofunds (gov.sk), Ministry of Investment, Regional Development and Informatization of the Slovak Republic, available in Slovak at: <https://www.eurofondy.gov.sk/program-slovensko/monitorovaci-vybor/komisia-pri-monitorovacom-vybore-pre-ciel-2/>.

²⁸ Commission to the Monitoring Committee for the Slovakia 2021-2027 Programme for Objective 3 (A More Connected Europe) of the EU Cohesion Policy, Eurofunds (gov.sk), Ministry of Investment, Regional Development and Informatization of the Slovak Republic, available in Slovak at: <https://www.eurofondy.gov.sk/program-slovensko/monitorovaci-vybor/komisia-pri-monitorovacom-vybore-pre-ciel-3/>.

²⁹ Commission to the Monitoring Committee for the Slovakia 2021-2027 Programme for Objective 4 (A more social and inclusive Europe implementing the European Pillar of Social Rights) of the EU Cohesion Policy, Eurofunds (gov.sk), Ministry of Investment, Regional Development and Informatization of the Slovak Republic, available in Slovak at: <https://www.eurofondy.gov.sk/program-slovensko/monitorovaci-vybor/komisia-pri-monitorovacom-vybore-pre-ciel-4/>.

and integrated development of all types of territories and local initiatives) of the EU Cohesion Policy,³⁰

- Commission under the Monitoring Committee for the Slovakia 2021-2027 Programme for Marginalised Roma Communities,³¹
- Commission to the Monitoring Committee for the Slovakia 2021-2027 Programme for the Fair Transformation Fund,³²

2.5.1 The first meeting of the Monitoring Committee³³

The first meeting of the Monitoring Committee took place in February 2023 to discuss the draft Statutes and the draft Rules of Procedure of the Monitoring Committee. The Chairperson of the Committee (Minister of Investment, Regional Development and Informatisation) presented the results of several comment procedures concerning the documents. A total of 169 comments were received from 21 organisations, out of which 122 were accepted in part or in full and 47 were not accepted but were discussed and resolved. Respecting the principle of the composition of the Monitoring Committee and all the Commissions, the Managing Authority proposed a total of 36 voting members for the composition of the Monitoring Committee, including 18 representatives of the State Administration and 18 members from the regional and socio-economic partners (50% state representatives and 50% regional and socio-economic representatives), 17 observers and 1 Secretary without voting rights. A number of comments were made concerning the composition of the membership and the representation. However, the Monitoring Committee approved the Statutes and Rules of Procedure of the Monitoring Committee as submitted to the meeting.

The draft Statutes and Rules of Procedure of the Monitoring Committee's Commissions were also presented. From the point of view of the functioning of the Commissions, this meeting was crucial. In the discussion on the Statutes and draft Rules of Procedure of the Commission attached to the Monitoring Committee for the Slovakia 2021-2027 Programme for Objective 1 (A more competitive and smarter Europe) of the EU Cohesion Policy, a key comment was made referring to the need for a higher level of participation of social partners in all Commissions, as in the draft presented social partners are

³⁰ Commission to the Monitoring Committee for the Slovakia 2021-2027 Programme for Integrated Territorial Development and for Objective 5 (Europe closer to citizens by supporting sustainable and integrated development of all types of territories and local initiatives) of the EU Cohesion Policy, Eurofunds (gov.sk), Ministry of Investment, Regional Development and Informatization of the Slovak Republic, available in Slovak at: <https://www.eurofondy.gov.sk/program-slovensko/monitorovaci-vybor/komisia-pri-monitorovacom-vybore-pre-integrované-uzemne-strategie-a-pre-ciel-5/>.

³¹ Commission under the Monitoring Committee for the Slovakia 2021-2027 Programme for Marginalised Roma Communities, Eurofunds (gov.sk), Ministry of Investment, Regional Development and Informatization of the Slovak Republic, available in Slovak at: <https://www.eurofondy.gov.sk/program-slovensko/monitorovaci-vybor/komisia-pri-monitorovacom-vybore-pre-marginalizované-romské-komunity/>.

³² Commission to the Monitoring Committee for the Slovakia 2021-2027 Programme for the Fair Transformation Fund, Eurofunds (gov.sk), Ministry of Investment, Regional Development and Informatization of the Slovak Republic, available in Slovak at: <https://www.eurofondy.gov.sk/program-slovensko/monitorovaci-vybor/komisia-pri-monitorovacom-vybore-pre-fond-na-spravodlivú-transformáciu/>.

³³ Minutes of the 1st Meeting of the Monitoring Committee for the Programme Slovakia, Ministry of Investment, Regional Development and Informatization of the Slovak Republic, available in Slovak at: <https://www.eurofondy.gov.sk/wp-content/uploads/2023/04/zapisnica.pdf>

not represented in all Commissions. Consequently, the Chair of the Monitoring Committee proposed the following course of action – that the first meeting of the Monitoring Committee should vote on the documents as presented and that the Chairs of the individual Commissions should take into account the request of the socio-economic partners to add tripartite social partners as full voting members in all Commissions and submit subsequent amendments to the Commissions' Statutes to the next meeting. This request was included in the minutes and applied to all commissions. On the basis of this procedure, the statutes and rules of procedure of all the commissions were approved.

The current state of the managing documentation and information on the Memorandum of Cooperation in the field of marginalised Roma communities (which was signed on the day of the meeting), were also presented. Furthermore, information on the timetable of planned calls was presented. The Chair of the Monitoring Committee informed that 143 calls are expected to be launched in 2023 for a total amount of EUR 5.8 billion, which represents more than one third of the allocation for the current programming period. The Director General of the Slovakia 2021-2027 Programme Section stressed that this is an ambitious and indicative plan, aiming to increase the predictability of calls for all partners and applicants.

The meeting also covered information on the implementation of the horizontal condition for the effective implementation and application of UNCRPD and information on the timetable for the adoption of the strategic documents related to the thematic basic conditions. At the time of the meeting, the Chairperson of the Monitoring Committee confirmed that all the Basic Conditions had been fulfilled, with the exception of two thematic conditions: "Strategic Policy Framework for the Education and Training System at All Levels" and "National Strategic Framework for Social Inclusion and Poverty Reduction" (including Homelessness Strategy).

3. The role of national bodies with a human rights remit in ensuring fundamental rights compliance of EU funds

3.1 The compliance with fundamental rights and the Charter of Fundamental Rights of the European Union as a horizontal principle

Pursuant to the Common Provisions Regulation for the programming period 2021-2027, Member States are obliged to comply with the **horizontal principles** when implementing the Funds.³⁴

³⁴ Article 9, REGULATION (EU) 2021/1060 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R1060&from=SK>.

According to Article 9 of the Regulation, these horizontal principles consist of the obligation to ensure that:

- the implementation of the Funds is in compliance with fundamental rights and the EU Charter;
- during the preparation, implementation and monitoring of programmes (including reporting and evaluation of programmes) equality between men and women is considered and promoted;
- appropriate measures are taken to eliminate any discrimination on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during preparation, implementation and monitoring of programmes (including reporting and evaluation). In particular, accessibility for persons with disabilities shall be taken into account during preparation and implementation of programmes.
- the objectives of the Funds are pursued in accordance with the objective of promoting the sustainable development as set out in Article 11 of the Treaty on the Functioning of the European Union, taking into account the UN Sustainable Development Goals, the Paris Agreement and the principle of doing 'no significant harm'.³⁵

3.2 The Enabling conditions

In the 2021-2027 programming period, Member States' commitment to implement specific objectives is assessed through the fulfilment of the so-called enabling conditions. These enabling conditions are a set of legislative, strategic and conceptual conditionalities designed to ensure a result-oriented implementation mechanism for the new cohesion policy. Member States shall ensure that the enabling conditions are met and applied throughout the whole programming period. The enabling condition is therefore a predefined essential criterion that has a direct and immediate link to and impact on the effective and efficient achievement of a specific objective. The enabling conditions replace the ex-ante conditionalities that were mandatory for every Member State in the 2014-2020 programming period.³⁶

The Common Provisions Regulation lays down the enabling conditions for the specific objectives in the form of horizontal enabling conditions and thematic enabling conditions. The horizontal enabling conditions applicable to all specific objectives and the criteria necessary for the assessment of their fulfilment and are contained in the Annex III of the Common Provisions Regulation. The thematic enabling conditions are included in Annex IV of the Common Provisions Regulation. These conditions are applicable for the European Regional Development Fund, the European Social Fund and the Cohesion Fund.³⁷

³⁵ Ibid, Article 9.

