



SLOVAK NATIONAL
CENTRE FOR
HUMAN RIGHTS

Report on the Observance of Human Rights

Including the Principle of Equal Treatment
in the Slovak Republic in 2024



Title: Report on the Observance of Human Rights Including
the Principle of Equal Treatment in the Slovak Republic in 2024

Authors: Collective of authors of the Slovak National Centre for
Human Rights

Published by: Slovak National Centre for Human Rights, Bratislava,
2025

Photos: Jakub Kováč

Graphic design: Kovidesign
Kamila Černáková

Printed by: Expresta s.r.o, Bratislava

The authors are responsible for the content and language editing.
Not for sale.

© Slovak National Centre for Human Rights

ISBN: 978-80-8296-046-7 (print)
978-80-8296-047-4 (online)

Table of Contents

List of Abbreviations	5
Introduction	7
1. Evaluation of the recommendations for 2023	10
1.1 Indications of the power-based restriction of political rights in connection with the constitutional and international guarantees of their protection	11
1.2 Identified challenges faced by refugees and migrants in the Slovak Republic	18
1.3 Discrimination against Roma with an emphasis on the Centre's cases	23
2. Hate speech (not only) in the online space and the potential risks of its impact on normative guarantees of the protection of human rights and fundamental freedoms	26
2.1 Current judicial interpretative and normative characteristics of online hate speech in connection with the guarantees of the protection of human rights and respect for fundamental freedoms	26
Council of Europe	28
UN	29
European Union	30
Online platforms	30
Online (and other) hate speech in public discourse	32
LGBTI+ people	33
Roma	35
Jewish women, Jews, Ukrainian women, Ukrainian men, refugees	36
The issue of hate speech in a selection of the educational, monitoring, research and awareness-raising activities of the Centre	37

Education	37
International information exchange	38
Research and monitoring	39
Awareness	39
Recommendations	41
3. Rule of Law	42
3.1 Decreasing the quality of the legislative process	43
3.1.1 Abbreviated legislative procedure in 2024	43
3.1.2 Risks of overusing the shortened legislative procedure	46
3.2 Declining levels of protection of civil and political rights	50
3.2.1 Efforts to restrict the right to association	50
3.2.2 Restrictions on the right to assemble	57
Recommendations	59
4. Segregation in education	62
4.1 Legislative activity	64
4.1.1 The issue of passive legal standing in the decision-making activity of the courts in cases of segregation	70
4.1.2 Selection of segregation cases handled by the Centre	74
Recommendations	81
Conclusion	82
List of recommendations	85

List of abbreviations used

Act on State Administration in Education – Act No. 596/2003 Coll. on State Administration in Education and School Self-Government and on Amendments to Certain Acts

Act on STVR – Act No. 157/2024 Coll. on Slovak Television and Radio and on Amendments to Certain Acts

Act No. 290/2024 – Act No. 290/2024 Coll. amending Act No. 597/2003 Coll. on the financing of primary schools, secondary schools and school facilities, as amended and amending certain acts

Advice – Advice Centre for Civil and Human Rights

Amendment to the Freedom of Information Act – Act No. 211/2000 Coll. on free access to information and amending certain laws (Freedom of Information Act) as amended

anti-discrimination law – Act No. 365/2004 Coll. on equal treatment in certain areas and on protection against discrimination and on amending and supplementing certain laws (anti-discrimination act)

5

Centre – Slovak National Centre for Human Rights

Committee against Extremism – Committee of the Council of the Government of the Slovak Republic for Human Rights for the Prevention and Elimination of Racism, Xenophobia, Antisemitism and Other Forms of Intolerance

Constitution – Constitution of the Slovak Republic

Constitutional Court – Constitutional Court of the Slovak Republic

Convention – European Convention for the Protection of Human Rights and Fundamental Freedoms

Council – UN Human Rights Council

Court of Justice of the EU – Court of Justice of the European Union

Council – UN Human Rights Council

draft act on non-governmental organisations – Act No. 213/1997 Coll. on non-profit organizations providing services of general benefit, as amended and amending certain laws

ECHR – European Court of Human Rights

EU – European Union

European Charter – European Charter for Regional or Minority Languages

Government – Government of the Slovak Republic

Inspection – State School Inspection

Inspection Centre – School Inspection Centre Prešov

Ministry of Education – Ministry of Education, Science, Research and Sports of the Slovak Republic

6 **Ministry of Environment** – Ministry of Environment of the Slovak Republic

Ministry of Health – Ministry of Health of the Slovak Republic

Ministry of Investments – Ministry of Investments, Regional Development and Informatization of the Slovak Republic

Ministry of Labour – Ministry of Labour, Social Affairs and Family of the Slovak Republic

Ministry of the Interior – Ministry of the Interior of the Slovak Republic

National Council – National Council of the Slovak Republic

President – President of the Slovak Republic

School Act – Act No. 245/2008 Coll. on Education (School Act) and on Amendments to Certain Acts

STVR – Slovak Television and Radio

Introduction

The Slovak National Centre for Human Rights (hereinafter referred to as the “Centre”) is a national authority established for the promotion and protection of human rights and a national equality body. The National Council of the Slovak Republic established it by adopting Act No. 308/1993 Coll. on the Establishment of the Slovak National Centre for Human Rights, which entered into force on 1 January 1994. The aforementioned founding act of the Centre was the result of the Agreement between the Government of the Slovak Republic and the United Nations on the Establishment of the Slovak National Centre for Human Rights published by the Announcement of the Ministry of Foreign Affairs of the Slovak Republic No. 29/1995 Coll.

The Centre fulfils irreplaceable tasks in two important areas of social and legal relations. The first is expressed by its mission

to protect and promote human rights and fundamental freedoms, the second is defined primarily by the provisions of Act No. 365/2004 Coll. on equal treatment in certain areas and on protection against discrimination and on amendments and supplements to certain laws (anti-discrimination act) (hereinafter referred to as the “anti-discrimination act”). In accordance with its mandate, it monitors and evaluates compliance with human rights, fundamental freedoms and the principle of equal treatment. Every year, by 30 April of the relevant calendar year, it prepares and publishes on its website the Report on compliance with human rights, including the principle of equal treatment in the Slovak Republic for the previous calendar year.

The aim of the Report on compliance with hu-

man rights, including the principle of equal treatment in the Slovak Republic for 2024 (hereinafter referred to as the “Report for 2024”) is to provide the public with a comprehensive assessment of the state of selected human rights and fundamental freedoms in Slovakia. At the same time, the Centre intends to address recommendations to make the protection and implementation of human rights and fundamental freedoms more effective. The Centre continues to evaluate the recommendations addressed to individual entities in the Report on the observance of human rights, including the principle of equal treatment in the Slovak Republic for 2023 (hereinafter referred to as the “Report for 2023”), and the assessment of the implementation of the recommendations will continue in the following years.

The submitted Report for 2024 is divided into four chapters. The first chapter focuses on the evaluation of the recommendations addressed in the Report for 2023, specifically in the subchapters Indications of power-based restrictions on political rights in connection with constitutional and international guarantees of their protection, Identified challenges faced by refugees and migrants in the Slovak Repub-

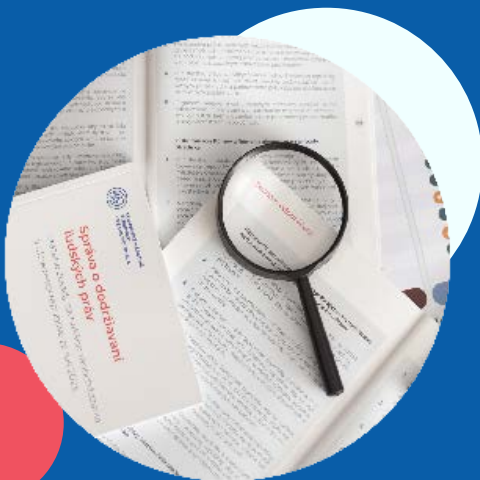
lic, and Discrimination against Roma with an emphasis on the Centre’s cases. The evaluation of recommendations is a tool for monitoring progress in improving the protection and implementation of human rights and fundamental freedoms and reflects the Opinion No. 7 of the European Union Agency for Fundamental Rights of 2021, according to which the Member States of the European Union (hereinafter referred to as the “EU”) could ensure systematic monitoring and public reporting on the follow-up and implementation of recommendations of national human rights institutions. This could include reporting on recommendations that are still under discussion and at what stage they are, which recommendations have been explicitly rejected or have not been acted upon by the competent national authorities.¹

The aim of the second chapter is to point out hate speech (not only) in the online space and the potential of its impact on the normative guarantees of the protection of human rights and fundamental freedoms. The Centre monitors the occurrence of hate speech regularly and in the long term. Given the difficult social situation, the Centre considers it necessary to pay due attention to the issue of the impact

¹ See more: Strong and effective national human rights institutions: challenges, promising practices and opportunities - Executive summary | European Union Agency for Fundamental Rights (europa.eu)

of these expressions on the protection of human rights and the guarantee of fundamental freedoms. That is why it included it in the Report for 2024, since this year too the occurrence of hate speech and negative sentiments in society was enormous, as evidenced by several indicators, data and publicly available information. The third chapter reflects on the situation in the area of the rule of law, which was also a key strategic topic of the Centre in 2024. In addition to the annual Rule of Law Report², the Centre continued to organize the Rule of Law Festival, a series of expert discussions on the topic of the rule of law throughout Slovakia. In the third chapter, the Centre focused on the decline in the quality of the legislative process and the decline in the level of protection of civil and political rights.

The fourth chapter deals with the segregation of Roma in education and follows up on the 2023 Report. It points out that the state is undoubtedly one of the entities that bears responsibility for adopting effective measures and legislative steps to prevent segregation in education. However, its inaction often contributes to the fact that segregation is still a persistent and systemic problem. Through the cases addressed in 2024, it brings its mandate as a national equality body closer and provides insight into the daily work of the Centre. The fourth chapter does not neglect legislative activity and the issue of passive substantive legitimacy in the decision-making activity of courts in cases of segregation.



10

1. Evaluation of the recommendations for 2023

Evaluation of recommendations is a tool for monitoring progress in improving the protection and enforcement of human rights and fundamental freedoms.

1.1 Indications of the power-based restriction of political rights in connection with the constitutional and international guarantees of their protection

In the 2023 Report, the Centre focused its attention on indications of the power-based restriction of political rights in connection with the constitutional and international guarantees of their protection. It pointed out that in the event of any restriction of the right to information or freedom of association, constitutional officials are obliged to respect the constitutional and international limits of the admissibility of such action. It pointed out the interpretation of the content of the right to information and

its confrontation with publicly presented intentions. It also addressed the content of the constitutional and international guarantees of freedom of association. In this context, it emphasized the need to constantly remind public officials of the content of the judicial interpretation of the right to freely disseminate and receive information and the need to support and create conditions for the implementation of guarantees for the activities of the non-profit sector.

The Centre recommended to:

1. members of the Government of the Slovak Republic to refrain from any legislative or other initiatives that could negatively limit the freedom to disseminate information, as well as the freedom to receive it;
2. members of the National Council of the Slovak Republic to refrain from any legislative initiatives that could negatively limit the freedom to disseminate information, as well as the freedom to receive it;
3. members of the Government of the Slovak Republic and members of the National Council of the Slovak Republic to behave decently towards journalists in their public appearances and not to contribute to creating a negative image of free and democratic media;
4. members of the Government of the Slovak Republic to refrain from any legislative or other initiatives that could negatively limit the activities of the non-profit sector, including so-called non-governmental organizations designated as political;
5. Members of the National Council of the Slovak Republic to refrain from any legislative initiatives that could negatively limit the activities of the non-profit sector, including so-called non-governmental organizations designated as political;

6. Members of the Government of the Slovak Republic and Members of the National Council of the Slovak Republic to behave decently towards representatives of the non-profit sector in their public appearances and not contribute to creating a negative image of their activities.

The first and second recommendations of the Centre concerned legislative and other initiatives that could negatively restrict the freedom to impart and receive information. They were addressed to entities that play a decisive role in the legislative process. The Centre notes that, despite its recommendations and warnings, the National Council of the Slovak Republic (hereinafter referred to as the “National Council”) has approved several laws that

12

raise legitimate doubts about their compliance with the constitutional and international legal guarantees of the freedom to impart and receive information.

On 10 December 2024, the National Council approved Act No. 401/2024 Coll., amending and supplementing Act No. 211/2000 Coll. on free access to information and on amendments and supplements to certain acts (the Freedom of Information Act), as amended (hereinafter referred to as the “Amendment to the Freedom of Information Act”), after its veto by the President of the Slovak Republic (hereinafter referred to as the “Presi-

dent”). The Amendment to the Freedom of Information Act extended the deadline for obliged persons to process a request for access to information from 8 to 12 days. It also introduced the possibility of demanding reimbursement of costs for access to information and a new term of exceptionally extensive information search. It was precisely by charging a fee and introducing a new institute of exceptionally extensive information search without its clear definition that the President justified his decision to return the Act to the National Council. In his opinion, “... *this unclear and undefined institute may in practice cause a dispute about when and how it will be applied. This creates room for arbitrary evaluation of requests by obliged persons and the application of double standards in handling citizens’ requests and the implementation of the right to information.*”³ The public defender of rights also expressed his disagreement with the adopted amendment, announcing the submission of a proposal to initiate proceedings on the compliance of the amendment to the Freedom

3 For more information, see: <https://www.prezident.sk/article/prezident-vratil-parlamentu-novelu-zakona-o-slobodnom-pristupe-k-informaciám/>

of Information Act with the Constitution of the Slovak Republic.⁴

In the opinion of the Centre, the amendment to the Freedom of Information Act weakened the exercise of the fundamental political right to information, which is guaranteed by the Constitution of the Slovak Republic (hereinafter referred to as the “Constitution”) in Article 26, paragraph 1. The deadline for obligated persons to provide information has been extended by up to half of the original period, which can be considered a significant interference in the implementation of this right. The possibility of making the provision of information subject to payment of a fee will partially or completely prevent access to information for some persons, and this amendment will have the greatest negative impact on socially weaker and disadvantaged groups of the population. The Constitution allows for the possibility of restricting fundamental rights and freedoms. However, the restriction must apply equally to everyone and must take into account the essence and meaning of the fundamental right. The goal it is intended to achieve must also be legitimate. According to those who proposed the amendment – a

group of members of the National Council (MPs) – one of the objectives of the amendment to the Freedom of Information Act is to protect obligated persons from abusing the right to information.⁵ However, its impacts will be felt by all applicants who will be affected by the charging of information, including those who do not abuse the exercise of this right. It is therefore appropriate to ask whether the instrument chosen by the deputies to ensure the protection of obligated persons is adequate and whether the declared goal could not have been achieved while maintaining the current level of protection of the fundamental right to information. Another law that does not explicitly interfere with the exercise of the fundamental right to information, but may implicitly affect its exercise, is Act No. 157/2024 Coll. on Slovak Television and Radio and on Amendments to Certain Acts (hereinafter referred to as the “Act on STVR”). Its proposal was submitted to the National Council by the Ministry of Culture of the Slovak Republic and was approved on 20 June 2024. According to the explanatory memorandum, the law responds primarily to the suggestions of the public, professional organizations, associations, local government bodies

⁴ For more information, see: <https://vop.gov.sk/podam-navrh-na-posudenie-ustavnosti-novely-zakona-o-slobode-informacii-je-to-krok-k-zachovaniu-vysokej-urovne-pristupu-obyvatelov-k-informaciam/>

⁵ Explanatory report available at: <https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=547971>

and the non-governmental sector, which demand to improve the current situation and move closer to the objectivity of broadcasting. According to them, the public broadcasting institution is not fulfilling its public mission and has abandoned these basic attributes of public service.⁶ In addition to changing the name of the public media, the Act on STVR also introduced a new method of appointing and electing members of the bodies of Slovak Television and Radio (hereinafter referred to as “STVR”), namely the board and the director general. It also established an ethics commission as an advisory body to the board. Now, four of the nine members of the board are appointed and dismissed by the Minister of Culture of the Slovak Republic, while the remaining five are elected and dismissed by the National Council by an absolute majority of the deputies present. The director general is elected by the board on the basis of a public hearing of the registered candidates. The aforementioned method of appointing and electing members of the board and the director general has raised concerns about possible political control of STVR and influence on its broadcasting. For the above reason, a group of 46 members of the National