³⁶ Method of applying the enabling conditions in the preparation of the implementation mechanism of the EU Cohesion Policy after 2020 in the conditions of the Slovak Republic, Ministry of Investment, Regional Development and Informatization of the Slovak Republic, available in Slovak at: <https://www.mirri.gov.sk/wp-content/uploads/2018/11/Zakladne-podmienky.pdf>.

³⁷ Article 15, REGULATION (EU) 2021/1060 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R1060&from=SK>.

The Member States must ensure enabling conditions linked to the selected specific objective are fulfilled when preparing a programme or introducing a new specific objective as part of a programme amendment. An enabling condition is considered to be fulfilled if all the related criteria are met. A Member State shall identify the fulfilled and non-fulfilled enabling conditions and shall provide a justification for non-fulfilment of an enabling condition. It shall be ensured by the Member State that the enabling condition remains fulfilled and respected throughout programming period.³⁸

3.2.1 The horizontal enabling conditions: Effective application and implementation of the EU Charter as horizontal enabling condition in Programme Slovakia 2021-2027 and Implementation and application of UNCRPD in accordance with Council Decision 2010/48/EC as horizontal enabling condition in Programme Slovakia 2021-2027

The effective application and implementation of the EU Charter and Implementation and application of UNCRPD in accordance with Council Decision 2010/48/EC as horizontal enabling condition in Programme Slovakia 2021-2027 are one of the four horizontal enabling conditions for the implementation of EU funds as set out in the Partnership Agreement between the Commission and the Slovak Republic. The enabling conditions are:

1. Effective monitoring mechanisms of the public procurement market,
2. Tools and capacity for effective application of State aid rules,
3. Effective application and implementation of the EU Charter,
4. Implementation and application of UNCRPD in accordance with Council Decision 2010/48/EC.³⁹

Compliance with the principle of effective application and implementation of the EU Charter is assessed via ensuring the following criteria:

1. Arrangements to ensure compliance of the programmes supported by the Funds and their implementation with the relevant provisions of the EU Charter.
2. Reporting arrangements to the monitoring committee regarding cases of non-compliance of operations supported by the Funds with the EU Charter and complaints regarding the EU Charter submitted in accordance with the arrangements made pursuant to Article 69(7) Common Provisions Regulation.

The Ministry of Labour, Social Affairs and Family of the Slovak Republic shall be the lead authority (the Gestor) responsible for compliance with these criteria.⁴⁰

³⁸ Ibid, Article 15.

³⁹ The Programme Slovakia, p. 498, available in Slovak at: <https://www.employment.gov.sk/files/slovensky/esf/op-slovensko/programme-slovakia.pdf>.

⁴⁰ The Horizontal Enabling Conditions, Ministry of Investment, Regional Development and Informatization of the Slovak Republic, available in Slovak at: https://www.eurofondy.gov.sk/wp-content/uploads/2022/11/Z%C3%A1kladn%C3%A9-podmienky_horizont%C3%A1lne.pdf.

Compliance with the principle of effective application and implementation of UNCRPD in accordance with Council Decision 2010/48/EC is assessed via ensuring following criteria:

1. Objectives with measurable goals, data collection and monitoring mechanisms.
2. Arrangements to ensure that accessibility policy, legislation and standards are properly reflected in the preparation and implementation of the programmes.

The Ministry of Labour, Social Affairs and Family of the Slovak Republic shall be the lead authority (the Gestor) responsible for compliance with these criteria as well as for the enabling condition compliance with the principle of effective application and implementation of the EU Charter.⁴¹

2.1. The Basic Mechanism to ensure compliance with the Horizontal Principles in the 2021-2027 programming period and the Horizontal Enabling Conditions Effective application and implementation of the Charter of Fundamental Rights of the European Union and implementation and application of the UN Convention on the Rights of Persons with Disabilities (UNCRPD) in accordance with Council Decision 2010/48/EC

For the purpose of monitoring, the Ministry of Labour, Social Affairs and Family of the Slovak Republic prepared the Basic Mechanism to ensure compliance with the Horizontal Principles in the 2021-2027 programming period and the Horizontal Enabling Conditions Effective application and implementation of the Charter of Fundamental Rights of the European Union and implementation and application of the UN Convention on the Rights of Persons with Disabilities (UNCRPD) in accordance with Council Decision 2010/48/EC ("Basic Mechanism"). The Basic Mechanism was adopted on 26 October 2022 in the form of a government resolution.⁴²

According to the Basic Mechanism, all of the authorities involved in the process of implementing EU funds are obliged to ensure and implement all measures necessary for the implementation of the Charter. Pursuant to the Partnership Agreement, in order to ensure the compliance of operations supported by EU funds with the EU Charter (as well as UNCRPD), the mechanism established for the management, coordination, implementation, evaluation and audit of horizontal mechanisms for the area of fundamental rights, non-discrimination, gender equality and protection of persons with disabilities is to be coordinated at the national level. This task is entrusted to the Ministry of Labour, Social Affairs and Family of the Slovak Republic through the substantively competent department - **Department of Horizontal Principles as the Gestor of the Horizontal Principles**. Representatives of this department are obligatory members of the Monitoring Committee.⁴³

⁴¹ Ibid.

⁴² Government Resolution No 668/2022 on the draft Basic Mechanism for ensuring compliance with Horizontal Principles in the Programme Period 2021-2027 and the Horizontal Basic Conditions Effective implementation of the and implementation of the Charter of Fundamental Rights of the European Union and the Implementation of and implementation of the UN Convention on the Rights of Persons with Disabilities (UNCRPD) in accordance with Council Decision 2010/48/EC, available in Slovak at: <https://rokovania.gov.sk/RVL/Resolution/20462/1>.

⁴³ The Basic Mechanism, available in Slovak at: <https://horizontalneprincipy.gov.sk/wp-content/uploads/2022/11/Zakladny-mechanizmus-uplatnovania-HP-v-PO-2021-2027.pdf?csrc=16614460384458508037>.

The role of the Gestor of the Horizontal Principles is to negotiate with the managing authority or intermediate bodies on how to apply the horizontal conditions in order to identify relevant operations, measures, and activities with an emphasis on the target groups. Moreover, the Gestor of the Horizontal Principles is responsible for providing methodological guidance to the bodies involved in the implementation process of EU funds and is entitled to intervene in the processes of implementation, monitoring, evaluation and audit in order to ensure proper implementation and compliance with the horizontal conditions in cooperation with the managing authority and the intermediate bodies.⁴⁴

When creating the draft of the Basic Mechanism, the Gestor of the Horizontal Principles closely cooperated and communicated with all relevant partners from other central government bodies, as well as NGOs, foundations and civic associations.⁴⁵

3.2.2 The Gestor of the Horizontal Principles at the national level - Governance and Implementation under the Basic Mechanism⁴⁶

In the sphere of the management and implementation in the 2021-2027 programming period, the Gestor of the Horizontal Principles is to develop particular procedures for the implementation of the Horizontal Principles. The procedures shall consider the relevant experience from the previous programming period. According to the Basic Mechanism, *"the horizontal principles aimed at eliminating inequalities and promoting equality between women and men, as well as combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation will be respected in the implementation of EU funds, taking into account the EU Charter and the obligations arising from the UN Convention on the rights of persons with disabilities and ensuring accessibility in accordance with its Article 9 and in line with Union law harmonising accessibility requirements for products and services."*⁴⁷

The providing authority (managing authority, intermediate body, other body implementing EU funds) shall define a binding way of implementing the horizontal principles. The method of application shall subsequently be included in the programming, management, and other relevant documents for the programming period 2021-2027. The subjects responsible for the implementation of EU funds shall introduce particular measures in the implementation procedures to ensure the effective and efficient implementation of the horizontal principles, together with a mechanism for their monitoring and audit. These procedures are to be developed in cooperation with the Gestor of the Horizontal Principles.