Council filed a motion at the Constitutional Court to initiate proceedings to assess the compliance of the Act with the Constitution. In their opinion, the contested law fundamentally politicizes the process of electing and appointing members of the Public Television and Radio Broadcasting bodies, which is inevitably associated with a high risk of control and influence on the broadcasting of public television and radio by the ruling coalition. Therefore, according to them, the contested law does not meet the requirements for the independence of public media from political influences, which has a serious negative impact on freedom of expression, the prohibition of censorship and access to balanced, pluralistic and objective information supporting critical thinking and the formation of one’s own opinion, which ultimately affects the promotion of the principles of democracy and the rule of law, including free competition between political forces.⁷

In the third recommendation, the Centre appealed to members of the Government of the Slovak Republic (hereinafter referred to as the “Government of the Slovak Republic”) and members of the National Council of the Slovak Republic

⁶ Explanatory report available at: <https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=545542>

⁷ Proposal available at: <https://www.ustavnysud.sk/docDownload/e4cdc6eb-552f-4d4b-90f6-bd93ae0c9d08>

lic to behave decently towards journalists in their public appearances and not contribute to creating a negative image of free and democratic media. The Centre evaluates the fulfillment of this recommendation by its addressees negatively. Representatives of the executive and legislative branches continued to verbally attack journalists, while their statements far exceeded the framework of decent and factual criticism.⁸

Regarding the fourth and fifth recommendations concerning the legislative initiative in relation to the restriction of the activities of the non-profit sector, the Centre states that the recommendations have not been fulfilled. At the 12th session of the National Council, starting on April 16, 2024, a Proposal by members of the National Council Rudolf Huliak, Dagmar Kramplová, Milan Garaj and Adam Lučanský for the issuance of an Act amending and supplementing Act No. 213/1997 Coll. was submitted. on non-profit organizations providing services of general benefit, as amended and amending certain acts (hereinafter referred to as the “draft

act on non-governmental organizations”).⁹ In the sense of the explanatory memorandum, the aim of this proposal is to increase the transparency of the financing of non-governmental non-profit organizations, which is a key element for strengthening public trust in non-governmental non-profit organizations by publishing information on donations and donors if their amount exceeds the value defined by law, either once or cumulatively.¹⁰ On 30 April 2024, the National Council approved the draft act on non-governmental organizations in the first reading.¹¹ Subsequently, the proponents of the Act requested, by letter of 30 August 2024, to include the discussion of their draft act in the session of the National Council starting on 22 October 2024.¹²

The Centre points out that the draft law on non-governmental organizations would require civic and other organizations that received more than 5,000 euros from foreign sources per year, including funds from other domestic non-governmental organizations that received funds from abroad, to designate themselves as “foreign-

8 For more information, see, for example: <https://www.postoj.sk/63605/dnes-treba-vediet>, <https://medialne.trend.sk/televizia/top-preslapy-roka-2024-utoky-novinarov-bizarne-konspiracie-aj-otvorene-vulgarizmy>, <https://dennikn.sk/minuta/4000954/>

9 Draft law available at: <https://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&ZakZborID=13&CisObdobia=9&CPT=245>

10 Explanatory report available at: <https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=544281>

11 Resolution available at: <https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=546909>

12 The letter is available at: <https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=551635>

supported organizations.” At the same time, they would be required to disclose in their annual reports the identity and nationality of all donors, contributors, and creditors whose donations, contributions, or loans exceeded 5,000 euros per calendar year. Non-governmental organizations with an annual income exceeding 50,000 euros would be required to submit an annual report to the Ministry of the Interior of the Slovak Republic (hereinafter referred to as the “Ministry of the Interior”). The Ministry of the Interior could impose a fine and close down non-governmental organizations if they fail to meet their reporting obligations and designation as “foreign-supported organizations.”

16

In a letter dated April 26, 2024, the Centre called on members of the National Council not to support the draft law on non-governmental organizations and thus contribute to the protection of fundamental rights guaranteed by the Constitution and international treaties on human rights and fundamental freedoms.¹³

On November 21, 2024, at a meeting of the Constitutional Law Committee, the proposer

presented an amending bill amending and supplementing the Act on Non-Profit Organizations Providing Services of General Benefit (hereinafter referred to as the “amendment”).¹⁴ The proposers abandoned the initial intention to introduce registration of civic and other organizations as “organizations with foreign support”, which, in the legal opinion of the Centre, would be in conflict with the obligations of the Slovak Republic resulting from membership in the European Union.¹⁵ However, the amendment also introduces an obligation for non-governmental organizations to identify their donors in so-called transparency reports. The amendment further introduces the concept of lobbying. Failure to meet the conditions for lobbying registration is associated with the imposition of a fine or, possibly, the dissolution of the non-profit organization. In the legal opinion of the Centre, the amendment may disproportionately interfere with fundamental rights and freedoms guaranteed by the Constitution, such as the right to association.

In relation to the amendment, the Public Defender of Rights addressed the members of

¹³ The letter is available at: <https://www.snsip.sk/aktuality/zakon-o-neziskovych-organizaciach-moze-byt-v-rozpore-s-pravom-eu/>

¹⁴ The recording of the meeting is available at: <https://tv.nrsr.sk/vyborydetail/11604>

¹⁵ For more information, see: <https://www.snsip.sk/aktuality/zakon-o-neziskovych-organizaciach-moze-byt-v-rozpore-s-pravom-eu/>

the National Council in a letter dated 30 November 2024.¹⁶ Among other things, he stated that he still has reasonable doubts as to whether the obligation formulated in this way would withstand assessment before the Court of Justice of the European Union or the European Court of Human Rights, since the proposers of the amendment did not point to a specific and real danger or cases of repeated abuse of non-profit organizations for illegal activities.

Following on from the above, the Centre draws attention to the Hungarian equivalent of the Act on Non-Governmental Organizations. In 2017, the Hungarian legislator approved the so-called “Act on the Transparency of Foreign Organizations”. Similar to the Slovak case, it created an obligation for non-governmental organizations that receive more than 24 thousand euros from abroad per year to be designated as “organizations with foreign funding”. In 2020, the Court of Justice of the European Union ruled that the law in question is not in line with European law, as it contradicts the right to free movement of capital between Member States, as well as the right to respect for private life,

data protection and freedom of association.

In relation to the sixth recommendation, the Centre assesses its implementation by the addressees negatively, especially with an emphasis on the discussion related to the draft law on non-governmental organisations. In this regard, the Centre points to two research reports published in 2024,¹⁷ in which it monitored the media discourse on human rights with an emphasis on monitoring the groups of the population with which human rights are associated, as well as groups that are excluded from the media discourse on human rights. The reports also address the media portrayal of human rights defenders. For the purposes of these reports, human rights defenders were considered to be individuals who, individually or in collaboration with others, promote and protect human rights, including non-governmental organizations, human rights groups, activists.

The Centre follows up on the fourth and fifth recommendations with the third chapter entitled Rule of Law, specifically in the second subchapter - Declining level of protection of civil and political rights.

¹⁶ The letter is available at: <https://vop.gov.sk/wp-content/uploads/2024/10/Tlacova-sprava-VOP-22-10-2024.pdf>

¹⁷ Human Rights in the Media. On the Importance of Correct Portrayal of Human Rights Issues in Media Discourse and Human Rights in the Media II. On the Importance of Correct Portrayal of Human Rights Issues in Media Discourse, available at: <https://www.snslp.sk/vysledky/publikacna-cinnost/>

1.2 Identified challenges faced by refugees and migrants in the Slovak Republic

Since the beginning of the Russian aggression against Ukraine in 2022, tens of thousands of Ukrainian refugees have fled to Slovakia. In the 2023 Report, the Centre focused on monitoring the challenges faced by refugees on the territory of the Slovak Republic, including with regard to the particularly vulnerable group of refugees with health disabilities. When identifying the challenges, the Centre addressed problematic aspects associated with operating a trade. It also drew attention to the obligations of the Slovak Republic under the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the “Convention”), which the contracting party is obliged to comply with also towards foreigners who find themselves on its territory illegally. The Centre also

pointed out one of the biggest challenges in connection with the arrival of refugees not only from Ukraine, but also from other countries, namely the problem of human trafficking.

The Government of the Slovak Republic continued in 2024 to provide assistance to these persons, including support for their protection and inclusion. Since the beginning of the aggression, the Centre has been monitoring the compliance with the human rights obligations of the Slovak Republic and identified several challenges, which it drew attention to in the Report for 2022 and 2023. In the Report for 2023, it defined several recommendations for the Government of the Slovak Republic to improve the human rights situation of refugees and migrants in the Slovak Republic.

18

The Centre recommended to:

1. The Ministry of the Interior of the Slovak Republic to consider introducing the possibility of obtaining a trade license by persons who have been granted tolerated residence.
2. The Ministry of the Interior of the Slovak Republic should actively participate in raising awareness in connection with operating a trade - leaflets at trade licensing offices or at alien police departments with simple instructions on how to operate a trade (in different language versions).

3. The Ministry of Labor, Social Affairs and Family of the Slovak Republic should introduce the possibility of reviewing the notification of non-approval of a subsidy to support humanitarian aid to a person with special protection in connection with their serious disability.
4. The Ministry of Labor, Social Affairs and Family of the Slovak Republic should consider introducing the possibility of obtaining a card for a person with a severe disability and a parking permit for refugees with disabilities.
5. Public authorities and public officials should participate in providing adequate information on the issue of migration and refugee status. Avoid spreading disinformation about the issue in question and not create fear in society.

The Centre first recommended the possibility of obtaining a trade license for persons with tolerated residence.¹⁸ On 11 June 2024, the National Council approved the government bill amending Act No. 404/2011 Coll. on the Residence of Foreigners. By amending Section 59(5), it granted an exception to the possibility of obtaining a trade license for third-country nationals who have been granted temporary asylum. Persons with temporary asylum can thus obtain a trade license in the same way as other foreigners with an appropriate residence status. However, this change does not apply to all persons with tolerated residence in Slovakia.

The Centre welcomes the amendment in question, as

it will enable many persons with temporary asylum status to apply and continue the business activities they carried out before arriving in Slovakia. These persons have not yet had the opportunity to obtain a trade license, and therefore often could not use their skills acquired in Ukraine. Moreover, such a measure may have a positive impact on the Slovak economy, including the creation of new jobs and increased competition in the business market. The Centre assesses this recommendation as fulfilled.

The Centre's second recommendation was aimed at providing information about running a trade, as the system of establishing and operating a trade may not be

¹⁸ Tolerated residence is a specific type of residence that can be granted to a foreigner for a maximum of 180 days, provided that he meets some of the conditions set by law, for example, conditions arising from the international obligations of the Slovak Republic (see: <https://www.mic.iom.sk/sk/pobyty2/tolerovany-pobyty.html>). Temporary asylum is a specific tolerated residence status for persons who have fled the war in Ukraine based on Council Directive 2001/55/EC on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures to promote a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.

understandable for persons who have been in Slovakia for a short time. The problem may be the language barrier and lack of knowledge of the Slovak legal system. It is crucial that language- and information-accessible materials are available in places such as trade license offices and the alien police. Non-profit organizations active in this area and municipalities supporting projects for the inclusion of foreigners at the local level also play a key role in informing persons from Ukraine. Several cities, such as the city of Nitra, adopted strategies and action plans for the integration of foreigners last year, in which they emphasize the goal of attracting entrepreneurial ideas.¹⁹ Several non-profit and international organizations reported on the change regarding the possibility of entrepreneurship for persons with temporary refuge.²⁰ Information leaflets on setting up a trade for these persons are also available at trade licensing offices. Leaflets with contacts for assistance for persons with temporary refuge, which are of a general nature, are available at the departments of the alien police.

In addition to practical matters, however, it is also necessary to provide information

on possible risks, for example, on setting up so-called forced trades, which are a widespread phenomenon in Slovakia. Therefore, it is essential to inform foreigners about the phenomenon and the problems associated with it. The Centre assesses the second recommendation as partially fulfilled and proposes strengthening the information campaign by the Ministry of the Interior in cooperation with other relevant entities.

The third recommendation concerned the introduction of the possibility of reviewing the notification of non-approval of a subsidy to support humanitarian aid to a person with special protection. The Centre warned in the 2023 Report that in the case of assessment of this subsidy, the decision to disapprove the application is not issued by the competent authority in administrative proceedings and it is therefore not possible to file an appeal against it. In addition, the applicant is not entitled to demand a refund of the subsidy if there was an error in assessing the severity of the disadvantage. However, according to the findings of the Office of the Commissioner for Persons with Disabilities, there were several cases of misconduct in

19 Strategy for the integration of foreigners (including refugees and emigrants) in the city of Nitra with a view to 2035, available at: <https://nitra.sk/wp-content/uploads/2024/07/Strategia-integracie-cudzincov-vratane-utecencov-a-odidencov-v-meste-Nitra-s-vyhladom-do-roku-2035.pdf>

20 Available at: <https://www.instagram.com/p/C9m33HVqqjY/?igsh=dHlwBWl5ODN3NmZm>

assessing applications for subsidies.²¹ The Office of the Commissioner for Persons with Disabilities plays an important role in capturing these suggestions and issuing recommendations to public administration bodies.

The possibility of reviewing notifications of non-approval of a subsidy was not introduced last year. The mechanism for assessing health disadvantages and information on (non-) approval of a subsidy remains unchanged. In view of the above, the Centre assesses the third recommendation as not fulfilled.

However, it appreciates the declaration to continue providing this subsidy by the Ministry of Labour, Social Affairs and Family of the Slovak Republic (hereinafter referred to as the “Ministry of Labour”), which is included in the Report on the Implementation of Measures Resulting from the National Programme for the Development of Living Conditions of Persons with Disabilities for 2023 and the Proposal for its Update.²² However, it is necessary to set up the system for providing the aforementioned

subsidy in such a way that in the event of an error in the assessment, correction could be made, thus preventing refugees with severe health disadvantages from losing the necessary financial assistance.

Another problem for these persons may be that, from 1 July 2024, the accommodation allowance for the displaced person, paid by the Ministry of the Interior, has been provided only to vulnerable groups in the long term, including persons with severe disabilities, who are provided with a subsidy to support humanitarian aid under a special regulation.²³ In the event of an erroneous assessment and the inability to file a remedy, these persons may lose not only the subsidy, but also the accommodation allowance, which is an important mechanism for vulnerable persons with severe disabilities to support and secure their housing in Slovakia.

In the 2023 Report, the Centre further recommended that refugees and asylum seekers be subject to the same protection regime for persons with severe disabilities as other persons in a legal relationship

²¹ Report on the activities of the Commissioner for Persons with Disabilities for 2023, available at: https://www.komisarprezdravotnepostihnuty.sk/Komisarka/media/Spravy-o-cinnosti/2023/SPRAVA_2023_public_view.pdf

²² Report on the implementation of measures resulting from the National Program for the Development of Living Conditions of Persons with Disabilities for 2023 and a proposal for its update, available at: <https://www.employment.gov.sk/files/sk/rodina-socialna-pomoc/tazke-zdravotne-postihnutie/kontaktne-miesto-prava-osob-so-zdravotnym-postihnutim/dokumenty-3/vlastny-material-2023tabulka.pdf>

²³ Ministry of the Interior of the Slovak Republic, Information on the accommodation allowance for foreigners under the Asylum Act, available at: <https://www.minv.sk/?prispevok-za-ubytovanie>

within the meaning of Act No. 447/2008 Coll. on cash benefits for compensation for severe disabilities, and therefore regardless of their citizenship. By enshrining this change in the law, the persons concerned could apply for a card for persons with severe disabilities and a parking card for persons with severe disabilities, thereby becoming entitled to discounts and benefits under special regulations. This step would ensure the same level of protection for persons with disabilities in the territory of the Slovak Republic and compliance with the obligations of the Slovak government arising from the UN Convention on the Rights of Persons with Disabilities. At the same time, in the event of non-approval of compensation under the law in question, the applicant would have the right to file a legal appeal. Refugees with severe disabilities are a particularly vulnerable group among persons on the run, and their protection should therefore be a priority when setting up support mechanisms. On the change in legal relations within the framework of Act No. 447/2008 Coll. However, there have been no monetary benefits for compensation for severe disability in the last year, and persons with temporary refuge, as well as asylum seekers and subsidiary protection,

are therefore not entitled to compensation mechanisms for severe disability. The Centre assesses the recommendation as not being met and calls for correction.