⁴⁴ Ibid.

⁴⁵ Information provided to the Centre on the 10 May 2023 upon request.

⁴⁶ The Basic Mechanism, available in Slovak at: <https://horizontalnepriincipy.gov.sk/wp-content/uploads/2022/11/Zakladny-mechanizmus-uplatnovania-HP-v-PO-2021-2027.pdf?csrt=16614460384458508037>.

⁴⁷ Government Resolution No 668/2022 on the draft Basic Mechanism for ensuring compliance with Horizontal Principles in the Programme Period 2021-2027 and the Horizontal Basic Conditions Effective implementation of the and implementation of the Charter of Fundamental Rights of the European Union and the Implementation of and implementation of the UN Convention on the Rights of Persons with Disabilities (UNCPRD) in accordance with Council Decision 2010/48/EC, available in Slovak at: <https://rokovania.gov.sk/RVL/Resolution/20462/1>.

Furthermore, the Gestor of the Horizontal Principles shall provide methodological guidance on the application of the horizontal principles to the subjects involved in the implementation processes of EU funds. Information on the implementation of the horizontal principles and on specific competences and responsibilities shall be provided in the management documentation at the level of the managing authority as well as at the level of the individual intermediate bodies. Concerning the implementation of the horizontal principles, the methodological and technical guidance of the actors in the process of implementation of EU funds, as well as, the information of applicants and beneficiaries, the Gestor of the Horizontal Principles is to emphasise in particular those articles of the EU Charter, as well as Article 9 of UNCRPD, which would be the most relevant to the planned interventions, activities, target groups or circumstances that could arise during the implementation of projects. The Gestor of the Horizontal Principles shall pursue the obligation to take measures to ensure that the articles of the EU Charter and UNCRPD are not violated in the projects implemented.

The subjects involved in the implementation of EU funds, including the managing authority as well as, the intermediate bodies, shall appoint at least one contact person as a focal point for the cooperation with the Gestor of the Horizontal Principles. The focal point would be responsible for defining the necessary processes for the implementation of the Horizontal Principles, coordinating and correctly implementing the Horizontal Principles within the specific processes, communicating with the Gestor of the Horizontal Principles, monitoring, recording the required data, etc. The Gestor of the Horizontal Principles Manager shall also ensure a continuous system of education and training of the managing authority, intermediate bodies and other relevant bodies involved in the management, coordination, implementation, evaluation, monitoring and audit of the horizontal principles.

Moreover, the providing authority shall cooperate with the Gestor of the Horizontal Principles in the preparation of the call for proposals for non-reimbursable financial contribution so that the terms and conditions of funding are formulated in order to ensure the implementation of projects from EU funds in accordance with the EU Charter and UNCRPD. Therefore, a requirement to declare how to ensure compliance with the EU Charter and UNCRPD will be defined by the Gestor of the Horizontal Conditions already during the preparation of the call for proposals. The specific requirements shall be stipulated according to the main focus of the call, by mutual agreement between the Gestor of the Horizontal Principles and the managing authority or the intermediate body. The information provided by the applicant in the Grant Application Form are subsequently to be used for the purpose of assessing the compliance of the submitted project with the horizontal principles. The applicant will also declare the compliance of the submitted project with the horizontal principles in the Applicant's Affidavit.

In order to inform applicants/recipients about the obligation and the procedure of implementing and complying with the horizontal principles and the specific conditions related thereto, information seminars will be carried out by the staff of the providing authority trained by the Gestor of the Horizontal Principles or directly by the Gestor of the Horizontal Principles. The above information shall also be

provided through the 'general information on the submission and approval of applications for grant aid'. The contract on the granting of the grant should then define the obligation of the beneficiary of the grant to comply with the horizontal principles during the implementation of the project as well as during the specified sustainability period.

3.2.3 The Gestor of the Horizontal Principles at the national level - Evaluation under the Basic Mechanism⁴⁸

The Horizontal Principles shall be applied as a **disqualifying criterion** that must be applied during the grant application process at the latest. If the non-compliance with the horizontal principles is proven, an assessment of the compliance of the application for a non-reimbursable financial contribution with the horizontal principles shall be carried out by mutual agreement between the Gestor of the Horizontal Principles and the managing authority or the intermediate body, except in predefined cases where an assessment of the disqualifying criterion will be carried out via:

- ex ante assessment of the individual eligible activities of the Programme Slovakia 2021-2027 or, where appropriate, in the process of preparing calls for proposals for a non-reimbursable financial contribution,
- administrative verification of the application for a non-reimbursable financial contribution by subjects trained by the Gestor of the Horizontal Principles.

In case that the disqualification criterion is evaluated in the form of a specific evaluation criterion, the evaluation will be carried out by special expert evaluators trained by the Gestor of the Horizontal Principles. Information on the process of assessing the compliance of the grant application with the horizontal principles will also be provided in the evaluator's manual.

The compliance with the horizontal principles is to be checked and set at the beginning of the whole process, i.e. in the project plan/at the call. Concerning the requirement for a professional assessment of the planning of the project or plan, the Gestor of the Horizontal Principles claims many years of theoretical and practical experience and knowledge in the field, which enables it to correctly assess and identify articles of the EU Charter concerned, based on the European legislation, methodological guidelines and interpretative documents on the EU Charter.

The Gestor of the Horizontal Principles does not have the primary role to assess the impact (direct or indirect) of the project on human rights in the implementation process. The role of the Gestor of the Horizontal Principles is to set up the processes of fund disbursement in way that they are compliant with the EU Charter and Article 9 of UNCRPD. All projects must therefore comply with the horizontal principles. Compliance of the projects with the horizontal principles must be part of each call. Providing

⁴⁸ The Basic Mechanism, available in Slovak at: <https://horizontalneprincipy.gov.sk/wp-content/uploads/2022/11/Zakladny-mechanizmus-uplatnovania-HP-v-PO-2021-2027.pdf?csrc=16614460384458508037>.

that the compliance with the horizontal principles constitutes disqualifying criterion, if the Gestor of the Horizontal Principles issues a disagreeing opinion, the project will not go further in the approval process.

According to the target groups and activities, the Gestor of the Horizontal Principles qualifies the so-called 'other indications' that beneficiaries are obliged to fill in the monitoring reports. These ensure monitoring of the horizontal principles on specific projects. Indicators evaluated include:

- Number of newly created jobs,
- Number of newly created jobs occupied by long-term unemployed persons,
- Number of newly created jobs for young people (up to 25 years of age),
- Number of accessibility tools for people with disabilities,
- Number of female workers over 54 years of age,
- Number of workers belonging to ethnic, national, racial minorities,
- Number of newly created jobs filled by third-country nationals,
- Number of measures to reconcile personal and professional life implemented in the framework of the project,
- Number of newly created jobs occupied by the Marginalised Roma Communities.

For all the above groups of citizens, each project tracks whether they have been given the opportunity to participate in the project and resulting in ensuring the promotion of certain human rights.

In the framework of individual Operational Programmes, when commenting on projects, the Gestor of the Horizontal Principles, according to the target groups and activities, sets the other data to ensure the monitoring of the horizontal principles on specific projects. The beneficiaries are obliged to fill in these data in the monitoring reports. In the new programming period, this to be monitored as far as compliance with the EU Charter is concerned through the set activities and target groups.⁴⁹

3.2.4 The Gestor of the Horizontal Principles at the national level - Monitoring under the Basic Mechanism⁵⁰

The Gestor of the Horizontal Principles, in cooperation with the providing authority, shall monitor the compliance of the implemented projects with the horizontal principles. The managing authority and the intermediate bodies are supposed to cooperate with the Gestor of the Horizontal Principles to define the method and form of monitoring compliance with the Horizontal Principles at project level, as well as the subsequent collection of the data necessary for evaluating the contribution to the implementation of the Horizontal Principles. The specific monitoring steps will be set out in the management documentation for programming period 2021-2027.

⁴⁹ Information provided to the Centre on the 10 May 2023 upon request.