Last year, it also recommended that public authorities and public figures provide adequate information on the topic of migration and refugees. However, in 2024, migration was also a central topic in the contributions of several public figures who spread disinformation and created a sense of threat. In their communications and official documents, public authorities referred to undocumented migrants as “illegal migrants”, as the Centre drew attention to in its 2023 Report and also in the Media Monitoring the Portrayal of Migrants in Media Discourse.²⁴ However, this designation is incorrect, as a person cannot be illegal, only their actions. In addition, government officials have linked the migration of people from predominantly Muslim countries to the risk of terrorism.²⁵

Public figures also spread disinformation about migration before the elections to the European Parliament. For example, they misrepresented the Pact on Migration and Asylum and used the narrative of a high number of migrants

24 Available at: <https://www.snsip.sk/wp-content/uploads/Monitoring-migracie.pdf>

25 Available at: <https://dennikn.sk/minuta/4352087/>.

moving to Slovakia because of this Pact.²⁶ The Pact on Migration and Asylum was criticized by government officials on several platforms and used as a tool to create a sense of security threat.

On social networks, public authorities mainly reported on changes related to foreigners in Slovakia. However, these

posts aroused a lot of unmoderated hateful comments, especially on social networks. In general, many public officials did not use correct terminology in connection with migration, thereby contributing to the stigmatization of persons with a migrant background. The Centre also assesses this recommendation as not being met.

1.3 Discrimination against Roma with an emphasis on the Centre's cases

The Centre regularly points out the problem of segregation in the field of education in reports on the observance of human rights, including the principle of equal treatment in the Slovak Republic, while proposing solutions as part of its recommendations that, in its opinion, can contribute to the elimination of this unlawful situation. In the 2023 Report, it assessed that, in addition to individual cases of individuals, structural discrimination against the Roma population is also a persistent problem. In this context, the Centre cit-

ed examples from the field of education in which Roma men and women encounter systemic failures at the state level leading to structural discrimination manifested not only in segregation practices, but also in the overall lower quality of the education provided and received. Through specific cases, the Centre illustrated that discrimination on the grounds of belonging to the Roma ethnic group is an ongoing and still very topical problem affecting a large part of the population.

23

The Centre recommended:

1. To the Ministry of Investments, Regional Development and Informatization of the Slovak Republic and the Ministry of Education, Research, Development and Youth of the Slovak Republic to define non-compliance with the principles of desegregation, deghettoization and destigmatization as an ex-

²⁶ European elections 2024: Migration: Politicians threatened millions of migrants, available at: <https://euractiv.sk/section/digitalizacia/news/predvolebne-dezinformacie-anna-belousovova-strasi-milionmi-migrantov/>

clusion criterion from the possibility of applying for financial resources for the purposes of construction and expansion of school premises and school facilities.

2. To submit to the National Council of the Slovak Republic a draft amendment to Act No. 596/2003 Coll. on state administration in education and school self-government and on amendments and supplements to certain acts, by which the National Council of the Slovak Republic would add to the provision of Section 8, paragraph 1 the obligation of the municipality to take into account the ethnic composition of the population of the municipality or part thereof when determining the school district.

24 In the first recommendation, the Centre recommended to the Ministry of Investments, Regional Development and Informatization of the Slovak Republic (hereinafter referred to as the “Ministry of Investments”) and the Ministry of Education to define non-compliance with the principles of desegregation, deghettoization and destigmatization as an exclusion criterion from the possibility of applying for funds for the purposes of construction and expansion of school premises and school facilities. Based on publicly available information, it notes that neither the Ministry of Education nor the Ministry of Investments defined non-compliance with the principles of desegregation, deghettoization and destigmatization as an exclusion criterion from the possibility of applying for funds for the purposes of construction and expansion of school premises and school facilities within the framework of legislative activity. As a result, projects that will lead to the expansion of the

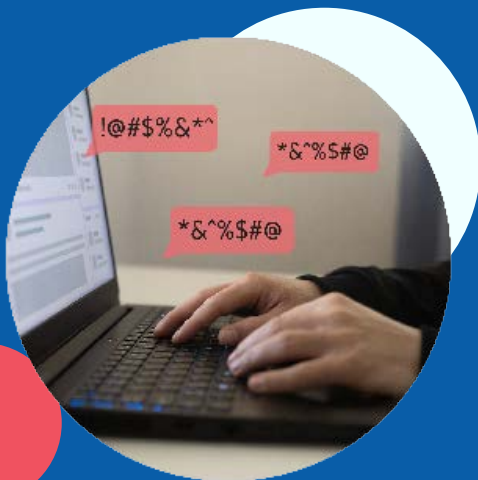
capacities of overcrowded primary schools attended exclusively by marginalized Roma children may currently be supported. The Centre notes that the aforementioned ministries have not fulfilled the recommendation.

In the second recommendation, the Centre recommended that the National Council submit a draft amendment to Act No. 596/2003 Coll. on State Administration in Education and School Self-Government and on Amendments to Certain Acts (hereinafter referred to as the “Act on State Administration in Education”), by which the National Council would add to the provision of Section 8, paragraph 1 the obligation of the municipality to take into account the ethnic composition of the population of the territory of the municipality or part thereof when determining the school district. Despite the fact that the Act on State Administration in Education was amended in 2024 by Act No. 290/2024 Coll., the obliga-

tion of the municipality recommended by the Centre was not added to the provision in question. In the opinion of the Centre, the adoption of the proposed provision would more effectively prevent discrimination in the form of segregation of Roma children in education.

Following the above, the Centre assesses the recommendation as not fulfilled.

Given the persistence of segregation in education, the Centre also addresses this topic in the fourth chapter entitled Segregation in Education.



26

2. Hate speech (not only) in the online space and the potential risks of its impact on normative guarantees of the protection of human rights and fundamental freedoms

We regularly and continuously monitor the occurrence of hate speech. Given the difficult social situation, it is necessary to pay due attention to the issue of the impact of these expressions on the protection of human rights and the guarantee of fundamental freedoms.

In the context of the need for their categorization, hate speech can be classified into several subcategories, not only in the legal sense. Hate speech may in itself be contrary to good morals or social morality, while the hypotheses of legal norms may not yet sanction it with negative legal consequences. In the area of the protection of human rights and guarantees of fundamental freedoms, the category of hatred is inadmissible, which follows from the very nature of the legal protection of the object (human rights and fundamental freedoms) and subjects (human beings).

The legal consequences of hate speech are primarily associated with the degree of seriousness that the legislator expresses through the hypotheses of legal norms protecting social goods, or guaranteeing legal protection against interference with these goods. In these cases, it is an expression of public interest in sanctioning such expressions, the consequences of which may be serious for the entire society, i.e. not only for the individuals to whom the hate speech is addressed. The Centre therefore emphasizes the need to illustrate legal norms, within the framework of hypotheses in which the subjective category

of hatred, objectified in the expression itself, represents such a degree of seriousness that it is sanctioned by the legislator primarily due to the public interest in protecting the social interest, with a special emphasis on the protection of human rights and guarantees of fundamental freedoms and on the online environment (especially the environment of social networks), where hate speech is presented increasingly frequently and in a larger volume of its occurrence.

The issue of legal protection against legal offenses, within which the subjective category of hatred plays a role in the consequences, is particularly discussed in connection with respect for freedom of expression. In the described intentions, the Centre monitors the occurrence of hate speech regularly and in the long term. Given the difficult social situation, the Centre considers it necessary to pay due attention to the issue of the impact of these expressions on the protection of human rights and the guarantee of fundamental freedoms. That is why it included it in the Report for 2024, since this year too the occurrence of hate speech and negative sentiments in society was enormous, as evidenced by several indicators and data.

Current judicial interpretative and normative characteristics of online hate speech in connection with the guarantees of the protection of human rights and respect for fundamental freedoms

Hate speech (in Slovakia it is often used also the English term “hate speech”) is not legally defined at the national or international level. Professional legal literature is inconsistent in defining its content, which may have an impact on the implementation of the principle of legal certainty, or rather. its content component - the predictability of law. Despite a certain degree of content uncertainty, the legislator works with the category of hate speech in several normative variations. At the transnational level, efforts to define the legal category of hate speech in

terms of content can be identified since the 1990s. The human rights dimension of the issue is evidenced by the content of definitions adopted at the soft law level (in terms of recommendations), but also by the developing decision-making practice of the ECHR. The legal categorization of hate speech in the context of civil, misdemeanor or criminal offenses depends on the degree of seriousness of the acts themselves, which can be subordinated to the hypotheses of legal norms (especially those of a public law nature).

28

Council of Europe

Hate speech can be legally interpreted as *“all forms of expression that spread, incite, support or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including intolerance expressed through aggressive nationalism and ethnocentrism, discrimination and hostility towards minorities, migrants and persons of immigrant origin.”*²⁷

In its current case law on guarantees of protection of free-

dom of expression in the online environment, the ECtHR points to the benefits of the Internet – a means of exercising freedom of expression, but also to its dangers consisting in the speed and unlimited territoriality of the spread of hate speech characterised by incitement to violence, which may arouse a justified feeling of danger in the persons to whom the speech is addressed. The determination of legal liability for the dissemination of such expressions

²⁷ From Recommendation No. R (97) 20 of the Committee of Ministers of the Council of Europe of 30 October 1997; available online at: [http://archiv.rvr.sk/cms/data/modules/download/1167951154_Odporucanie%20c%20R%20\(%2097\)%2020.pdf](http://archiv.rvr.sk/cms/data/modules/download/1167951154_Odporucanie%20c%20R%20(%2097)%2020.pdf)

*against national operators of online portals is delegated to the Contracting Parties to the Convention, including the Slovak Republic.*²⁸

*In another case, the court emphasized the liability of news Internet portals for the content of comments that users publish on the online portals operated and used by them, even though in the given case it did not consider the vulgarity in the content of the comments automatically as a characteristic that could in itself be classified as hate speech.*²⁹

On the contrary, after taking into account all the specific circumstances of the case, it did not establish the liability of the operator of the online platform in the matter of the publication of an anonymous comment of a defamatory nature, which did not have the characteristics of hate speech, since it did not incite violence against vulnerable groups of persons, but was addressed to an individual with the potential to interfere with the peaceful exercise of the right to privacy or the right to protection of the personality.³⁰

UN

Efforts to eliminate hate speech and prevent its occurrence at the level of The UN adopted a strategy and action plan in 2019. At that time, the published outputs interpreted hate speech as communication by which the originator attacks or uses pejorative

or discriminatory language against an individual or group of persons in the context of their religion, ethnicity, nationality, race, colour, origin, gender or other expression of their identity (uniqueness), regardless of the form of such communication.³¹

29

²⁸ Compare the reasoning of the ECtHR Judgment in the case of *Delfi AS v. France*, application number: 64569/09; available at: [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-155105%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-155105%22]}).

²⁹ Compare the reasoning of the ECtHR Judgment in the case of *Magyar Tartalomszolgáltatók Egyesülete and Index.hu v. Hungary*, application number: 22947/13; available at: [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-160314%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-160314%22]}).

³⁰ Compare the reasoning of the ECtHR Judgment in the case of *Pihl v. Sweden*, application number: 74742/14; available at: [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-172145%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-172145%22]})

³¹ UN Strategy and Plan of Action to Combat Hate Speech, p. 2; available at: https://www.un.org/en/genocideprevention/documents/advising-and-mobilizing/Action_plan_on_hate_speech_EN.pdf

European Union

Preventing and combating the occurrence of hate speech in the online environment is a significant agenda of the European Commission. In 2016, it published, in cooperation with information technology platforms (Facebook, Microsoft, Twitter, YouTube), a document entitled “*Code of Conduct on Combating Illegal Hate Speech Online*”, the content of which was revised at the end of 2024 and an updated version was prepared. It refers to the definition of illegal hate speech as defined in Article 1 of the Report from the European Commission to the European Parliament and the Council on the implementation of Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law. Accord-

ing to this definition, “*Unlawful hate speech is any public incitement to violence or hatred directed against a group of persons or a member of such a group on grounds of race, colour, religion, descent or national or ethnic origin.*”

The aforementioned platforms and the European Commission also emphasise the international legal treaty norm of guarantees for the protection of freedom of expression. Its subject matter is interpreted to a large extent by the ECtHR, which extends the level of legal protection “*not only in relation to information or ideas which are received favourably or are considered inoffensive or neutral, but also in relation to those which offend, shock or disturb the State or a section of the population.*”³²

Online Platforms

Meta’s platforms define online hate speech as “*direct attacks on people—not on concepts or institutions—based on a protected characteristic: their race, ethnicity, nationality, disability, religion, caste, sexual orientation, gender, gender identity, and serious medical condition. In addi-*

tion, we consider age to be a protected characteristic when it is referenced in conjunction with another protected characteristic. We also protect refugees, migrants, immigrants, and asylum seekers from the most severe attacks (Level 1 below), although we allow commentary and criticism of

³² From the reasoning of the often cited Judgment of the ECtHR in the case of *Handyside v. the United Kingdom of Great Britain and Northern Ireland*, application number: 5493/72; available at: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-57499%22%7D>; see also ZAHORA, J.: Freedom of expression vs. hate speech on the internet. In: *Právny obzor*, 107, 2024, No. 4, p. 390.

immigration policy. Similarly, we provide some protection for unprotected characteristics like occupation when they are referenced in conjunction with a protected characteristic. In some cases, based on local differences, we consider certain words or phrases to be commonly used placeholders for a protected characteristic.”³³

Microsoft’s internal policies characterize content hate speech as such, by which its originator attacks, insults or humiliates someone on the grounds of protected characteristics – race, ethnic origin, gender, gender identity, sexual orientation, religion, national origin, age, disability or social status (class or caste).³⁴

Platform X qualifies hate speech content by comparing it to attacks on the basis of race, ethnicity, national origin, social class, sexual orientation, gender, gender identity, religion, age and health disability (serious illness).³⁵

Platform YouTube classifies as hate speech content that promotes violence or hatred against individuals or groups

on the basis of the following protected characteristics: age, social status, disability, ethnicity, gender identity and its manifestations, nationality, race, immigration status, religion, gender, sexual orientation; being a victim of violence and being a military veteran.³⁶

The above content definitions of hate speech include several overlaps in the definitional features. Their presentation is a representative sample illustrating the content of what individual authorities and on-line platforms consider to be so-called hate speech. The Centre will therefore evaluate individual examples of the occurrence of such speech in the online space through the prism of this knowledge in connection with the possible negative impacts on the exercise of human rights and normative guarantees of fundamental freedoms.

By synthesis of the above knowledge, hate speech exhibits three sets of basic defining elements that are applicable to the evaluation of their negative impacts on human rights and fundamental freedoms:

³³ Cited on February 25, 2025 from the online source: <https://transparency.meta.com/sk-sk/policies/community-standards/hate-speech/>

³⁴ Paraphrased on 25.2.2025 from an online source: <https://www.microsoft.com/en-us/digitalsafety/policies>

³⁵ Paraphrased on 25.2.2025 from the online source: <https://help.x.com/en/rules-and-policies/x-rules>.

³⁶ Paraphrased on February 25, 2025 from an online source: <https://support.google.com/youtube/answer/2801939?hl=sk>.