⁵⁰ The Basic Mechanism, available in Slovak at: <https://horizontalneprincipy.gov.sk/wp-content/uploads/2022/11/Zakladny-mechanizmus-uplatnovania-HP-v-PO-2021-2027.pdf?csrt=16614460384458508037>.

There are several mechanisms to ensure that each call for proposals includes a qualified reference to the need to respect the EU Charter and Article 9 of UNCRPD. In the 2021-2027 programming period, the Gestor of the Horizontal Principles shall in the framework of each operational programme assess in the project proposals or calls for proposals the compliance with the current horizontal principles - respect for fundamental rights and compliance with the EU Charter, taking into account and promoting equality between men and women, applying and mainstreaming gender equality, avoiding any discrimination and taking into account, in particular, accessibility for persons with disabilities.⁵¹

One of the criteria for the fulfilment of the horizontal principles in programming period 2021-2027 and also included as an evaluation criterion of the enabling conditions under the responsibility of the Ministry of Labour, Social Affairs and Family of the Slovak Republic is the requirement of adoption of measures for reporting to the Monitoring Committee or to the individual working groups of the Monitoring Committee on cases of non-compliance of operations supported by the Funds with the EU Charter and UNCRPD and complaints concerning the EU Charter and UNCRPD submitted in accordance with the measures under Article 69(7) of the General Regulation. The Gestor of the Horizontal Principles shall be represented in working groups and sub-committees, in the preparation of all documents at programme and project level, to ensure the correct and timely incorporation of the necessary aspects of implementation, monitoring, evaluation and audit of the Horizontal Principles.

The Gestor of the Horizontal Principles is to maintain database of identified cases of non-compliance with the EU Charter and UNCRPD and complaints relating to the EU Charter and UNCRPD. This information shall be regularly submitted to the Monitoring Committee in accordance with the arrangements under Article 69(7) of the General Regulation. The Gestor of the Horizontal Principles will also set up an email inbox for the purpose of collection of complaints. The complaints will then be forwarded to the managing authority or to the or will be handled by informing the complainant about the possibility of contacting other relevant institutions. In the case of complaints received by the Gestor of the Horizontal Principles, information on how these complaints are dealt with will be forwarded to the Monitoring Committee on an annual basis.

Currently, the website www.horizontalneprincipy.gov.sk in the section “Suggestions and complaints” provides an e-mail address for monitoring shortcomings and problems in projects supported by EU funds in connection with non-compliance with the horizontal principles in the activities of the projects in question. If the public is aware of an EU-funded project that is in any way in breach of the horizontal principles, they can address their complaint via email. Third parties who are not part of the project also have the possibility to lodge such a complaint. However, as of May 2023, there is no database of entities that have acted in violation of the horizontal principles.⁵²

⁵¹ Information provided to the Centre on the 10 May 2023 upon request.

⁵² Ibid.

Citizens can address their suggestions and complaints concerning possible violations of the EU Charter and UNCRPD to the Gestor of the Horizontal Principles and also to bodies independent of public and state administration bodies, such as the Office of the Commissioner for Persons with Disabilities, the Office of the Commissioner for Children, the Public Defender of Rights and the Centre. If the complaint is found to violate the legislation, the mentioned independent bodies or the managing authority may take appropriate measures or forward the complaint locally to the competent prosecutor's office.

The Act on Contributions from EU funds, as well as Act No. 71/1967 Coll. on administrative procedure (Administrative Procedure Code), as amended, shall apply to the process of providing the contributions. A decision on an application for non-repayable financial contribution is subject to appeal. Decisions of the managing authority shall be reviewable by a court. Problems with the application of the EU Charter and UNCRPD may be addressed by way of complaints under Act No. 9/2010 Coll. on complaints, as amended.

The monitoring system for the horizontal principles is to be elaborated in more detail in the management documentation for the programming period 2021-2027. By May 2023, this has not yet been published.

3.2.5 The Gestor of the Horizontal Principles at the national level - Audit under the Basic Mechanism⁵³

The audit of the compliance of the implemented projects with the horizontal principles shall be carried out via the usual audit carried out by the providing authority. The subjects responsible for conducting the audit will be trained by the Gestor of the Horizontal Principles on the execution of the audit by an e-learning course which will be available to the relevant staff. Such audit can be carried out at any stage of the project implementation.

Provided that the non-compliance of the project implementation with the horizontal principles is found, the providing authority is to contact the Gestor of the Horizontal Principles in order to review the finding, confirm or reject it and consult on the possibility of remedying or sanctioning, as the actions contributing to any form of segregation and discrimination cannot be supported through EU Funds. Moreover, the Gestor of the Horizontal Principles Manager shall be entitled, in agreement with the providing authority, to take part in the audit executed or to execute the audit itself.

Compliance with the horizontal principles in project implementation is examined through on-site inspections. Should it be found that there has been a breach of the implementation of the horizontal

⁵³ The Basic Mechanism, available in Slovak at: <https://horizontalneprincipy.gov.sk/wp-content/uploads/2022/11/Zakladny-mechanizmus-uplatnovania-HP-v-PO-2021-2027.pdf?csrc=16614460384458508037>.

principles, the Gestor of the Horizontal Principles send a complaint to the Managing Authority to be further addressed. In case of non-compliance with the horizontal principles, the providing authority will contact the Gestor of the Horizontal Principles in order to examine the finding, confirm/reject it and consult on the possibility of remedying or sanctioning the beneficiary in case of proven violation of the horizontal principles, as actions contributing to any form of discrimination cannot be supported under the Funds. The Gestor of the Horizontal Principles or its delegated person will be entitled, in agreement with the provider, to participate in the control carried out or to carry out a check on compliance with the horizontal principles as well.⁵⁴

3.2.6 The Gestor of the Horizontal Principles at the national level - Information and Communication under the Basic Mechanism⁵⁵

The Gestor of the Horizontal Principles in close cooperation with the Ministry of Investment, Regional Development and Informatization, shall ensure that the information concerning the implementation of the Horizontal Principles in the programming period 2021-2027 is distributed to the public, within the framework of the established information and communication activities:

- assisting to the Ministry of Investment, Regional Development and Informatization of the Slovak Republic in drawing up a communication plan,
- ensuring information distribution on the objectives, content, monitoring and evaluation of the horizontal principles, as well as on the progress achieved,
- organizing seminars and workshops on the horizontal principles for the wider professional public,
- evaluation the effectiveness of communication activities on an ongoing basis,
- annual reporting,
- regularly updating the information published on its website.

3.2.7 Legislative process of the adoption of the Basic Mechanism (LP/2022/504)

The Centre intervened in the legislative process for the adoption of the Basic Mechanism through the interdepartmental commentary procedure. In the proposed wording, the section concerning the audit exercised by the Gestor of the Horizontal Principles, particularly concerning the possibility to file a complaint to bodies independent of public and state administration bodies, included only the Office of the Commissioner for Persons with Disabilities, the Office of the Commissioner for Children and the Public Defender of Rights. The Centre was thus absent alongside these independent bodies.⁵⁶

⁵⁴ Information provided to the Centre on the 10 May 2023 upon request.

⁵⁵ The Basic Mechanism, available in Slovak at: <https://horizontalnepripriny.gov.sk/wp-content/uploads/2022/11/Zakladny-mechanizmus-uplatnovania-HP-v-PO-2021-2027.pdf?csrc=16614460384458508037>.

⁵⁶ Legislative process LP/2022/504, available in Slovak at: <https://www.slov-lex.sk/legislativne-procesy/-/SK/dokumenty/LP-2022-504>.

Hence, the Centre submitted its comment, arguing that as a national human rights institution established by Act No. 308/1993 Coll. of the National Council of the Slovak Republic on the establishment of the Slovak National Centre for Human Rights and an equality body established according to Act No. 365/2004 Coll. on Equal Treatment in Certain Fields and Protection against Discrimination, as amended (Anti-Discrimination Act), the Centre is an independent body from public and state administration bodies. By virtue of its mandate as a national human rights institution and equality body, the Centre performs a wide range of tasks in the field of protection and promotion of human rights and fundamental freedoms, including the principle of equal treatment. The Centre thus requested to be added to the subjects already included (Office of the Commissioner for Persons with Disabilities, Office of the Commissioner for Children and the Public Defender of Rights). **The comment was accepted.**

3.2.8 Memorandum of Cooperation with the Ministry of Labour, Social Affairs and Family of the Slovak Republic

The Ministry of Labour, Social Affairs and Family of the Slovak Republic and Centre shall cooperate in the implementation of human rights and freedoms according to the Memorandum on Human Rights and Respect for Horizontal Principles signed between the Department of Horizontal Principles at the Ministry of Labour, Social Affairs and Family of the Slovak Republic, and the Centre. The cooperation shall target counselling and educational activities in the field of the application of human rights and freedoms, compliance with the Constitution of the Slovak Republic with emphasis on equal treatment, protection against discrimination, ensuring accessibility in accordance with Article 9 of UNCRPD and with the EU Charter. Both sides shall focus on compliance with the horizontal principles in the implementation of the funds in the 2021-2027 programming period.⁵⁷

3.3 The role of the Department of Horizontal Principles of the Ministry of Labour, Social Affairs and Family of the Slovak Republic in ensuring fundamental rights compliance when implementing EU funds

On 23 February 2023, the Centre arranged meeting with the representatives of the Department of the Horizontal Principles to discuss the issue of respect for fundamental rights and freedoms in the implementation of EU funds in the programming period 2021-2027. As already mentioned, the Ministry of Labour, Social Affairs and Family of the Slovak Republic through its substantively competent Department of the Horizontal Principles as the Gestor of the Horizontal Principles was entrusted with the competence to ensure the compliance of EU funds with the horizontal principles as well as horizontal enabling conditions:

⁵⁷ Ministry of Labour, Social Affairs and Family of the Slovak Republic and the Slovak National Centre for Human Rights signed a Memorandum of Cooperation, available in Slovak at: <https://www.teraz.sk/ekonomika/mpsvr-a-snslp-podpisali-memorandum-o-s/585196-clanok.html>.

- Effective application and implementation of the EU Charter,
- Implementation and application of UNCRPD in accordance with Council Decision 2010/48/EC.⁵⁸

The Department of the Horizontal Principles as the Gestor of the Horizontal Principles currently has fifteen employees, together with the Head of the Department. Seven employees are assigned to the division of implementation of EU funds projects, four are assigned to methodology division and three are assigned directly on projects. During the expert interview conducted with the representatives of the Department, the Department informed that as regards the employees, they work in so-called cumulative non-standardised positions, which means that they are entrusted with tasks across the whole spectrum of implementation of EU funds through the implementing projects. The Department has been working on these issues since 2014 when the position of the Gestor was created, as the Ministry of Labour, Social Affairs and Family of the Slovak Republic pursuant to Act No. 575/2001 Coll. on the organisation of government activities and the organisation of central state administration is the central state administration body for gender equality and equal opportunities and the coordination of state policy in this area. While the Minister of Labour, Social Affairs and Family of the Slovak Republic is the principal responsible authority, the Department of the Horizontal Principles is an executive body. The Department of Horizontal Principles is the horizontal authority for the EU funds.

During the expert interview, the representatives of the Department identified the following outstanding challenges:

- technical assistance funding is being dispersed by the Slovak Republic independently and irrespective of the European Commission – due to the funding half of the positions should be cancelled resulting in insufficient human resources;
- funds from the previous programming period are still being implement, while at the same time the calls should already be announced in the new programming period. Consequently, the same human resources are working cumulatively on the implementation of funds in both programming periods;
- the management documentation has not yet been adopted;
- only the Basic Mechanism (analysed above) has been adopted so far - a more detailed implementation mechanism is to be adopted in the next few months.

The Department of Horizontal Principles presented that it is actively working to ensure that the implementation of EU funds is compliant with the horizontal principles through the following activities:

- creation of e-learning courses over the last months, e-learning has been provided for the administrative capacities working with EU funds;
- information dissemination – the Department is developing tools that aim at transparency and easy access to information, such as the publication of FAQs or checklists on their official website;

⁵⁸ The Programme Slovakia, p. 498, available at: <https://www.employment.gov.sk/files/slovensky/esf/op-slovensko/programme-slovakia.pdf>.

- creation of a specific email box for the submission of complaints by individuals;
- monitoring compliance with the principles - compliance with the horizontal principles is monitored throughout the implementation process, starting from the call announcement. In the event of a breach, the criterion of compliance with the horizontal principles is applied as a disqualification criterion.

3.4 The role of Ministry of Investment, Regional Development and Informatization of the Slovak Republic in ensuring fundamental rights compliance when implementing EU funds

The Ministry of Investment, Regional Development and Informatization of the Slovak Republic represents the managing authority for the Programme Slovakia 2021-2027, as well as the central coordinating body for the implementation of all programmes in the new programming period. The role of the coordinating body dates back to the previous programming period, which was characterised by the existence of several programmes and the Ministry of Investment, Regional Development and Informatization role was to coordinate them at the national level. It was reported that there is no designated person responsible for monitoring compliance with the EU Charter. Regarding training, they had not yet received training explicitly targeted at the EU Charter but only at a general level. In the development of the mechanisms, they have been involved in the commenting procedure for the preparation of the Basic Mechanism. The Centre has been informed that the governing documentation in terms of information from Ministry of Investment, Regional Development and Informatization should be complete. During the implementation practice, the management documentation may change according to the experience and needs that arise - it is not rigid. The managing documentation includes documents available on eurofondy.gov.sk, in particular:

General methodological documents:

- Framework for the implementation of the Funds (18 November 2022),
- Guide to the eligibility of expenditure (18 November 2022),
- General information on the submission and approval of applications for funding (18 November 2022),
- Guide for applicants/beneficiaries on the procurement/procurement process and control (22 December 2022),
- Model Grant Agreement (22 December 2022),
- Model Manual of Procedures of the Managing Authority (7 March 2023).

Methodological documents specific to the Programme Slovakia 2021-2027:

- Unified methodological document for the development of measurable indicators and dimensions of interventions (26 January 2023),
- National Project Intention Form (12 May 2023).⁵⁹

⁵⁹ The Methodological Documents, Ministry of Investment, Regional Development and Informatization of the Slovak Republic, available in Slovak at: <https://www.eurofondy.gov.sk/dokumenty-a-publikacie/metodicke-dokumenty/index.html>.

Currently, the Ministry of Investment, Regional Development and Informatization expressed that they are not yet in a position to identify challenges in the new programming period, as the implementation of the new programming period is at an early stage, calls for funds from the Programme Slovakia 2021-2027 have not yet been published. In general Ministry of Investment, Regional Development and Informatization has identified achieving synergies to prevent double disbursement of EU funds for the same expenditure as a challenge. In the past, the actual preparation of the programme was a challenge as it took place at a critical time, which was influenced by many external factors such as the Covid-9 pandemic, the war in Ukraine, or the energy crisis. At the same time, the new cohesion policy set new criteria. Currently, instability in government structures also poses a challenge. EU funds under the old programming period are to be implemented by the end of 2023. Staff that are contracted should continue smoothly in the next (i.e. current) programming period.

As for the compliance mechanism, its essence is to prevent sanctions. The managing authority is supposed to act preventively as the compliance with the basic horizontal conditions must be respected at all times. In case of deficiencies, the primary procedure is a call for remedy. Prevention at national level is important as infringements may lead to suspension of payments to the Slovak Republic. However, the programme may continue to run. The supervision over compliance with the horizontal conditions linked to human rights is primarily entrusted to the Gestor of the Horizontal Principles. In Ministry of Investment, Regional Development and Informatization's experience, over 500 projects come in response to the call, which requires an extensive level of scrutiny. Constant monitoring is therefore key in terms of supervision, thus a system of coordination between the different implementation authorities has been put in place that established reporting mechanisms.