- **forms of expression** – dissemination, public incitement, justification, support, encouragement, direct or any attacks, harassment, insults, humiliation.
- **“what” or “to what”** – hatred (based on intolerance), xenophobia, anti-Semitism, intolerance (expressed by aggressive nationalism and egocentrism), discrimination, hostility, violence.
- **against** – minorities, migrants and immigrants, asylum seekers, vulnerable groups of the population, age groups of the population, war veterans, disabled (as well as seriously ill) persons, persons of minority races or different skin color, as well as persons due to their religious affiliation or belief; ethnicity, nationality or (national or national) origin; gender, other expression of their gender identity or sexual orientation; social classification (belonging to a social class) and persons who have become victims of violent acts.
- **in whom a specific expression causes or may cause a feeling of danger or threat.**

Online (and other) hate speech in public discourse

32

In January 2024, the Centre welcomed the initiative of Members of the European Parliament calling on the European Council to adopt more effective measures to combat the spread of hate speech also in the online space, at the level of EU law. They, among others, called on the European Commission to consider an “open” approach, which would not limit the grounds of discrimination to a closed list, in order to ensure that the rules apply to incidents motivated by new and changing social dynamics.³⁷ The Centre considers this an important initiative in the context of extending legal protection against discrimina-

tion, which is often an external manifestation of hatred, also at the level of minimum harmonisation standards of European Union law. Unfortunately, the aforementioned initiative was not an inspiration for the members of the National Assembly of the Slovak Republic or the members of the Government of the Slovak Republic, who did not properly address the proposals for effective and more efficient mechanisms in the fight against the spread of hate speech at the national legislative level even in the past calendar year.

In August 2024, the Centre became familiar with the content

³⁷ For more information, see: <https://www.europarl.europa.eu/news/sk/press-room/20240112IPR16777/cas-krimilinizovat-nenavistne-prejavu-a-trestne-ciny-z-nenavisti-podla-prava-eu>

of the press release of the Statistical Office of the European Union on the issue of the rate of occurrence of online hate speech. Data collection was still ongoing in 2023. The addressees of the survey were young people. The results show that up to two out of three people aged 16 to 29 in Slovakia faced online messages that they considered hostile, humiliating or mocking, whether towards individuals or groups of people. Derogatory references of a political nature prevailed (47.8%), allusions to sexual orientation and belonging to LGBTI+ people (44%), or ethnic or racial origin (38%).³⁸

In the following section, the Centre presents an illustra-

tive selection of hate speech that resonated in public space in 2024, from which it points out that in Slovakia, specific groups of people are exposed to speech that may cause their members to feel dangerous or threatened.

Despite the fact that the occurrence of hate speech in the online space is evident mainly on social networks, including the above-mentioned platforms, the Centre focused on selecting those expressions whose content it considered to correspond most closely to the set of synthesis of definitional elements of the above-described norms filling the content of the term “hate speech”.

33

LGBTI+ people

A public statement that, in the opinion of the Centre, could have caused feelings of threat was the statement of the Minister of Culture of the Slovak Republic about the intention to suspend subsidies for “*training of youth for a sexualized LGBTI show organized by a non-governmental organization*”,³⁹ which she made in January 2024.

The worrying situation in Slovakia in the context of hate

speech and attacks on LGBTI+ people was also highlighted in February by the transnational organization ILGA (*The International Lesbian, Gay, Bisexual, Trans and Intersex Association*), which in its annual report⁴⁰ accused the Slovak legislator of legislative passivity and criticized legislative proposals aimed at restricting the rights of LGBTI+ people living in the territory of the Slovak Republic. The Centre received the content of the annual

38 From the Eurostat online database of statistical information, published at the following website address: https://ec.europa.eu/eurostat/databrowser/view/isoc_ci_hm_custom_12224713/bookmark/table?lang=en&bookmarkId=6a9296b0-5560-4adc-aebf-16149ff4a2b9

39 Available at: <https://sita.sk/simkovicova-avizuje-ze-uz-nebudu-poskytovat-dotacie-na-skolenia-mladeze-na-sexualizovanu-sou-lgbti/>

40 Available at: https://www.ilga-europe.org/files/uploads/2024/02/2024_full_annual_review.pdf.

report with a high degree of concern and fully identifies with the assessments of the partner transnational organization.

The Centre considers the statements of a member of the National Council of the Slovak Republic addressed to a colleague – a member of the National Council of the Slovak Republic and a human rights activist from September 2024 to be condemnable and absolutely unacceptable. The member attacked her verbally: *“We strongly and strictly oppose the spread of the demagogic ideology of progressive liberalism, which is the ideology of LGBT and 72 nonsense that they call genders. You know, when a member of the National Council reads in her proposal, or in her contribution in the plenary session of the National Council, that a fetus does not deserve to live according to the Criminal Code of the Slovak Republic, then this woman deserves nothing but the name b***, in the sense that she does not want, or does not have and does not respect the basic questions of life given by God to the human race.”*⁴¹

The Centre states that the member’s statements are not only an absolutely unacceptable aggressive expression to-

wards a colleague – a woman, but they have the undeniable potential to arouse a feeling of threats and dangers to all LGBTI+ people living in the Slovak Republic. In this regard, comments appeared on social networks that defended the MP’s behavior and attacked the MP – the victim.⁴² All the more so since the MP attacked a colleague, a woman and an advocate for the rights of LGBTI persons almost on the second anniversary of the tragedy, the murder of two young queer people in front of the Tepláreň enterprise, which occurred in early October 2022. The Ministry of the Interior of the Slovak Republic, in the Monitoring Report on the State of Extremism in the Slovak Republic for 2022 and 2023 (hereinafter referred to as the “Monitoring Report”), submitted to the interdepartmental legislative comment procedure in October 2024, adds that *“the attack, which shook the entire society, was followed by an increase in hate speech, as well as expressions of extremism against people from the LGBTQIA+ community. In response to this violent act, several commemorative events were organized in 2022 and 2023 on victims, as well as concerts and the Inakosť film festival, during which part of the public appealed for the need to grant greater rights*

⁴¹ Available at: <https://duhovymagazin.sk/2024/10/poslanci-z-klubu-sns-prerazili-dalsie-dno-hanebne-zautocili-na-queer-poslankynu-luciu-plavakovu/>

⁴² For example, comments from discussants under a post published on the Facebook social network: <https://www.facebook.com/watch/?v=1299912294725087> or under a post published at: <https://www.facebook.com/watch/?v=1037824828037037>.

to members of the LGBTQIA+ community in the Slovak Republic. However, this provoked conflicting reactions from part of the population, which was associated with an increase in hate speech.”⁴³

In 2024, there were also public displays in the form of advertising billboards, on which the political party “bragged” about

suspending financial support in the form of financing projects to support and protect the rights of LGBTI+ people.⁴⁴ The Centre also views this display not only with concern, but also with the assessment that, in its opinion, it may arouse a sense of threat, not only among LGBTI+ people, but also among defenders of their rights and legally protected interests.

Roma

Roma are a group of people who have long been attacked by hate speech, not only in the online space. This is evidenced, for example, by the results of research by the Institute for Human Rights, which it informed the public about in February 2024, while data collection was carried out from August to October 2023. It analyzed more than 51 thousand posts published on the social networks Instagram, TikTok and Facebook. Of these, 2,428 user contributions were related to Roma, with 1,993 (82%) of the contributions having a negative content connotation towards the Roma population and 1,352 (56%) being capable of being assessed as hate speech.⁴⁵

A worrying example of hatred towards this population group is the case of verbal attacks by residents of the municipality of Nižná Myšľa on a Roma family who had moved to the municipality because they had bought a family house with land there. Communication between the local non-Roma population and the mayor of the municipality escalated into accusations of him being co-responsible for the migration of the Roma family.⁴⁶ The municipal council discussed at its meeting on 27 November 2024, among other things: also information about a petition supported by 370 citizens of the municipality expressing strong disagreement “with the increase of problematic

⁴³ Legislative Process No. 2024/506, available at: <https://www.slov-lex.sk/elegislativa/legislativne-procesy/SK/LP/2024/506>

⁴⁴ For more information, see: <https://medialne.trend.sk/reklamy/sns-bilborde-chvali-zastavila-lgbti-projekty-je-to-ciste-zufalstvo-hovori-odbornik>

⁴⁵ For more information, see: <https://sita.sk/vyskum-nenavisti-voci-romom-dokazal-ze-latentny-rasizmus-je-na-slovensku-velmi-rozsireny-uvioled-institut-ludskych-prav/>

⁴⁶ The online report of the private television is available at: <https://www.noviny.sk/slovensko/998348-velka-vzbura-kvoli-novym-susedom-peticia-ostre-slova-a-zasah-policie>

citizens in the municipality of Nižná Myšľa".⁴⁷ In the opinion of the Centre, this is an unquestionable example of hatred towards persons because of their Roma affiliation, which arouses immediate feelings of danger and threat in them.

In the above case, it registered the initiative of a viewer of a television report who, at the beginning of December 2024, asked about the legal possibilities of the Centre's intervention in the matter and the provision of legal protection to the persons concerned. As of December 31, 2024, it evalu-

ated all available options for informing the persons concerned about the alternatives of available legal aid, given the fact that in the given legal case they were not authorized to represent them under the provisions of Act No. 308/1993 Coll. on the Establishment of the Slovak National Centre for Human Rights, as amended by later legal regulations, in accordance with the provisions of Act No. 308/1993 Coll. on the Establishment of the Slovak National Centre for Human Rights, as amended by later legal regulations.

Jewish women, Jews, Ukrainian women, Ukrainian men, refugees

36

The above-mentioned Monitoring Report showed that in Slovakia in 2022 and 2023, an increase in xenophobic hate speech targeting migrants, primarily from Syria, was recorded. The Ministry of the Interior also noted a continuing trend in the occurrence of hate speech against members of Ukrainian nationality, *"where most of these speeches had a clear connection with the ongoing military conflict in Ukraine and the associated dissemination of opinions (including disinformation, for example, about the upcoming mobilization, about the alleged sewing of uniforms*

*in a secret regime, about the distribution of false draft orders, etc.)."*⁴⁸ *The dissemination of these hate speech was said to have occurred mainly in cyberspace, especially the space of social networks.*

*The Ministry of the Interior of the Slovak Republic further confirmed, in his words, the "traditional occurrence" of hate speech against Jewish men and women.*⁴⁹ An illustrative example is the repeated manifestations of anti-Semitism, also recorded in October 2024, during a match of the highest football competition.⁵⁰

47 5th point of Minutes No. 15/2024 from the meeting of the Municipal Council held on November 27, 2024; available at: https://www.niznamysla.sk/modules/file_storage/download.php?file=a4919be3%7C1303&inline=1

48 Quoted from p. 6 of the Monitoring Report, available at: <https://www.slov-lex.sk/elegislativa/legislativne-procesy/SK/LP/2024/506>

49 Ibid., p. 6.

50 For more information, see: <https://futbalsfz.sk/uradna-sprava-sfz-c-17-zo-dna-25-10-2024/>.

The issue of hate speech in a selection of the educational, monitoring, research and awareness-raising activities of the Centre

The Centre has been addressing the problem of hate speech in its activities for a long time⁵¹ as part of the exercise of its legal mandate. An example is its membership in the Committee of the Council of the Government of the Slovak Republic for Human Rights for the Prevention and Elimination of Racism, Xenophobia, Anti-Semitism and Other Forms of Intolerance (hereinafter referred to as the “Committee against Extremism”). In 2024, a representative of the Centre became a member of the working group preparing a new concept for the fight against racism and extremism, while the Centre also participated in the preparation

of a similar concept, valid until the end of 2024, within which it fulfilled several tasks arising from its content. It is also represented in the working group of the Committee against Extremism, whose subject of activity is the development of a model of a deradicalization program. The Centre considers the issue of combating hate speech to be important and topical not only from the perspective of monitoring and evaluation processes, but also in the context of awareness-raising, education, participation in professional events, or the need to introduce preventive measures in order to reduce the incidence of such expressions.

37

Education

Reflecting the increase in the incidence of hate speech, the Centre has included the topic “*Dangers of Extremism and Racism*” among the offered education topics for children and youth, within which it also educates about the problems of occurrence of hate speech, whether in online or offline space. The Centre’s employees also educate about this issue within the framework of edu-

cational events on the topics of critical thinking and human rights, as well as bullying, cyberbullying and the safety of using social networks and the Internet, with a special emphasis on the legally approved boundaries of freedom of expression. Their aim is to familiarize the addressees with the diverse legal nature and significance of hate speech, the categorization of which depends

⁵¹ For example, in 2023, it became a partner organization of the platform called “Stop Hate”, which helps address hate speech on the internet, and traditionally participates in the 16 Days of Activism to Eliminate Violence Against Women, which included several activities.

on the degree of seriousness of the act. According to it, they can be classified into civil, misdemeanor and criminal categories, where, however, they do not in themselves reflect the inference of legal liability, but follow on from the fulfillment of the hypotheses of specific legal norms – civil or misdemeanor offenses, or criminal offenses.

In 2024, the Centre educated schools about the dangers of racism and extremism a total of 33 times. A total of 740 people participated in these educational events. There were 14 educational events at ten elementary schools for 265 people and 19 educational events at eight secondary schools for 475 people. The Centre educated one secondary school about the issues of critical thinking and human rights, including in the context of hate speech.

38

Bullying, cyberbullying and social media safety were the subject of a total of 70 educational events, attended by 2,108 people. Specifically, there were 44 training sessions at twenty primary schools for 1,041 people and 26 training sessions at 17 secondary schools for 1,067 people.

Within the target group of “adults”, the Centre provided training on hate speech under the topic *“Dangers of racism and extremism”* separately 4 times and once in conjunction with the topic called *“Bullying and non-discrimination”*. In total, it provided training to 113 adults. The topic *“Bullying, cyberbullying and social media safety”* was provided separately 11 times, for 422 participants and once in conjunction with the topic called *“Extremism and non-discrimination”*.

International information exchange

The Centre draws attention to the issue of hate speech also within the framework of transnational information exchange with partner organizations and international human rights monitoring mechanisms. As part of the 4th cycle of the Universal Periodic Review, it delivered an individual submission to the UN Human Rights Council (hereinafter referred to as the “Council”) in October 2023, in which, within the chapter dedicated to discrimi-

nation against Roma, it pointed out the increase in the intensity of hate speech against this group of people and recommended effective investigation of all hate speech, including in the online space, and comprehensive collection of necessary data on hate speech. The assessment of Slovakia took place in Geneva on May 6, 2024, with the Council addressing a total of 242 recommendations to Slovakia.⁵²

⁵² For more information, see: <https://www.ohchr.org/en/hr-bodies/upr/sk-index>

Research and monitoring

In the first half of 2024, the Centre carried out two media monitoring of the most widely read online portals in Slovakia. Within both, it monitored, among others: also examples of various forms of hate speech.

The conclusions of the media monitoring entitled *“Religious groups in media discourse”* show a generalizing and stereotyping portrayal of selected religions, especially the Muslim religion, as violators of the rights of others, and also a dominant and even exclusive securitizing portrayal of religion in political contexts, i.e. portrayal in the context of security threats, and in connection with violence and terrorism.

Despite the fact that waves of hateful, especially stereotyping and stigmatizing comments and messages appear in direct connection with specific events, the Centre draws attention to the need for bal-

anced information. It is examples from the everyday life of members of individual churches and religious groups that can help prevent the stigmatization of individual groups of the population.

The second media monitoring entitled *“Portrait of migrants in media discourse”* also confirmed the generalizing and stereotyping portrayal. Public discourse about migrants in Slovakia is largely reduced to issues of security and border protection, which subsequently multiplies the already significant stigmatization and stereotyping of migrant people. More than half of the analyzed contributions concerned the security aspect of migration. On the contrary, less than 1% of contributions were devoted to individual stories of individuals. This was also reflected in the content of the subsequent public discussion on the given topics and hate speech towards the given group.