3.5 The role of the Office of the Government Plenipotentiary for Roma Communities in ensuring fundamental rights compliance when implementing EU funds

In the current programming period, the Office of the Government Plenipotentiary for Roma Communities acts as one of the ten intermediary bodies. Supporting marginalised Roma communities is part of Priority 4 of the Programme Slovakia 2021-2027 - A More Social and Inclusive Europe. The sum of EUR 3 251 604 336 is allocated to this priority. The Ministry of Labour, Social Affairs and Family of the Slovak Republic, the Ministry of Education, Science, Research and Sport of the Slovak Republic and the Ministry of Health of the Slovak Republic act as intermediary bodies for the priority A More Social and Inclusive Europe in addition to the Office of the Government Plenipotentiary for Roma Communities.⁶⁰

According to its Statute, the Office of the Government Plenipotentiary for Roma Communities is an advisory body to the Government of the Slovak Republic on the issue of Roma communities in the Slovak Republic. It performs tasks aimed at addressing the issues of Roma communities and implements

⁶⁰ Creating a Better Slovakia Brochure, Ministry of Investment, Regional Development and Informatization of the Slovak Republic, available in Slovak at: https://drive.google.com/file/d/1p8lQdjw_jEV-cj1b_C97P6-gXMz1IK1L/view.

systemic measures to improve their status and their integration into society, particularly in the area of development, implementation and coordination of more effective policies and the realisation of systemic measures aimed at the prevention of social exclusion of Roma communities and the promotion of their inclusion into society. For the execution of the tasks of the intermediate body in the field of promoting the inclusion of marginalised Roma communities in the programming period 2021-2027, the Plenipotentiary has the status of a statutory body of the Government Office, including financial management and financial audit, and to this extent also represents the Government Office externally.⁶¹

The Office is organised into:

- the Office of the Government Plenipotentiary for Roma Communities,
- the Department of Concepts and Analyses,
- the Project Implementation Department,
- the Department of Regional Coordination.

Within the Slovak Republic, the Office ensures its activities through ten remote offices in Banská Bystrica, Humenné, Kežmarok, Košice, Michalovce, Nitra, Prešov, Rimavská Sobota, Spišská Nová Ves and Svidník.⁶²

During the expert interview, a representative from the Office informed that currently, there are seventeen people assigned with the tasks of the intermediate body. Regarding the current programming period, coordination meetings have been held between the Office of the Plenipotentiary and the Ministry of Investment, Regional Development and Informatization of the Slovak Republic.

The Office of the Government Plenipotentiary for Roma Communities is represented in the Monitoring Committee, as well as, at the Monitoring Commission for the Programme Slovakia 2021-2027 for Marginalised Roma Communities. The Statute and Rules of Procedure of the Commission at the Monitoring Committee for the Programme Slovakia 2021-2027 for Marginalised Roma Communities have already been published at the website of the Office of the Government Plenipotentiary for Roma Communities, under the Section of European Programmes.⁶³

The Commission performs the tasks defined in its Statute. The performance of the Commission's tasks is subsequently reported to the Monitoring Committee, through the records of the Commission's meetings. The remit of the Commission covers:

- priority Active inclusion of Roma communities - Objective 4 of the EU Cohesion Policy,

⁶¹ The Statute of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities, available in Slovak at: https://www.romovia.vlada.gov.sk/site/assets/files/1135/statut_splnomcnenca_uplne_znenie_na_web.pdf?csrt=10727223131938642253.

⁶² Office of the Plenipotentiary, Organisational structure, the Plenipotentiary of the Government of the Slovak Republic for Roma Communities, available in Slovak at: <https://www.romovia.vlada.gov.sk/urad/?csrt=10727223131938642253>.

⁶³ The Commission under the Monitoring Committee for the Programme Slovakia 2021 - 2027 for Marginalised Roma Communities, the Plenipotentiary of the Government of the Slovak Republic for Roma Communities, available in Slovak at: <https://www.romovia.vlada.gov.sk/sekcia-europskych-programov/?csrt=17840204612827564904>.

- the measures of the Objective 3 of the EU Cohesion Policy for which the Office of the Government Plenipotentiary of the Slovak Republic for Roma Communities is the provider,
- the measures of the Objective 2 of the EU Cohesion Policy for which the Office of the Government Plenipotentiary of the Slovak Republic for Roma Communities is the provider,
- the action Support for desegregation of education and training under the specific objective of the European Regional Development Fund, Objective 4 of the EU Cohesion Policy,
- the action Completion of community centres and improvement of their facilities under the specific objective of the European Regional Development Fund, priority Active inclusion and accessible services, Objective 4 of the EU Cohesion Policy.

The composition of the Commission corresponds to the substantive and content focus of the support for marginalised Roma communities and reflects the principles of partnership, non-discrimination and equal representation. The Commission is composed of 26 voting members, 13 permanent non-voting observers and 1 non-voting secretary of the Commission.⁶⁴

The Office of the Government Plenipotentiary for Roma Communities identified with following outstanding challenges:

- The intermediary body currently has 17 staff members, which are responsible for implementation of the EU funds. This body is tasked with decision-making on calls for proposals or project involvement by the Plenipotentiary Office itself. If a project is contracted, it is forwarded to the implementation department where people are contracted until 31 August 2023 until the EU funds are exhausted according to the previous programming period. Already operating administrative capacities (with the know-how) should be transferred to the next programming period so that policy objectives are not undermined.
- A so-called programme department is being established (currently three out of six people are assigned to the department; next year it will be possible to assign eight people to the department). Its objective is to monitor the money-value of projects through the effectiveness of the use of projects (within an advisory body) - this department is to be subsequently separated from the intermediary body. It is planned to be set up as of 1 May 2023, but currently they are only looking for experts with adequate experience.
- Initially, the monitoring report was used as an audit mechanism for project implementation and was only acknowledged by the relevant authorities. This year resorts shall provide an evaluation (an external panel of experts will evaluate the outputs). Consequently, a remedy can be requested (resorts will be obliged to respond to their shortcomings) - a response shall be then forwarded to the government for discussion.

⁶⁴ The Statute of the Commission under the Monitoring Committee for the Programme Slovakia 2021 - 2027 for Marginalised Roma Communities, the Plenipotentiary of the Government of the Slovak Republic for Roma Communities, available in Slovak at: https://www.romovia.vlada.gov.sk/site/assets/files/1576/statut_komisie_pri_mv_pre_mrk.pdf?csrt=10727223131938642253.

3.6 The role of the Ministry of Education, Science, Research and Sport of the Slovak Republic in ensuring fundamental rights compliance when implementing EU funds

In the current programming period, the Ministry of Education, Science, Research and Sport act as the intermediate body for the priority four, A More Social and Inclusive Europe, together with the Ministry of Labour, Social Affairs and Family of the Slovak Republic, the Ministry of Health of the Slovak Republic and the Office of the Government Plenipotentiary for Roma Communities. Moreover, the Ministry of Education, Science, Research and Sport is established as the intermediate body for the objective one – A More Competitive and Smarter Europe.⁶⁵

During the expert interview, the Centre was informed that the most outstanding challenge concerning the contemporary programming period lies in the time aspect. The managing documentation has not been adopted yet. The managing documentation is to include detailed evaluation criteria in order to assess the compliance with required conditions including human rights conditionality underlined in the horizontal principles and horizontal conditions.

However, the representatives of the Ministry of Education, Science, Research and Sport stated that the cooperation with the Managing Authority is on high level. All comments and statements are properly addressed in the drafting of relevant documents. Moreover, the Ministry of Education, Science, Research and Sport should be prepared to implement the EU Funds as soon as it is possible when the essential managing documentation is adopted based on their experience from previous programming period.

Even though, the implementation of the EU Funds under the Programme Slovakia 2021-2027 has not been launched yet, we were presented some of the good practices arising from the previous programming period. One of them is organisation of roundtable discussions. On these discussions the administrative capacities responsible for implementation of the EU Funds discussed with the potential applicants prospective challenges and possible measures to resolve them. Relevant authorities including e.g. the Gestor of the Horizontal Principles were present at these discussions. Another good practice that was presented is publication template of a completed grant application form for potential applicants which is consequence of previous experience in resolving the situation in which the potential applicant was unable to apply for a grant due to inability to prepare the application.

3.7 Potential role of the Centre

In the scope of cooperation, as stated by the Gestor of the Horizontal Principles in the Enabling Mechanism, in complaints concerning possible violations of the EU Charter and UNCPRD, individuals

⁶⁵ Creating a Better Slovakia Brochure, Ministry of Investment, Regional Development and Informatization of the Slovak Republic, available in Slovak at: https://drive.google.com/file/d/1p8lQdjw_jEV-cj1b_C97P6-gXMz1IK1L/view.

may (in addition to the Gestor of the Horizontal Principles) turn to bodies independent of public authorities, including the Centre. The Centre welcomes the suggestion of the Gestor of the Horizontal Principles, proposed during the expert interview, that in cases of possible discrimination, complainants will be referred directly to the Centre. Moreover, the Centre appreciates possible cooperation indicated by the Ministry of the Education, Science, Research and Sports during the expert interview concerning implementation of the EU Funds pursuant to the priority A More Social and Inclusive Europe, particularly with emphasis on desegregation policies.

Furthermore, the Centre can envisage cooperation within the framework of the Centre's already given legal mandate on a consultative basis. Pursuant to the Act of Slovak National Council No. 308/1993 Coll. on the Establishment of Slovak National Centre for Human Rights, as amended the Centre is a national human rights institution established and under the Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and on Protection from Discrimination, as amended (Anti-Discrimination Act), as amended, the Centre also acts as the only Slovak equality body. Thus, the Centre can provide independent expert opinions on issues related to fundamental human rights to the Gestor of the Horizontal Principles or any other authority implementing the EU Funds.

In the case of any cooperation beyond the legal mandate, which could imply an extension of the competence and tasks already given to the Centre, it is important that these tasks are assigned by legislation and that adequate human and financial resources are provided to the Centre to enable it to effectively implement the new role.

3.8 Coordination of the implementation of the enabling conditions of the cohesion policy of the European Union and their application during the programming period 2021-2027 at national level

In March 2023, the Proposal for coordination of the implementation of the enabling conditions of the European Union cohesion policy and their application during the programming period 2021-2027 at national level ("Proposal for coordination") was submitted to the interparliamentary comment procedure⁶⁶ and was subsequently adopted by the government on 24 May 2023.⁶⁷

The Proposal for coordination defines the enabling mechanisms by which the Managing Authority will monitor and evaluate compliance with the horizontal and thematic conditions during the programming period 2021-2027. It is the responsibility of each EU Member State to ensure that these conditions are fulfilled and respected throughout the programming period and to inform the European Commission of any modification that affects the fulfilment of the conditions. The Managing Authority has the obligation

⁶⁶ Legislative Process LP/2023/130, Proposal for coordination of the implementation of the enabling conditions of the European Union cohesion policy and their application during the programming period 2021-2027 at national level, available in Slovak at: <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2023/130>.

⁶⁷ Government Resolutions adopted on 24 May 2023, available in Slovak at: <https://rokovania.gov.sk/RVL/Resolution?NegotiationID=1282>.

to ensure that the operations/projects concerning the Enabling Condition are in line with the relevant strategies and planning documents established to fulfil the Enabling Condition. The examination of the fulfilment of the enabling conditions and their application is one of the functions of the Monitoring Committee. Information on the fulfilment of the enabling conditions and their application is to be provided to the European Commission as a basis for the annual performance review of the programme. Each Managing Authority must also submit a final report on programme performance to the European Commission by 15 February 2031 based on the most recent data available at national level. The fulfilment of the different conditions will be ensured by the appointed gestors within its remit. Each year by 30 September, the Gestor shall provide the managing authority with written information on the state of play of the implementation of the condition under its responsibility.

If the enabling condition is met so the gestor shall:

- provide information on its application and changes in its fulfilment since the previous reporting (or since the European Commission's approval of its fulfilment),
- identify any risks to the fulfilment of the enabling condition and suggest how to eliminate these risks.

If the enabling condition is not met, the gestor shall:

- provide information in particular on the measures and the time needed to meet the condition,
- provide information on the communication with the European Commission and its requirements regarding the fulfilment of the enabling condition,
- identify possible obstacles to the fulfilment of the individual criteria of the enabling condition with a suggestion for their elimination,
- provide information on the expected date of fulfilment of the enabling condition.

Upon request, the Gestor shall provide up-to-date information on the status of fulfilment of the enabling condition under its responsibility outside the periodic reporting period. The Gestor is obliged to inform without delay any change affecting the fulfilment of the enabling condition and its criteria.

The Ministry of Investment, Regional Development and Informatisation, as the central coordinating body on the basis of the information provided by the Gestors shall:

- keep records, evaluate the fulfilment of the enabling conditions, and publish information on the current status of fulfilment of the enabling conditions on the website: eurofonds.gov.sk,
- actively communicate and cooperate with the relevant Gestor in order to remove obstacles and ensure re-compliance with the enabling condition in the event of identification of a threat to implementation or non-compliance with the enabling condition,
- provide information on the state of compliance with the enabling condition to the European Commission and national authorities/institutions upon request,

- inform without delay the managing authorities and intermediate bodies of the programmes concerned by the fulfilment of the enabling condition of any change in the state of fulfilment of the enabling condition,
- communicate proactively with the European Commission to support the fulfilment of the enabling conditions throughout the programming period,
- ensure the preparation of background material and information for the Monitoring Committee meeting in cooperation with the enabling conditionality gestor and, in the context of the function of the Monitoring Committee, examine the implementation and application of the enabling conditions during the programming period,
- ensure that the processing of up-to-date information based on the latest data from the Gestors is provided to the European Commission in due course as a basis for the annual review of programme performance,
- submit to the Government of the Slovak Republic an informative paper on the current status and process of the implementation of the enabling conditions by 31 January each year (until 31 January 2030).⁶⁸

⁶⁸ Coordination of the implementation of the enabling conditions of the European Union cohesion policy and their application during the programming period 2021-2022, Ministry of Investment, Regional Development and Informatization of the Slovak Republic, available in Slovak at: https://www.partnerskadohoda.gov.sk/data/files/6533_koordinacie-plnenia-zakladnych-podmienok-politiky-sudrznosti-po-2021-%E2%80%93-2027.zip

4. Critical success factors

4.1 Availability and dissemination of information

Availability and dissemination of information concerning fundamental rights conditionality that is especially accomplished via horizontal principles and horizontal conditions (EU Charter and UNCRPD) is a critical success factor. If subjects are required to comply with certain rules, it is essential that they are made aware of those rules, and in such a way that they understand those rules. Communication and dissemination of information must be at a level that every potential applicant for EU funds is aware of. The objective of EU funds is to ensure the development of EU Member States in line with the objectives of cohesion policy. Horizontal principles as well as horizontal conditions with a human rights aspect are one of the tools to ensure that these objectives are met in an effective and determined manner. However, unless the addressees of these rules are familiar with them, it is not reasonable to expect them to be complied with.

Therefore, it is necessary to provide information for potential applicant on how to apply for non-reimbursable financial contribution, so the project is compliant with the horizontal principles and horizontal conditions.

Example:

The first calls for application in the new programming period announced on the main website regarding EU Funds concerns the Interreg Poland – Slovakia Programme 2021-2027.⁶⁹

Financial contribution can be awarded for project concerning rebuilding and upgrading roads together with utilities, in particular improving their accessibility for public transport and road safety. The road infrastructure elements implemented should improve the functionality, safety and flow of traffic as well as contribute to the improvement of the environment.⁷⁰

Instruction regarding application is available for applicant. This instruction includes following detailed guidance on how to comply with the horizontal principles for the purpose of the application:

- Describe **how the horizontal principles** are applied in the project.
- Describe how the project **ensures respect for the rights set out in the EU Charter**.
- Describe **how the project will respect the principle of equal opportunities and non-discrimination (including the principle of accessibility for persons with disabilities)**, including how the project:

⁶⁹ Announcement of the call for proposals - ROADS, Interreg Poland - Slovakia Programme 2021 – 2027, available in Slovak at: <https://sk.plsk.eu/-/oznamenie-o-vyhlaseni-vyzvy-na-predkladanie-ziadosti-o-prispevok-pre-projekty-fmp-turystyka-i-kultura-655101-656871>

⁷⁰ Ibid.