39

Awareness

A Centre employee drew attention to the problem of the spread of hate speech in a television report,⁵³ as well as in her blog entitled *“In an atmosphere of fear, rights are most easily restricted”*.⁵⁴

After the attempted assassination of the Prime Minister of the Slovak Republic, the Executive Director spoke several times about the societal problem of polarization of society and

⁵³ Available at: <https://www.noviny.sk/video/69747f78-f159-46e8-9936-562a2e9b868e/narast-antisemitizmu>

⁵⁴ Available at: https://www.snsip.sk/wp-content/uploads/2024-7-23_V-atmosfere-strachu-saprava-obmedzuju-najlahsie.pdf

the increase in the rate of hate speech.⁵⁵ The Centre published a summary of these media outputs on its Instagram account, where it regularly draws attention to the problem of hate speech against minorities and publicly condemns these attacks.⁵⁶

One of the topics of the Rule of Law Festival 2024 and the

event called Human Forum 2024 was hate speech against human rights defenders in Slovakia.⁵⁷ Also in the form of these public expert discussions, the Centre, together with partner organisations, spread awareness about the social and legal problem of hate speech, and plans to spread awareness to be continued in 2025.

⁵⁵ Available at: <https://www.ta3.com/clanok/939633/agresivita-nie-je-javom-posledneho-volebného-obdobia-pripomína-sociologická-premier-bol-stvanou-zverou-tvrdi-gaspar>, also at: <https://www.stvr.sk/televizia/archiv/16952/467265> or at: <https://www.expres.sk/329201/ako-regulovat-toxicky-obsah-na-internete-ktory-legitimizuje-nasilie-a-nenavist/>

⁵⁶ The Centre's regularly published posts are available at: https://www.instagram.com/p/C4h5iCpLXMa/?utm_source=ig_web_copy_link&igsh=MzRIODBiNWFIZA%3D%3D; as well as at: https://www.instagram.com/p/C4h5iCpLXMa/?utm_source=ig_web_copy_link&igsh=MzRIODBiNWFIZA%3D%3D or at: https://www.instagram.com/p/DCi-8pRxyvL/?utm_source=ig_web_copy_link&igsh=MzRIODBiNWFIZA%3D%3D

⁵⁷ For more information, see: <https://www.snsip.sk/aktuality/festival-pravneho-statut-2024-mensiny-a-pravny-stat/> and at: <https://humanforum.sk/>

Recommendations:

The Centre recommends:

1. **to members of the National Council, members of the Government of the Slovak Republic**, not to attack in any way (even indirectly) vulnerable groups of the population living in the territory of the Slovak Republic, especially LGBTI+ people, Roma people or refugees.
2. **to members of the Government of the Slovak Republic**, to refrain from intentions and actions aimed at limiting the financing of activities related to the support and protection of the rights of minorities living in the territory of the Slovak Republic, especially LGBTI+ people, and not to arouse in their members a feeling of threat from the restriction of their freedoms.
3. **to officials of local governments**, to publicly engage in the support and protection of the rights of minorities living in the territories they administer.
4. **the media and public figures**, when reporting on negative actions of members of minorities, not to include irrelevant information about their origin, nationality, ethnicity or sexual orientation, thereby contributing to reducing the incidence of stereotypes and prejudices against minorities;
5. **the media and public figures**, when reporting on positive actions of members of minorities, also to include information about their origin, nationality, ethnicity or sexual orientation, thus contributing to improving their perception by society as a whole and increasing the level of tolerance and mutual respect between the majority population and minorities.



3. Rule of law

42

In the third chapter, we express concern about the gradual erosion of the rule of law in the Slovak Republic, not only in light of the challenges addressed in this chapter, but also in relation to other events and measures that are discussed in more detail in the Rule of Law Report.

Strengthening the rule of law remained a key strategic theme of the Centre in 2024. In addition to the annual Rule of Law Report,⁵⁸ it continued to organize the Rule of Law Festival, a series of expert discussions on rule of law topics throughout Slovakia.

The rule of law is a fundamental prerequisite for the protec-

tion and promotion of human rights. A strong rule of law creates the conditions for accountability in cases of abuse of power and corruption (which can lead to human rights violations), creates guarantees of equality for all people, means of effective legal protection, a stable and predictable environment, and enables individuals to stand up to injustice.

3.1 Decreasing the quality of the legislative process

The legislative process in the Slovak Republic has a relatively high-quality system of rules, but their observance, except for extreme excesses, depends only on the will of the government and the government majority in parliament, because otherwise they are not enforceable and responsibility

for their violation can only be inferred in parliamentary elections. The Centre considers it all the more necessary to point out errors in this area and address recommendations to responsible entities in the interest of strengthening the rule of law.

43

3.1.1 Accelerated legislative procedure in 2024

According to statistics of the National Council of the Slovak Republic,⁵⁹ almost 30% of laws were adopted in the accelerated legislative procedure in this election period. In comparison, in the previous election period, only 20% of approved laws were adopted in an accel-

erated procedure, despite the fact that many measures were objectively necessary to be adopted in such a form, for example, to protect public health in connection with the COVID-19 pandemic or to support people fleeing Ukraine.

58 Report available at: <https://www.snslp.sk/sledovanie-pravneho-statuu/sprava-o-pravnom-state>

59 For more information, see: https://www.nrsr.sk/web/?sid=nrsr/dokumenty/statistiky_a-prehlady

What does accelerated legislative procedure mean and why is it important?

The accelerated legislative procedure is regulated by law,⁶⁰ the use of which is approved by the Parliament at the request of the government *“in exceptional circumstances, when fundamental rights and freedoms or security may be threatened or if the state is threatened with significant economic damage”*. In order for the legislator to react quickly in situations of such risks, several procedural rules are waived in the accelerated procedure, for example, it is not required to deliver documents to deputies no later than 24 hours before the start of the debate, the proposal does not have to be published on the website of the National Council at least 15 days before the meeting, and the 30-day minimum period for discussing the law does not have to be observed.

The abbreviated regime is also known in the legislative rules of the government,⁶¹ according to which, under certain extraordinary and unforeseen circumstances, it is possible to shorten the minimum period for commenting from 15 to 7 days.

Another special regime is regulated by the Act on the Creation of Legislation,⁶² which, in exceptional circumstances, such as *“in particular, a threat to human rights and fundamental freedoms or security, if the state is threatened with significant economic damage, in the event of a declaration of a state of emergency or measures to address an extraordinary situation”*, allows for the waiver of the obligation to publish the proposal on the Slov-lex portal, to publish so-called preliminary information at the stage of preparation of the material, to which comments can be sent, and finally to waive the comment procedure itself, during which the professional and lay public have the opportunity to express their opinion on the proposal and mandatory commenting entities have the opportunity to raise the need for negotiations by submitting so-called substantial comments, while if the discrepancies are not settled, the government decides on final wording.

The use of accelerated procedures and other statutory

60 Section 89 of Act No. 350/1996 Coll. on the Rules of Procedure of the National Council of the Slovak Republic, as amended

61 Article 14, paragraph 7 of the Legislative Rules of the Government

62 Section 27 of Act No. 400/2015 Coll. on the Creation of Legal Regulations and on the Collection of Laws of the Slovak Republic and on Amendments and Supplements to Certain Acts, as amended by later regulations

exceptions can therefore significantly limit public participation in the creation of legislation, the debate on proposals in parliament and the ability of members of parliament and the public to thoroughly familiarise themselves with the content of the proposal and subsequent amendments by members of parliament. The effective space for assessing the effects and impacts of the proposed amendments is also reduced, the possibility for the professional public to familiarise themselves with the proposals and respond to them in a public debate is reduced or even completely excluded, and last but not least, the public debate before the adoption of the proposals as such is minimised.

The Venice Commission of the Council of Europe⁶³ has long pointed out in its opinions that the rule of law requires that the general public have access to draft legislation and have a meaningful opportunity to provide its opinion on them. Similarly, in relation to members of parliament, it states

that *“democracy governed by the rule of law is not just about formal adherence to procedures that allow the majority to rule, but also about deliberate deliberation and meaningful exchange of views between the majority and the opposition.”*⁶⁴

The process of adopting laws should therefore be transparent, accountable, inclusive and democratic. By its very nature, such a process takes time.

45

⁶³ The European Commission for Democracy through Law – known as the Venice Commission – is the advisory body of the Council of Europe on constitutional matters. The Venice Commission's role is to provide legal advice to its member states and, in particular, to assist states wishing to align their legal and institutional structures with European standards and international experience in the fields of democracy, human rights and the rule of law. It also helps to ensure the dissemination and consolidation of a common constitutional heritage, playing a unique role in conflict management and providing “emergency constitutional assistance” to states in transition. Its individual members are university professors of public and international law, judges of the supreme and constitutional courts, members of national parliaments and a number of civil servants. They are appointed for four years by the member states, but act independently.

⁶⁴ See more closely: Compilation of Venice Commission opinions and reports concerning the Law making procedures and the quality of the law, endorsed by the Venice Commission at its 126th Plenary Session (online, 19-20 March 2021) - Venice Commission ([https://www.coe.int/en/web/venice-commission/-/CDL-PI\(2021\)003-e](https://www.coe.int/en/web/venice-commission/-/CDL-PI(2021)003-e))

3.1.2 Risks of overusing the accelerated legislative procedure

a) Violation of the principle of legal certainty

The principle of legal certainty requires that all those affected by the regulation of laws know exactly the scope of the obligations imposed on them, and that all individuals are able to clearly determine what their rights and obligations are and know how to proceed accordingly.

One of the reasons why the legislative process should be open and provide an effective opportunity to participate in it not only to the public, but also

to experts, academia and non-governmental organizations, is precisely to exclude or minimize negative impacts of the proposed regulation in general or on a specific group of people that the proposer did not foresee. In 2024, the Centre recorded specific cases of laws in which the Government of the Slovak Republic did not comply with the existing rules for the creation and adoption of legal regulations with negative impacts on interested parties.

46

Amendments to the Criminal Code

The first draft of the amendment to the Criminal Code was approved by the Slovak government in December 2023, which was the first time the draft was ever published. The proposal contained fundamental changes in penalty rates, penalty adjustments, limitation periods, and determining the threshold for criminality of the act, and was subsequently adopted by the National Council on February 8, 2024, effective March 15, 2024, after parliamentary obstructions by the opposition. On February 22, 2024, the first amendment to this still ineffective regulation was delivered to the National Council, and it was subse-

quently approved in an accelerated procedure on February 28, 2024. Following the reservations of the European Commission, another amendment to the Criminal Code was delivered to the National Council on July 10, 2024, and this was also approved in an accelerated procedure on July 16, 2024, effective August 6, 2024. In total, the Criminal Code was amended seven times during 2024, with 4 amendments recorded in December 2024 alone. changes, of which, for example, the amendment by Act No. 353/2004 Coll. formed the effective text of the Criminal Code on exactly one day - December 17, 2024, since

on December 18, 2024, another amendment by Act No. 363/2004 Coll. came into effect. Such a sequence of changes from a temporal perspective

excludes the fulfillment of the principle of legal certainty, as defined above.

Ruling of the Constitutional Court of the Slovak Republic

Due to doubts about the constitutionality of certain provisions, as well as compliance with the rules for abbreviated legislative proceedings, a motion was already filed with the Constitutional Court regarding the first amendment to the Criminal Code by members of the National Council and the President. In its ruling,⁶⁵ the Constitutional Court declared two provisions of the Act unconstitutional and concluded, *“that even taking into account a wide degree of political discretion, it must be stated that the National Council, in adopting the contested Act, acted in breach of Section 89(1) of the Rules of Procedure Act, when, in the opinion of the Constitutional Court, it failed to demonstrate that the conditions for an abbreviated legislative procedure were met. The government’s argumentation set out in the motion for an accelerated legislative procedure partly,*

*as already stated, provides justification for the proposed amendments to the criminal codes, but these reasons, according to the Constitutional Court, are not sufficient to allow a rational conclusion to be reached that it was necessary to adopt these amendments promptly in an abbreviated legislative procedure.”*⁶⁶

However, the Constitutional Court also stated that *“non-respect for the rules of the legislative process laid down by law (i.e. illegality) does not necessarily mean unconstitutionality.”* The court explains this position by saying that it is not the second chamber of parliament and that respecting the separation of powers requires increased caution, stating that it can only deal with the legislative process if there may have been a certain violation of the relevant articles of the Constitution.

⁶⁵ PL ÚS 3/2024-761 of 3.7.2024, available at: https://www.ustavnysud.sk/aktualne-informacie/aktualny/-/asset_publisher/B99toBHZilUA/content/%C3%9Astavn%C3%BD-s%C3%BAD-zverejnil-n%C3%A1lez-novely-trestn%C3%A9ho-z%C3%A1kona-66 paragraph 279.

The need for a unifying opinion of the Supreme Court of the Slovak Republic

The amendment to the Criminal Code effective from 6 August 2024 regulated changes to limitation periods, and according to the statement of the Regional Court in Bratislava⁶⁷ *“Courts approach the issue of the passage and interruption of the limitation period as a result of the change in the law (...) diametrically different, which has significant consequences for unfinished criminal prosecutions, not only in court proceedings, but also in preparatory proceedings. Differences in court decisions regarding the limitation of criminal prosecution after the change in the Criminal Code*

.... are often not only in different courts, but even within one court.” The Regional Court in Bratislava therefore asked the Supreme Court of the Slovak Republic for a unifying opinion on unifying the interpretation on the issue of assessing the effects of acts interrupting the limitation period of criminal prosecution in connection with the shortening of the limitation period of criminal prosecution. After more than three months of the amendment being in force, the Supreme Court of the Slovak Republic issued a unifying opinion on 28 November 2024.⁶⁸

48

b) Reducing public participation in the legislative process

As the Constitutional Court stated in the above-cited ruling, in the case of accelerated legislative proceedings, the right of the public to become familiar with the content *“and identify with the “product” of the parliamentary procedure (the draft law) is not completely excluded.”*⁶⁹ This follows on from the statement that errors of lower intensity (such as the complete exclusion of the right

*to information) are subject to liability in parliamentary elections.*⁷⁰

Although limiting public participation in the legislative process is not unconstitutional, in the absence of legitimate reasons, and therefore for violations of legal norms, it is unacceptable in a democratic state governed by the rule of law.

⁶⁷ Available at: <https://www.pravnelisty.sk/rozhodnutia/a1493-navrh-na-prijatie-jjednocujuceho-stanoviska-najvyššieho-sudu-sr-ohladne-premlcania-trestneho-stihania>

⁶⁸ For more information, see the document Legal Sentences of the Criminal Law Collegium of the Supreme Court of the Slovak Republic, available at: <https://www.nsud.sk/trestnopravne-kolegium-najvyššieho-sudu-sr-prijalo-tri-stanoviska/>

⁶⁹ paragraph 299. PL ÚS 3/2024-761

⁷⁰ Paragraph 298. *ibid.*

The Centre therefore recalls the statutory regulation of the creation of legal regulations, according to which “the aim of the creation of legal regulations is to prepare, with the participation of the public, such a legal regulation that will become a functional part of a balanced, transparent and stable legal order of the Slovak Republic compatible with European Union law and

the international legal obligations of the Slovak Republic.”⁷¹

The Centre also recalls the government’s strategic documents, such as the Civil Society Development Concept 2022–2030 and its Action Plan,⁷² in which the Slovak government is tasked with increasing the level and extent of civil society participation in the creation of public policies.

Why is public and civil society engagement in the legislative process important?

In a democratic state governed by the rule of law, the public has the right to be informed about and to express its opinion on draft laws. The basic reason is that draft laws and other public policies should pursue the public interest. Without an effective space to ascertain what the public interest actually is, this goal cannot realistically be achieved.

As the OSCE/ODIHR Handbook on Democratic Legislation for Better Laws states,⁷³ organizations and individuals can engage in the legislative process in various ways – from initiating initiatives to improve legislation to submitting comments, petitions, monitoring the impact of adopted standards, educating and mobiliz-

ing others, or supporting underrepresented groups to participate in public affairs.

All these means of an active civil society are essential for a functioning democracy, because, as the Constitutional Court has stated, only citizens can be held accountable for many violations of the rule of law in elections. Not every citizen has the time and expertise to regularly monitor the Slo-lex law collection portal, assess how each proposal will affect them, and then evaluate its effectiveness after its adoption. A strong and active civil society with sufficient personnel capacity is, like independent media, essential for ensuring that the outputs of the legislative process are as close as

⁷¹ § 2, paragraph 1 of Act No. 400/2015 Coll. on the creation of legal regulations and on the Collection of Laws of the Slovak Republic and on amendments and supplements to certain acts.
⁷² Available at: <https://rokovania.gov.sk/RVL/Material/27581/>

⁷³ OSCE ODIHR (Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe) - Guidelines on Democratic Lawmaking for Better Laws, available in English at https://www.osce.org/files/f/documents/a/3/558321_3.pdf

possible to the public interest, that their impacts are subject to public oversight, and that the general public has access

to the information necessary to potentially hold their elected representatives accountable.

3.2. Declining levels of protection of civil and political rights

The Centre has long been drawing attention to the shrinking space for civil society, including the absence of a sustainable financial mechanism for civil society organizations, the decline in participation in lawmaking, and the increasing number of attacks targeting certain civil society organizations or human rights defenders. In 2024, government officials took steps to further weaken civil society, either in the form of legislative proposals or in the form of targeted measures aimed primarily at civil society organizations that perform the function of monitoring public authorities or at organizations operating in the field of human rights.

The European Commission also stated in its Rule of Law Report 2024 that the environment for civil society organizations has deteriorated in Slovakia, especially for organizations that perform the role of overseeing state activities and that operate in the field of human rights.⁷⁴

The Centre while monitoring human rights adherence noted several laws and executive measures that have a negative impact, in particular, on freedom of association, freedom of assembly, freedom of expression, the right to access information or access to funding, including funding from foreign sources.

3.2.1. Efforts to restrict the right to association

Foreign agent laws

In recent years, a growing global trend has been observed in the introduction of “foreign agent” legislation targeting civil society organizations with the intention of portraying them as enemies

acting against the interests of society. Such laws carry the risk of stigmatizing and discrediting certain organizations and engendering distrust, fear and hostility towards these organizations, thereby making their

⁷⁴ European Commission: Rule of Law Report 2024. Chapter on the situation of the rule of law in Slovakia, SWD(2024) 825 final, p. 37. Available at https://commission.europa.eu/document/download/b4b142ba-2515-49fa-9693-30737384264e_sk?filename=57_1_58083_coun_chap_slovakia_sk.pdf

functioning and activities excessively difficult.⁷⁵

This trend is also present in several Central and Eastern European countries, de-

spite the obvious contradiction with international human rights standards⁷⁶ and European Union law.⁷⁷

Amendments to the Law on Non-Governmental Organizations – Labeling of Organizations

In March 2024, a group of deputies submitted an amendment to Law No. 213/1997 Coll. on non-profit organizations providing services of general benefit, the declared aim of which is to “increase the transparency of financing of non-governmental non-profit

*organizations, which is a key element for strengthening public trust in non-governmental non-profit organizations” and “strengthen the protection of society against money laundering and terrorist financing”.*⁷⁸

⁷⁵ OSCE Office for Democratic Institutions and Human Rights: Note on legislative initiatives on transparency and regulation of associations funded from abroad or so-called “foreign agents laws” and similar legislation and their compliance with international human rights standards, Opinion-Nr.: NGO GEO/465/2023 [JB], p. 5. Available in English at: <https://www.osce.org/files/f/documents/2/9/556074.pdf>

⁷⁶ Venice Commission: Hungary - Opinion on Draft Law on the Transparency of Organizations Receiving Support from Abroad, CDL-AD(2017)015, available in English at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)015-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)015-e);

United Nations General Assembly: Access to resources Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule, A/HRC/50/23, available in English at: <https://docs.un.org/en/A/HRC/50/23>;

United Nations General Assembly: General principles and guidelines on ensuring the right of civil society organizations to have access to resources Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule, A/HRC/53/38/Add.4, available in English at: <https://docs.un.org/en/A/HRC/53/38/Add.4>;

United Nations General Assembly: Protecting the rights to freedom of peaceful assembly and of association from stigmatization, A/79/263, available in English at: <https://www.ohchr.org/en/documents/thematic-reports/a79263-protecting-rights-freedom-peaceful-assembly-and-association>;

OSCE Office for Democratic Institutions and Human Rights: Note on legislative initiatives on transparency and regulation of associations funded from abroad or so-called “foreign agents laws” and similar legislation and their compliance with international human rights standards, Opinion-Nr.: NGO GEO/465/2023 [JB], available in English at: <https://www.osce.org/files/f/documents/2/9/556074.pdf>

⁷⁷ Court of Justice of the European Union (CJEU), Commission v. Hungary Case C-78/18, 18 June 2020

⁷⁸ Proposal of the members of the National Council of the Slovak Republic Rudolf HULIAK, Dagmar KRAMPLOVA, Milan GARAY and Adam LUCANSKY for the issuance of an act amending and supplementing Act No. 213/1997 Coll. on non-profit organizations providing generally beneficial services, as amended, and amending and supplementing certain acts, parliamentary press No. 245, 27. 3. 2024. Available at: <https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=544281>

The amendment to the Act introduces the obligation for all non-governmental non-profit organizations (non-profit organizations, foundations, non-investment funds, associations and organizations with an international element), whose income from abroad exceeds EUR 5,000 in one calendar year, to register as an “organization with foreign support” and to indicate this designation in all acts of their activities. Although the designation “foreign-supported organization” objectively appears to be more neutral than the designation “foreign agent”, the Venice Commission stresses that this designation needs to be seen in the context of current social events and trends, which are characterized by political state-

ments against NGOs receiving support from abroad. Such labeling of NGOs therefore poses a risk of stigmatization and has a negative impact on their legitimate activities and a crippling effect on freedom of expression and association.⁷⁹

The draft law contributes to the restriction of democratic space by portraying NGOs, which through their long-term work improve the human rights situation in Slovakia and in many spheres complement or replace the roles of the state, as the enemy. Such attacks have a direct impact on human rights, as they weaken not only civil society organizations, which are direct targets, but also the very groups of people for whose rights these organizations fight.

52

Sanctions for failure to register

As for the sanctions associated with the registration of “foreign-funded organizations,” the law allows for a fine of up to 5,000 euros for failure to comply with this obligation. In the event of non-payment, the NGO may face dissolution, in some cases even without a court hearing. Such legislation is contrary to international standards, according to which the dissolution of organizations should only occur

as a measure of last resort in exceptional circumstances of very serious misconduct, and any measure or sanction must be preceded by a court hearing. However, failure to comply with registration and other obligations and requirements, which are more of an administrative or bureaucratic nature, does not reach such a level of seriousness as to justify the dissolution of an association.⁸⁰

⁷⁹ Venice Commission: Hungary - Opinion on Draft Law on the Transparency of Organizations Receiving Support from Abroad, CDL-AD(2017)015, para 65. Available in English at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)015-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)015-e)

⁸⁰ OSCE Office for Democratic Institutions and Human Rights: Note on legislative initiatives on transparency and regulation of associations funded from abroad or so-called “foreign agents laws” and similar legislation and their compliance with international human rights standards, Opinion-Nr.: NGO/GE0/465/2023 [JB], p. 41. Available in English at: <https://www.osce.org/files/f/documents/2/9/556074.pdf>

Conflict with European Union law

In April 2024, the Centre addressed the members of the National Council and asked them not to support the amendment to the Act on Non-Governmental Organisations.⁸¹ In its letter, the Centre pointed out that the proposed amendment is in direct conflict with the freedom of association of citizens as one of the fundamental pillars of a democratic and pluralistic society. It referred to the Judgment of the Court of Justice of the European Union in Case C 78/18 v. Hungary, in which the court ruled on the compatibility of the Hungarian “Act on the Transparency of Organisations Receiving Support from Abroad” with EU law. In this case, the Court of Justice ruled that the obligations of organisations to register, submit a declaration and publish, as well as the sanctions for their violation, constitute a restriction on the right to freedom of association.⁸² In addition, the Court of Justice of the European Union found that the Hungarian law *“introduced discriminatory and unjustified restrictions on donations from abroad to civil society organisations”*.⁸³

In this context, the Centre warned the members of the National Council of the Slovak Republic about the seriousness of the consequences resulting from the violation of EU law. The proposed amendment to the Act on Non-Governmental Organisations is largely identical to the Hungarian Transparency Act, which Hungary was forced to repeal due to its conflict with EU law. The Centre also highlighted that several provisions of the proposed amendment introduce stricter regulation compared to the Hungarian law, including the power of the Ministry of the Interior to dissolve certain NGOs without a court hearing, which the Centre finds alarming. The proposal was also criticised by the Council of Europe Commissioner for Human Rights, who criticised in particular the lack of procedural guarantees and the insufficiently demonstrated proportionality and necessity of the proposal, which fundamentally interferes with the right of citizens of the Slovak Republic to associate.⁸⁴ Despite widespread criticism from civil society, the opposition, representatives of inter-

81 Slovak National Centre for Human Rights: Letter to the Members of the National Council of the Slovak Republic dated April 26, 2024. Available at: https://www.snsip.sk/wp-content/uploads/LIST_MNO_WEB.pdf

82 Court of Justice of the European Union (CJEU), Commission v. Hungary Case C-78/18, 18 June 2020, para 119. Available in English at: <https://curia.europa.eu/juris/document/document.jsf?text=&docid=227569&pageIndex=0&doclang=SK&mode=lst&dir=&occ=first&part=1&cid=256071>

83 Ibid., para. 143.

84 Commissioner for Human rights: Slovak Republic: new draft laws risk having a chilling effect on civil society and interfering with independence of public service media. Available in English at: <https://www.coe.int/en/web/commissioner/-/slovak-republic-new-draft-laws-risk-having-a-chilling-effect-on-civil-society-and-interfering-with-independence-of-public-service-media>

national organisations and the Ombudsman,⁸⁵ the Parliament adopted the proposed amendment in the first reading.

Non-governmental organizations and lobbying

After the first reading, a parliamentary amendment was submitted to the original draft amendment, which fundamentally changes its wording. The most significant change concerns the obligation to register as an “organization with foreign support”, which is to be replaced by an obligation to register for “lobbying” activities. According to the proposal, lobbying is understood to mean repeated direct or indirect influence on the decision-making of officials and

senior employees in the public sphere. According to the proposal, only non-governmental organizations would have to register to carry out such “lobbying” under the threat of a fine. In addition, according to the amendment, non-governmental organizations must inform the lobbied persons that their activities include lobbying and publish quarterly reports on the lobbying carried out, again under the threat of a fine.

54

Lobbying according to international standards

The Centre notes that the proposed legal regulation is in conflict with international recommendations and publications on the topic of lobbying, despite the fact that it refers to them. The proposal does not address the obligation to register lobbyists, such as interest groups or commercial companies, and therefore does not address the risk of influencing public affairs through commercial, professional or per-

sonal interests. Furthermore, it does not regulate gifts to high-ranking public officials or consultancy services and does not respond in any way to the recommendations of the Group of States against Corruption (GRECO). On the contrary, it only introduces regulation of NGOs that carry out activities for the benefit of the public, including in the field of human rights.

⁸⁵ Public Defender of Rights: Amendment to the Act on Non-Profit Organizations will restrict the right to freedom of association and may contribute to an atmosphere of general distrust towards non-profit organizations, press release dated October 22, 2024. Available at <https://vop.gov.sk/wp-content/uploads/2024/10/Tlacova-sprava-VOP-22-10-2024.pdf>

Since any form of participation of civil society and the public in the creation of public policies can be interpreted as “direct or indirect influence on decision-making”, under the proposal, all NGOs involved in policy-making would have to be subject to the obligation to register and publish quarterly reports on their lobbying, while failing to comply with the obligations would be subject to fines or even the dissolution of the organization. Such legislation appears discriminatory and restrictive and can be interpreted as a means of intimidating civil society and creating barriers to participatory processes in public administration. The draft law, including the process of its adoption, which was

carried out without consultations with relevant civil society organizations, can be considered a way of weakening and undermining people’s trust in civil society.

The legislative proposal was advanced to a second reading by the deputies of the National Council in April 2024. The Centre strongly recommends that the National Council not approve the proposal and that the Government of the Slovak Republic initiate a proper legislative process for the necessary changes to the legislation regulating civil society and lobbying, with the participation of representatives of civil society and respecting international standards.

55

Restrictions on civil society funding

The UN Declaration on Human Rights Defenders⁸⁶ speaks of the civil society sector’s right to access funding for activities promoting universal human rights. While executive authorities have a large degree of discretion in deciding whether to support specific organisations, the Centre points out that these decisions, like any other decision by public authorities, must not be arbitrary and based on discrimination, as in such cases we can already speak of the targeted creation

of barriers to the exercise of the right to association. The Centre is therefore concerned by the decision of some executive authorities to restrict civil society organisations’ access to state-supported funding. For example, in 2024, several ministries decided not to allocate funds to non-governmental organisations working in the field of human rights protection.

The Ministry of the Environment of the Slovak Republic (hereinafter referred to as the

⁸⁶ Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms – adopted by UN General Assembly resolution A/RES/53/144 of 1999, available in English at: <https://docs.un.org/en/A/RES/53/144>

“Ministry of the Environment”) has removed non-governmental organizations from the list of eligible applicants for subsidies from the Green Education Fund and the Environmental Fund in the field of education and training and has prioritized support for schools and school facilities.⁸⁷ Support for schools in the field of environmental education is undoubtedly crucial, but the Ministry’s decision may jeopardize projects implemented by non-governmental organizations that have expertise and are an important part of children’s environmental education.

In February 2024, the Ministry of Justice canceled the call for applications for subsidies under the “Human Rights 2024” program, just one day before the oral hearing of applicants, without giving a relevant reason. The ministry’s decision may raise doubts about the existence of objective reasons, as the then deputy speaker of parliament praised this step

with the words *“The minister canceled the subsidy call for ‘hippies’ NGOs and they are now screaming hysterically”*.⁸⁸

The ministry changed the way the evaluation committee for subsidy applications was composed by excluding representatives of civil society, who until then had made up more than half of its members.⁸⁹ Thus, only representatives of the ministry and other state administration bodies remained on the committee. The call was subsequently re-announced only in June 2024, when these changes came into effect.

Unlike previous years, NGOs advocating for the rights of LGBTI+ people did not receive funding under state-supported grant schemes in 2024. In connection with the suspension of funding, the coalition party SNS spread discriminatory narratives through the billboard campaign “We have stopped funding LGBTI projects.”⁹⁰

87 Climate Coalition, press release dated August 2, 2024. Available at: <https://klimatickakaoalicia.sk/mimovladky-kritizuju-zmeny-fungovania-fondovtaraba-hovori-o-podpore-skol/>

88 Post by user SMER-SDD from February 20, 2024. Available at: <https://www.facebook.com/smersd/posts/%C4%BE-blaha-mimovl%C3%A1dky-pi%C5%A1tia-lebo-u%C5%BE-nem%C3%B4%C5%BE-u-vyciava%C5%A5-%C5%A1t%C3%A1t-brav%C3%B3-boris-minister-sp/709119151408590/>

89 Decree of the Ministry of Justice of the Slovak Republic on the composition, decision-making, organization of work and procedure of the commission when evaluating applications for the provision of subsidies and on the criteria for evaluating applications for the provision of subsidies (322/2016 Coll.)

90 Alexandra G., SNS provokes with billboard about LGBTI+ projects. “We are witnesses of disruption,” responds expert, Startitup, 4.12.2024. Available at: <https://www.startitup.sk/sns-provokuje-bilbordom-o-lgbti-projektoch-sme-svedkami-rozvratu-reaguje-expert/>

3.2.2 Restrictions on the right to assemble

In June 2024, the parliament adopted Act No. 166/2024 Coll. in an accelerated legislative procedure on certain measures to improve the security situation in the Slovak Republic (the so-called lex assassination attempt). According to the government, the reason for submitting the draft law was *“to reflect on the security situation in the Slovak Republic after the attempted assassination of the Prime Minister of the Slovak Republic, Robert Fico.”*⁹¹ Among other things, the lex assassination attempt fundamentally changed the law on the right to assemble without any prior participatory process.