- will comply with the principle of non-discrimination against certain groups of people on the grounds of age, disability, racial or ethnic origin, religion or belief, sexual orientation how the principle of equal opportunities and non-discrimination has been taken into account, including the accessibility of all activities in the project, including horizontal activities, e.g. promotion of the project (how you will inform about the project in order to reach the widest possible group of interested parties), management of the project (how you will ensure equal opportunities in the management of the project). Also describe how access to the project and its results will be ensured for all potential participants/users (which groups may have difficulty in accessing the project or its products and what measures you will take to address this problem),
- has planned for the accessibility of the project's products in line with the principle of universal design (e.g. traffic lights with acoustic signalling, - use of text transcription, signage of the building with Braille signs, etc.).
- Describe how the project will comply with the **principle of equal opportunities for women and men**, inter alia:
 - whether and how gender equality and gender mainstreaming activities are planned in the project; and perspectives, including the promotion of the project in order to build a message free from gender stereotypes, the use of gender-sensitive language and in the management process.
 - how you will use gender-stereotype-free, gender-sensitive messages in project promotion language (language, graphics, images), e.g. promoting the portrayal of women in professions perceived as masculine and men in professions perceived as feminine).⁷¹

The detailed description of the conditions of compliance with the principle of equal opportunities and non-discrimination (including the principle of accessibility for persons with disabilities) and the principle of equal opportunities for women and men can be viewed in a beneficial perspective. Such a detailed description that includes precise activities will ensure that potential grant applicants are familiar with their obligations under the human rights conditionality. However, such a more detailed description would be equally desirable concerning the EU Charter as well, in order to ensure that the human rights conditionality is properly respected.

4.2 Education and developing capacities of administrative capacities involved in the process of implementing of EU funds

⁷¹ Instructions for applicants, Interreg Poland - Slovakia 2021 - 2027 Programme, Application for financial contribution (standard projects), Ministry of Funds and Regional Policy, available in Slovak at: https://sk.plsk.eu/documents/19504/655674/%5BSK%5D+WOD2021_STANDARDOWE_In%C5%A1trukcia+k+aplik%C3%A1cii+WOD/8a23784b-8657-44db-af87-101641db4cb3

Developing capacities and education of administrative capacities involved in the process of implementing EU Funds in order to apply human rights conditionality is a critical success factor on several levels. First and foremost, it is important that administrative capacities are able to provide information regarding these conditions to potential applicants. At the same time, these administrative capacities must be able to identify cases where non-compliance with human rights conditionality is occurring, as these conditions must be respected across the whole process of implementing funds. That is, from the launch of the call, through the selection of successful applicants, to the supervision of compliance with the conditions during the implementation of the project itself. The Education should focus on the EU Charter as whole. As from the structure of the Basic Mechanism, it may seem that the compliance mechanism focuses mostly on the principle of equal treatment and non-discrimination. The EU Charter provides fundamental rights protection far beyond the principle of equal treatment and non-discrimination. This conception may be result in entrusting the EU Charter and UNCPRD compliance procedures to the Gestor if the Horizontal Principles that was formerly established to promote equal treatment and non-discrimination in the previous programming period. It is therefore necessary to target the educational and capacity building activities on the EU Charter as whole to unlock its whole potential to promote and protect fundamental rights in the EU Fund implementation.

4.3 Cooperation between authorities involved

Cooperation between authorities involved in the process of implementing EU Funds can be considered crucial critical success factor concerning the fact that for programming period 2021-2027, the majority of the EU Funds in the new Cohesion Policy are allocated through one main programme (Programme Slovakia 2021-2027) for implementation of which one managing authority and ten intermediate bodies are responsible. It is necessary that all of the authorities cooperate with each other, so the EU Funds are implemented properly and effectively, administrative processes are fulfilled within reasonable time manner and the Funds are actually exhausted.

4.4 Simplification of the managing documentation

A managing documentation is a complex set of several documents. The analysis of these documents to obtain a comprehensive overview of the process of implementation of EU Funds is demanding in terms of time consumption as well as expertise, especially, for the beneficiary of the financial contribution. For potential beneficiaries, the very lack of skills to prepare the project is often an obstacle, thus they are unable to apply for a contribution from EU funds. They also lack the financial means to have the project prepared by an entity with adequate expertise. The simplification of the management documentation could remove this obstacle.

5. Conclusion

EU funds under the new cohesion policy are mainly allocated under the key programme: Programme Slovakia 2021-2027. It comprises all five crucial priorities of the new EU cohesion policy:

1. a more competitive and smarter Europe;
2. a greener, low carbon transitioning towards a net zero carbon economy;
3. a more connected Europe by enhancing mobility;
4. a more social and inclusive Europe;
5. Europe closer to citizens by fostering the sustainable and integrated development of all types of territories.

The system is centralized under one Managing Authority, the Ministry of Investment, Regional Development and Informatisation of the Slovak Republic, which has set up ten intermediary bodies. These intermediate bodies carry out the tasks entrusted to them by the managing authority. Intermediate bodies exercise their competence according to their remit in the scope of the priority that they were assigned to.

The Managing Authority establishes the Monitoring Committee that monitors the implementation of the programme. The Monitoring Committee may set up committees under the Monitoring Committee whose activities relate to specific thematic areas of the programme. These established commissions then shall consider in their activities the interaction with national policies and other sources of funding from the European Union.

The general principle to protect and promote fundamental rights while implementing the EU Funds is set in the Article 9 of the Regulation. The Common Provisions Regulation more over lays down the enabling conditions for the specific objectives in the form of horizontal enabling conditions and thematic enabling conditions. Member States must ensure enabling conditions linked to the selected specific objective are fulfilled when preparing a programme or introducing a new specific objective as part of a programme amendment.

The effective application and implementation of the EU Charter and the UNCRPD in accordance with Council Decision 2010/48/EC as horizontal enabling condition in Programme Slovakia 2021-2027 are crucial horizontal enabling conditions for the implementation of EU funds compliantly with the fundamental rights conditionality. For the purpose of monitoring, the Ministry of Labour, Social Affairs and Family of the Slovak Republic prepared the Enabling Mechanism to ensure compliance with the Horizontal Principles in the 2021-2027 programming period and these fundamental rights Horizontal Enabling Conditions. According to the Enabling Mechanism, **all of the authorities involved** in the process of implementing EU funds are obliged to ensure and implement all measures necessary for the implementation of the EU Charter. The task to coordinate the fundamental rights conditionality is entrusted to the Ministry of Labour, Social Affairs and Family of the Slovak Republic through the

substantively competent department - **Department of Horizontal Principles as the Gestor of the Horizontal Principles**. Representatives of this department are obligatory members of the Monitoring Committee.

The coordination between the Managing Authority and the Gestor shall be set in the Proposal for coordination of the implementation of the enabling conditions of the European Union cohesion policy and their application during the programming period 2021-2027 at national level that was submitted in the March 2023. The Proposal for coordination shall cover the communication and information exchange between the Managing Authority and the European Commission as well.

The potential role of the Centre in the implementation of the EU Funds is defined by the current legal mandate and available budget of the Centre. In the case of any cooperation beyond the legal mandate, which could imply an extension of the competence and tasks already given to the Centre, it is important that these tasks are covered by legislation, adequate human resources and especially by a sufficient funding. Consequently, if the scope of the mandate of the Centre is extended, increasing the human resources and budget (compared to the current situation) are necessary prerequisites.

In order to exercise full potential of the human rights conditional there are several critical success factors. Availability and dissemination of information concerning fundamental rights conditionality that is especially accomplished via horizontal principles and horizontal conditions (EU Charter and UNCRPD) is essential as if subjects are required to comply with certain rules, it is essential that they are made aware of those rules, and in such a way that they understand those rules. Therefore, it is necessary to provide information for potential applicant on how to apply for non-reimbursable financial contribution, so the project is compliant with the horizontal principles and horizontal conditions. Furthermore, developing capacities and education of administrative capacities involved in the process of implementing EU Funds in order to apply human rights conditionality is necessary on several levels from the launch of the call through the selection of successful applicants to the supervision of compliance with the conditions during the implementation of the project itself. Moreover, it is necessary that all of the authorities cooperate with each other, so the EU Funds are implemented properly and effectively, administrative process are fulfilled within reasonable time manner and the Funds are actually exhausted. The simplification of the management documentation could remove the obstacle created by complexity of the managing documentation.