Blanket ban on assemblies

Among other things, the law introduces a blanket ban on assemblies within 50 meters of certain religious buildings.⁹² The ODIHR states in its opinion that the freedom to choose the place of assembly is a key aspect of the exercise of the right to freedom of assembly- and that states have an obli-

The Center therefore turned to the Office for Democratic Institutions and Human Rights (ODIHR), a body of the Organization for Security and Co-operation in Europe (OSCE), with a request for an interpretation of the compliance of certain provisions of the draft lex assassination attempt that relate to freedom of assembly. According to the ODIHR opinion of June 26, 2024, the proposed amendments regarding freedom of assembly in the so-called lex assassination attempt had serious shortcomings in terms of compliance with international human rights standards and Slovakia's OSCE commitments.

gation to allow assemblies to be held in a location preferred by the organizer and within the “sight and hearing” of the intended audience,⁹³ while general bans on certain locations can significantly interfere with the possibility of holding such assemblies.⁹⁴ The opinion further warns that general

⁹¹ Explanatory report available at: <https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=548663>

⁹² The blanket ban applies to gatherings within a radius of 50 meters from the permanent residence of the President; a building in which the National Council of the Slovak Republic or the government regularly meets; the permanent residence of the Constitutional Court of the Slovak Republic and where these constitutional bodies meet or otherwise exercise their powers; and certain other public buildings. It should be added that gatherings within a radius of 50 meters from the buildings of the National Council of the Slovak Republic or places where it meets were already prohibited under previous legislation.

⁹³ OSCE Office for Democratic Institutions and Human Rights: Urgent interim opinion on article I of the draft act on “some measures to improve the security situation in the Slovak Republic” point 25. Available in English at https://legislationline.org/sites/default/files/2024-06/2024-06-25%20FINAL%20ODIHR%20Urgent%20Interim%20Opinion%20on%20Freedom%20of%20Peaceful%20Assembly_Slovak%20Republic_ENGLISH.pdf

⁹⁴ Ibid., point 27.

legal restrictions prohibiting all assemblies in designated locations are not in line with the principle of proportionality, which requires that the least

restrictive means of achieving the public authorities' objective should always be preferred.⁹⁵

New grounds for banning assemblies

The law further introduces new grounds on which municipalities may ban assemblies, including cases where there is a reasonable fear that clashes will occur between participants in multiple notified assemblies. According to the case law of the ECHR, the mere likelihood of tension and heat-

ed exchanges between opposing groups during a demonstration is not sufficient reason to ban an assembly.⁹⁶ Banning an assembly should be a last resort only in the event of a real and serious risk of imminent violence that cannot be prevented by any means other than a ban.⁹⁷

⁹⁵ Ibid., point 27.

⁹⁶ ECHR, *Alekseyev v. Russia*, nos. 4916/07, 25924/08 and 14599/09, 21 October 2010, para. 77.

⁹⁷ OSCE Office for Democratic Institutions and Human Rights: Urgent interim opinion on article I of the draft act on "some measures to improve the security situation in the Slovak Republic" point 45. Available in English at https://legislationline.org/sites/default/files/2024-06/2024-06-25%20FINAL%20ODIHR%20Urgent%20Interim%20Opinion%20on%20Freedom%20of%20Peaceful%20Assembly_Slovak%20Republic_ENGLISH.pdf

Recommendations

The Centre recommends:

1. **that members of the Government of the Slovak Republic** publicly acknowledge the important and legitimate role of human rights defenders in promoting human rights, democracy and the rule of law as a fundamental element in ensuring their protection, including by respecting the independence of their organisations and preventing the stigmatisation of their work.
2. **the members of the National Council** not to support the currently submitted amendment to the Act on Non-Profit Organizations (print 245) and the members of the Government of the Slovak Republic to initiate a proper legislative process for the necessary changes to the legislation regulating civil society and lobbying, with the participation of representatives of civil society and respecting international standards.
3. **the members of the Government of the Slovak Republic** to reconsider the blanket ban on gatherings regulated by the so-called lex assassination attempt and leave the management of security risks to the relevant criminal justice authorities in individual cases based on specific circumstances that are subject to judicial review and are in line with international human rights standards.

Other recommendations included in **the Rule of Law Report 2025**, in which the Centre recommends to the Government of the Slovak Republic:

1. Limit the use of the accelerated legislative procedure strictly to cases of sudden, unforeseeable and serious threats to the economy, human rights or security, as foreseen by law, in order to ensure effective public participation in the legislative process and to ensure legal certainty through an open, transparent and data-driven legislative process.
2. Restore and ensure guarantees of the principles of neutrality, stability and professionalism of the civil service within the meaning of the law, in order to build and maintain expertise, ensure continuity between governments, as well as strengthen public trust in institutions.
3. Present a clear plan for the fight against corruption following the dissolution of the various bodies entrusted with this objective, as well as concrete measures and guarantees to ensure that persons or bodies entrusted with the fight against corruption in the future have the necessary degree of autonomy and independence to fight corruption at all levels, including state institutions.
4. Refrain from online and offline harassment, including verbal attacks and threats against NGOs and human rights defenders, which stigmatize and discredit them.
5. Investigate harassment and intimidation, threats, violence against NGOs and human rights defenders and other restrictions on their rights, including by politicians, and guarantee them the possibility to carry out their activities in safe conditions.
6. Ensure long-term, sustainable, transparent, timely and predictable funding for NGOs and human rights defenders.



62

4. Segregation in education

The fourth chapter focuses on the segregation of Roma in education and follows up on the 2023 Report. Through the cases we addressed in 2024, it illustrates our mandate as the national equality body and provides insight into the Centre's daily work.

A modern democratic society is built on the principles of equality, human dignity and justice, and segregation is a violation of these principles. The segregation of Roma children in education is not just a series of isolated cases, but a systemic problem reflecting broader social structures of exclusion and discrimination. Slovakia is the only country in the EU against which the European Commission has filed a complaint with the Court of Justice of the EU due to long-term non-compliance with EU rules on racial equality.⁹⁸ The complaint was filed due to the persistent systemic segregation of Roma children within both mainstream and special education.

The Slovak Government Commissioner for Roma Communities, in response to a survey initiated by the Centre for Environmental and Ethical Education Živica and the non-profit organisation Teach, stated that *“the segregation of the Roma population of Slovakia in our society still persists and is a complex problem that requires the cooperation of multiple entities, not only at the state level.”* The Centre also believes

that cooperation between local governments and schools, or rather their communication with excluded Roma communities, is key, and a suitable tool for desegregation can be the positive portrayal of good examples in the media.⁹⁹ According to the aforementioned survey from February 2024, up to 60% of people think that pupils from marginalised Roma communities should be educated in separate classes or even schools. Although it is publicly known that in the field of education in Slovakia, segregation of the Roma ethnic group in particular occurs, according to the survey, 60% of people also think that, in addition to pupils from marginalised Roma communities, children with specific needs, such as autism, material deprivation, ADHD, etc., should also be educated in separate classes.¹⁰⁰ The persistence of segregation in education is also confirmed by court decisions and cases dealt with by the Centre, the text of which is the content of the following subchapters. Its elimination is primarily the task of the state, which is why the Centre also devoted itself to legislative activities in the following chapter.

98 The European Commission referred the Slovak Republic to the Court of Justice of the European Union on 19 April 2023 on the grounds that the Slovak Republic is not effectively addressing the issue of segregation of Roma children in education. Since 2015, when the European Commission opened infringement proceedings against it, the Slovak Republic has introduced a series of legislative reforms and adopted several strategies and action plans to support the inclusion of Roma children in education. However, after a thorough assessment of the measures and monitoring of the situation on the ground, the European Commission has concluded that the reforms adopted so far are insufficient.

99 Available at: <https://romovia.vlada.gov.sk/archiv-tlacovych-sprav/celospolocensky-dialog-ako-kluc-k-integracii-romov/?csrt=536518392246487931>

100 Available at: <https://zivica.sk/aktualita/prieskum-zivice-a-teach-75-ludi-by-za-urcitych-podmienok-dalo-svoje-dieta-do-triedy-s-romskymi-spoluziakmi/>

4.1 Legislative activity

The Slovak Republic, within the framework of the Recovery and Resilience Plan of the Slovak Republic (hereinafter referred to as the “Recovery Plan”), has committed, among other things, to the elimination of segregation in schools. Part of Reform 5 (Support for the desegregation of schools), Component 6 (Accessibility, development and quality of inclusive education at all levels) of the Recovery Plan is the introduction of a legal definition of segregation, its monitoring, methodological support and pilot projects in the context of desegregation, respectively. financial support for school founders to transport pupils from marginalised Roma communities to schools.¹⁰¹ The fulfilment of several key objectives of the Recovery Plan, including the introduction of the definition of segregation into the legal order of the Slovak Republic, was achieved in 2023 with the adoption of Act No.

182/2023 Coll. amending Act No. 245/2008 Coll. on Education (School Act) on amending and supplementing certain acts (hereinafter referred to as the “School Act”).¹⁰²

In 2024, the legislator incorporated into the School Act the legal binding nature of standards for compliance with the prohibition of segregation in education (hereinafter referred to as the “Standards”) by adopting Act No. 290/2024 Coll., amending and supplementing Act No. 597/2003 Coll. on the financing of primary schools, secondary schools and school facilities as amended and amending certain laws (hereinafter referred to as “Act No. 290/2024”).¹⁰³ For schools and school facilities, this means incorporating the Standards into school regulations and publishing their updated versions in a publicly accessible place, developing plans for implementing the Standards (here-

¹⁰¹ Component 6, available at: <https://www.minedu.sk/komponent-6-dostupnost-rozvoj-a-kvalita-inkluzivneho-vzdelavania-na-vsetkych-stupnoch/>

¹⁰² On May 9, 2023, the National Council of the Slovak Republic approved the draft amendment to Act No. 245/2008 Coll. on Education (School Act). Although the Slovak National Centre for Human Rights welcomes the adoption of the amendment to the School Act, in its capacity as the national anti-discrimination body, it also draws attention to some fundamental shortcomings and gaps in the adopted definition, which may significantly negatively affect and limit the assessment and resolution of cases of segregation in education. The Centre's position is available at: <https://www.snspr.sk/wp-content/uploads/Stanovisko-k-definicii-segregacie-vo-vychove-a-vzdelavani.pdf>

¹⁰³ The legal binding nature of the Standards for Compliance with the Prohibition of Segregation in Education results from Section 145(1) of Act No. 245/2008 Coll. on Education (School Act): “The rights established by this Act are equally guaranteed to every applicant, child, pupil and listener in accordance with the principle of equal treatment in education established by a special regulation. When complying with the prohibition of segregation in education, a school or school facility shall proceed according to the standards issued and published on its website by the Ministry of Education. These standards are binding for the development of school regulations.” Standards available at: <https://www.minedu.sk/data/att/a3f/31683.50af19.pdf>

inafter referred to as the “Plan”) by the end of September 2025, and implementing procedures according to the wording of individual Standards and the developed Plans.¹⁰⁴

The Standards are intended to represent a further step towards compliance with the prohibition of segregation in education under the School Act and at the same time synergistically contribute to supporting the desegregation of schools. They represent the basic rules, principles and procedures for preventing and eliminating segregation in education. Their implementation is intended to contribute to compliance with the principles of education under the School Act in schools and school facilities. They are based on the provisions of the Convention on the Rights of the Child.¹⁰⁵ The standards are the elaboration and implementation of the practical part of the Methodological Guide to Desegregation in Education.¹⁰⁶ In connec-

tion with the methodological guide, they help to fulfill the principle of “*prohibition of all forms of discrimination and in particular segregation*”.¹⁰⁷ These are requirements for attitudes and values that result from the legal definition of segregation.¹⁰⁸

The next step towards reducing the incidence and gradually eliminating segregation is to eliminate the double-shift operation of primary schools. The Ministry of Education, within the framework of Investment 2 (Completion of school infrastructure), Component 7 (Education for the 21st Century) of the Recovery and Resilience Plan of the Slovak Republic in 2022, announced a call for applications for the provision of funds for the mechanism to support recovery and resilience in the area of eliminating the double-shift operation of primary schools (hereinafter referred to as the “Call”).¹⁰⁹ The procedure for placing children for compulsory school atten-

¹⁰⁴ Standards for compliance with the prohibition of segregation, available at: <https://www.minedu.sk/standardy-dodrziavania-zakazu-segregacie/>

¹⁰⁵ See, for example, Art. 2, paragraph 1, Art. 2, paragraph 2, Art. 3, paragraph 1 and Art. 29, paragraph 1 of the Convention on the Rights of the Child, available at: <https://www.slov-lex.sk/ezbierky/pravne-predpisy/SK/ZZ/1991/104/>

¹⁰⁶ Methodological Guide to Desegregation in Education, Ministry of Education, Science, Research and Sports of the Slovak Republic, 2023, available at: <https://www.minedu.sk/data/att/71e/30599.332e7e.pdf>

¹⁰⁷ See Section 3 letter f) of Act No. 245/2008 Coll. on Education (School Act), available at: <https://www.slov-lex.sk/ezbierky/pravne-predpisy/SK/ZZ/2008/245/20230901#paragraf-3.pismo-no-f>

¹⁰⁸ Standards for compliance with the prohibition of segregation in education, Ministry of Education, Science, Research and Sports of the Slovak Republic, 2024, pp. 2 – 3, available at: <https://www.minedu.sk/data/att/a3f/31683.50af19.pdf>

¹⁰⁹ From August 24, 2022, primary schools with two-shift operation can apply for funding for projects to eliminate it. The aim of the call is to expand the capacity of primary schools through new buildings, extensions, superstructures and reconstructions of existing buildings. By the end of 2026, two-shift operation should be eliminated in at least 35 primary schools. Component 7: Education for the 21st Century, available at: <https://www.minedu.sk/komponent-7-vzdelavanie-pre-21-storocie/>

dance in primary schools was adjusted so as to eliminate school teaching in primary schools in the afternoon (double-shift operation),¹¹⁰ based on Act No. 290/2024, by which the legislator also amended the School Act. It added Section 20, paragraph 7, according to which *“a primary school does not have the capacity to accept children if, for spatial reasons, school education cannot be provided for all pupils in the morning hours.”*

The Center welcomes the legislative change and emphasizes the importance of eliminating two-shift operation in primary schools, especially given the fact that the afternoon shift mainly educates children from marginalized Roma communities, which is also indicated by the content of the segregation cases it addresses. Two-shift education not only deepens the segregation of Roma children, but they also receive a lower quality education. However, the call did not define non-compliance with the principles of desegregation

and deghettoization and destigmatization as an exclusion criterion from the possibility of applying for funds.¹¹¹ The absence of a definition of non-compliance with the above principles may, in the legal opinion of the Center, lead to the fact that projects will also be supported that will lead to the expansion of the capacities of overcrowded primary schools attended exclusively by marginalized Roma children, which will only deepen their segregation. Together with the Counseling Centre for Civil and Human Rights (hereinafter referred to as the “Council”), it therefore addressed a request to the European Commission in December 2023 to prevent the spending of EU funds on measures that will lead to the further deepening of the segregation of Roma children in education.¹¹²

By adopting Act No. 290/2024 Coll., the legislator also re-defined national education.¹¹³ Based on the explanatory report, the intention is to strengthen the rights of

110 Art. V, points 26 and 27 of the Explanatory Report – special part to the government bill amending and supplementing Act No. 597/2003 Coll. on the financing of primary schools, secondary schools and school facilities, as amended, and amending and supplementing certain acts, available at: <https://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&MasterID=9871>

111 The Centre recommended such a definition of non-compliance with the principles of desegregation, deghettoization, and destigmatization as an exclusionary criterion in the 2023 Human Rights Compliance Report.

112 The full text of the letter is available at: <https://poradna-prava.sk/wp-content/uploads/2023/12/Letter-to-the-EC-expressing-concerns-over-the-current-Slovak-Government-policy-measures-maintaining-segregation-of-Roma-children-in-education-and-call-for-the.pdf>

113 According to Section 2 letter ab) of Act No. 245/2008 Coll. on Education (School Act), “national education means schools with the language of instruction of a national minority, classes with the language of instruction of a national minority, schools with the language of instruction of a national minority and national school facilities; the educational process in national education also focuses on the preservation and development of the cultural and linguistic identity of children and pupils belonging to national minorities”

children and pupils belonging to national minorities to education in their language and also to take a step towards strengthening the Roma language culture and identity. According to the amendment, schools where the Romani language and literature are taught could fall under national education. In the opinion of the Centre, the new legal regulation may lead to the creation of a parallel education system for Roma children, separate from the regular educational stream, and deepen segregation.

The new definition of national education is also criticized by several organizations dealing with the rights of the Roma minority, according to which it may become a tool for covering up segregation, which would not only legitimize it, but also institutionalize it. The Roma Advocacy and Research Centre stated that *“even human rights guarantees of choice between ethnic and mainstream schools and the provision of comparable conditions in education do not reduce the risk of the expansion of Roma ethnic education. Roma ethnic education is not a solution to segregation, and certainly not a desegre-*

*gation one. It is a deep abyss into which segregated Roma schools can legally fall.”*¹¹⁴

At the beginning of 2024, the Ministry of Education announced its intention to implement a pilot project of an ethnic school in the municipality of Rakúsy (hereinafter referred to as the “pilot project”), which is to enable Roma children to be educated in their mother tongue. The Ministry of Education concluded the Memorandum on its establishment on June 21, 2024,¹¹⁵ i.e. before the amendment to the School Act of October 2024. Despite the fact that this pilot project had already provoked quite extensive discussions and several question marks, the subsequent amendment to the School Act simplified the criteria for establishing similar minority schools even more significantly.

The Centre issued an expert opinion on the intention of the pilot project, which focused on assessing the intention of the temporary compensatory measure presented by the Ministry of Education in connection with the establishment of a Roma minority school in the municipality of Rakúsy.¹¹⁶ According to the Ministry of

114 Available at: <https://www.amnesty.sk/toto-nie-je-reforma/>

115 The Ministry of Education, the municipality of Rakúsy, the University of Prešov in Prešov, and the Association of Schools Teaching the Romani Language signed a Memorandum of Cooperation on June 21, 2024, to establish a pilot Romani national primary school in the municipality of Rakúsy.

116 The full text of the opinion is available at: <https://www.snslp.sk/wp-content/uploads/OS-zamer-docasneho-vyrovnavacieho-opatrenia-v-obci-Rakusy.pdf>

Education, the right of members of the Roma national minority to education in the Romani language has been limited for a long time. The reason for state intervention in this area is the current non-existence of a public primary school with full-fledged teaching of the Romani language. The primary goal of establishing a Roma minority school is to eliminate inequality in the application of the fundamental right to education in the Romani language. The secondary objective is to improve the results achieved in the field of education. Another goal of the pilot project is to eliminate two-shift operation by completing the spatial capacities within the framework of a special project call,¹¹⁷ i.e. through a special project. By supporting ethnic education, the Ministry of Education wants to contribute to ensuring better quality education for Roma children in their mother tongue.

In assessing the case in question, the Centre has reached the legal opinion that all the described objectives are not only legitimate but also desirable in relation to improving Roma children's access to education. The Centre does not dispute the objectives of the plan themselves and, in its legal opinion, they are in themselves in line with anti-discrimination

legislation. However, the measures to achieve the set objective must be proportionate. In the Centre's legal opinion, if there is a risk of the creation of classes with exclusively Roma representation, the pilot project creates the conditions for indirect discrimination against Roma primary school pupils, when the practice and means described in the pilot project to achieve otherwise legitimate objectives appear neutral on the surface, but in the end may be the cause of segregation - i.e. an unlawful situation. In the case of its implementation, these would therefore be disproportionate measures to achieve the pursued, otherwise legitimate and legal objective or objectives.

Concern over developments in Slovakia in the area of minority education, specifically the situation of the Roma national minority in connection with the signing of the Memorandum of Cooperation on the establishment of a pilot Roma national primary school in the municipality of Rakúsy¹¹⁸ was expressed by several international and Slovak organisations in a joint position on national education and the rights of national minorities in Slovakia (hereinafter referred to as the "Joint Position"). They emphasised that Slovakia is a signatory to the European Charter for

¹¹⁷ Call to eliminate double-shift operation of primary schools, available at: <https://www.minedu.sk/vyzva-na-odstranenie-dvojzmennej-prevadzky-zakladnych-skol/>

¹¹⁸ Memorandum of cooperation on the creation of a pilot Roma national primary school in the village of Rakúsy, available at: <https://www.minedu.sk/data/att/9f2/30638.75f8da.pdf>

Regional or Minority Languages¹¹⁹ (hereinafter referred to as the “European Charter”), which clearly states the country’s commitments regarding education in minority languages. The Slovak Republic has committed itself in the European Charter to the fact that education at primary school level means teaching the Romani language as an integral part of the curriculum, and not to the extent of education in the Romani language, as is the case with Hungarian. They stated that this commitment is correctly formulated in view of the segregation and historical exclusion of the Roma. In connection with the pilot project of the Roma national school in the municipality of Rakúsy, the Centre expresses its concern that this does not meet the objective of Article 8(1)(b) of the European Charter¹²⁰, and may even be in conflict with the article in question. It takes the legal view that the pilot project may be in conflict with the very declaration made by the Slovak Republic when depositing

its instrument of ratification, according to which it will apply the adopted European Charter in accordance with the Constitution of the Slovak Republic and relevant international conventions guaranteeing the equality of citizens before the law regardless of their origin, race, religion or nationality, with the aim of promoting the European linguistic heritage without prejudice to the use of the state language. In the joint position, the above-mentioned entities further stated that it is an established principle in international law that minority education must be rooted in the voluntary choice of the minority and its families. Furthermore, the quality of education in minority schools must be equal to that provided in mainstream schools, and parents should always have the opportunity to enrol their children in integrated, mainstream educational institutions. These principles are enshrined in the UNESCO Convention against Discrimination in Education¹²¹ of 1960, which is an integral

¹¹⁹ Announcement of the Ministry of Foreign Affairs of the Slovak Republic on the conclusion of the European Charter for Regional or Minority Languages No. 588/2001 Coll., available at: <https://www.slov-lex.sk/ezbiery/pravne-predpisy/SK/ZZ/2001/588/20011229>

¹²⁰ According to Article 8(1)(b) of the European Charter for Regional or Minority Languages, “In the field of education, the Contracting Parties undertake, in the territories where such languages are used, in accordance with the situation of each of these languages and without prejudice to the teaching of the official language(s) of the State:

- i to make teaching in the relevant regional or minority languages available at primary level, or
- ii to make the majority of teaching at primary level available in the relevant regional or minority languages, or
- iii to ensure that at primary level the teaching of the relevant regional or minority languages forms an integral part of the curriculum, or iv to take one of the measures referred to in points (i) to (iii) above, at least for pupils from families who express an interest, provided that there are sufficient numbers of pupils.”

¹²¹ See, for example, Art. 2(b) of the UNESCO Convention against Discrimination in Education, available at: <https://www.unesco.org/en/legal-affairs/convention-against-discrimination-education>

part of the Slovak legal order.¹²²

The state is undoubtedly one of the entities that bears responsibility for taking effective measures and legislative steps to prevent segregation in education. However, its inaction often contributes to the fact

that segregation is still a persistent and systemic problem, as evidenced by the decision-making activity of the courts in 2024, in which the Ministry of Education acts as a passive subject with legal standing, as the Centre points out in the following subchapter.

4.1.1 The issue of passive legal standing in the decision-making activity of the courts in cases of segregation

According to the legal opinion of the Centre, the decision-making activity of the courts in cases of segregation shows inconsistency in determining passive legal standing. This situation may deepen legal uncertainty in the legal resolution of cases of segregation in education. In the subchapter, the Centre points to the judicial practice in matters of segregation in 2024, from which, among other things, the aforementioned inconsistency in determining passively legitimated subjects is evident.

The Regional Court in Prešov, by its judgment of April 22, 2024, legally confirmed the judgment of the District Court in Prešov of November 6, 2023 in the legal case of the plaintiff, the Counseling Centre for Civil and Human Rights, against the defendants 1/ the Regional Office of the School Administration in Prešov and

2/ the Ministry of Education, on the violation of the principle of equal treatment. The judgment legally confirmed that the defendant state institutions committed discrimination – namely by adopting decisions on the determination of the school district, by which they maintained the existing unlawful state of education of Roma children from the municipality of Malý Slivník in the Primary School with Kindergarten in Terni (hereinafter referred to as the “Primary School in Terni”), as well as by failing to adopt effective measures to prevent and eliminate their segregation. The court confirmed the obligation imposed on the defendants within six months from the entry into force of the judgment to develop a plan to eliminate the unlawful state containing an analysis of the capacities of primary schools in the city of Prešov and in the municipali-

¹²² Position on national education and minority rights in Slovakia, available at: <https://romadata.org/2024/10/24/medzinarodne-a-slovenske-organizacie-vydavaju-spolocne-stanovisko-k-narodnostnemu-skolstvu-a-pravam-narodnostnych-mensin-na-slovensku/>

ties in the Prešov district, taking into account the ethnic and social composition of the pupils in these primary schools, and to propose effective measures to eliminate discrimination against Roma children from the municipality of Malý Slivník in the Primary School in Terni, including the time horizon for their implementation and preventive measures to prevent discrimination in the future. It also confirmed the obligation of the defendants to implement this plan within two years.

As part of the reasoning of the Judgment of 22 April 2024, the court of first instance also drew attention to the resolution of the European Parliament adopted in October 2023, which, among other things, states, with regard to the judgments of the Supreme Court of the Slovak Republic,¹²³ that there is discrimination against Roma children in education, and the responsibility of municipalities and the state in this regard. It stated that, in view of the UN Convention on the Rights of the Child and in accordance with the resolution of 9 March 2011 on the EU Strategy for Roma Inclusion, all children have the right to thrive and develop their skills and talents through access to

inclusive, non-segregated and quality education, as the right to quality, accessible and free compulsory education should be guaranteed to all children regardless of their ethnic origin.¹²⁴

The Regional Court in Prešov was inspired by the findings of the ECHR in defining the content of the definition of segregation, which was previously adopted by the Supreme Court of the Slovak Republic in its annulling resolution of 28 March 2023, where in paragraph 46 of the reasoning it stated that discrimination in the form of segregation of Roma children is defined in the decision-making practice of the ECHR as the de facto separation of Roma children from others regardless of the motivations of the state or other authorities, and the failure the state to effectively address this factual situation. In connection with its assessment, it is crucial whether the measures taken by the state authority to ensure equal access to education pursued a legitimate aim of eliminating the unlawful situation and preventing it in the future (Section 2(2) and (3) of Act No. 365/2004 Coll.). Whether appropriate, necessary and proportionate measures were used to achieve the legitimate aim must al-

¹²³ Judgment of the Supreme Court of the Slovak Republic dated December 15, 2022, file no. 5 Cdo/102/2020, available at: <https://poradna-prava.sk/wp-content/uploads/2023/02/rozsudok-NS-SR-zo-dna-15122022.pdf>, Judgment of the Supreme Court of the Slovak Republic dated July 12, 2023, file no. 5Cdo/220/2022, available at: <https://www.nsud.sk/rozhodnutia/5cdo2202022/>

¹²⁴ European Parliament resolution of 4 October 2023 on segregation and discrimination against Roma children in education, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2023-0342_EN.html

ways be assessed in relation to the specific circumstances of the case. However, it is crucial to take into account whether this aim could not have been achieved by other instruments that would have interfered less with the right to equal treatment, i.e. so that the measure does not unduly affect the legitimate interests of disadvantaged persons.¹²⁵

72 In accordance with the above, the Regional Court in Prešov stated that even though the defendants were obliged to determine the school district of the primary school (Section 8(2) of Act No. 596/2003 Coll.), when deciding on the establishment of the school district, their obligation was not only to formally issue a decision on determining the school district, but before reaching such a decision, it was necessary to thoroughly investigate all possibilities for placing children from Malý Slivník, including the cooperation of the municipality and school principals. Those responsible should have properly evaluated the situation and considered all possible positive and negative impacts. Subsequently, they should have adopted such desegregation measures that there would be no increased concentration of children of Roma origin and thus the creation of ethnically homogeneous classes, includ-

ing the need to introduce afternoon shifts in teaching, which would have prevented children from accessing extracurricular activities.

Given that defendant 1/ pointed out that the entity responsible for the state of education of children from the municipality of Malý Slivník is the municipality, or rather the school principal, the Court of Appeal pointed out the supervisory and inspection competences of the Regional Office of School Administration in Prešov in the field of education, upbringing and education. According to the Court of Appeal, both defendant 1/ and defendant 2/ are obliged, under the legal regulations, to carry out control and methodological advice in the provision and implementation of the school process, as well as to pay attention to laws and other generally binding legal regulations and to monitor their compliance.¹²⁶ Despite the fact that the Regional Court in Prešov outlined, among other things, the responsibility of municipalities in connection with discrimination against Roma children in education in the judgment in question, in the case in question it does not question the passive substantive legitimacy of the Regional Office of School Administration in Prešov or the Ministry of Education.

¹²⁵ Resolution of the Supreme Court of the Slovak Republic dated March 28, 2023, file no. 4Cdo/112/2021, available at: <https://www.nsud.sk/rozhodnutia/4cdo1122021/>

¹²⁶ Judgment of the Regional Court in Prešov dated April 22, 2024, file no. 16Co/4/2024, available at: <https://poradna-prava.sk/wp-content/uploads/2024/06/rozsudok-KS-PO-VZ-Terna.pdf>

The Regional Court in Prešov, by its resolution of October 22, 2024 (hereinafter referred to as the “Resolution”) in the dispute between the plaintiff and the defendant: the Ministry of Education, Science, Research and Sports of the Slovak Republic (hereinafter referred to as the “defendant”) for violation of the principle of equal treatment, on the basis of an appeal filed by the defendant, annulled the judgment of the District Court in Prešov of November 6, 2023 and returned the case to it for further proceedings and a new decision. The District Court in Prešov, in the judgment in question dated 6 November 2023, ruled that the defendant violated the principle of equal treatment in relation to the plaintiff and discriminated against her in access to education and the right to access information and freedom of expression on the grounds of her social origin, property and Roma ethnic origin, by failing to take appropriate measures, including ensuring access to the Internet and digital technologies, which would ensure equal access to education for the plaintiff during the period of interrupted face-to-face education during the COVID-19 pandemic.¹²⁷

The court also addressed the issue of the defendant’s pas-

sive legal standing in the matter in the Resolution. It pointed out that, pursuant to the judgment of the Supreme Court of the Slovak Republic dated 15 December 2022¹²⁸, not only the defendant but also the municipality of Stará Ľubovňa has passive legal standing. According to the defendant, the judgment of the court of first instance in this regard, or on the issue of passive substantive legitimacy, insufficiently justified. The Regional Court in Prešov also agreed with the above opinion in its Resolution, stating in its reasoning that *“the court of first instance justified the existence of passive substantive legitimacy only by reference to the decision-making activity of higher judicial authorities. An entity that is passively substantively legitimated is evidenced by an obligation arising from substantive law. However, the court of first instance did not support its considerations that the defendant has passive legitimacy in the given dispute with a legal framework from which the substantive legal obligation of the defendant would be apparent. After returning the case, the task of the court of first instance will be to justify in a comprehensible manner the existence of the defendant’s passive substantive legitimacy by reference to*

127 Judgment of the District Court Prešov dated November 6, 2023, file no.: 18C 96/2022, available at: https://poradna-prava.sk/wp-content/uploads/2023/11/rozsudok-OS-Presov_online-vyucovanie_covid-_anonym.pdf

128 Judgment of the Supreme Court of the Slovak Republic of December 15, 2022, file no. 5 Cdo/102/2020, available at: <https://poradna-prava.sk/wp-content/uploads/2023/02/rozsudok-NS-SR-zo-dna-15122022.pdf>

*specific legal provisions and factual findings.”*¹²⁹ According to the Centre, the decision on the merits of the dispute will also be important in connection with answering the legal question consisting in assessing to what extent in the case of a digital divide in access to education due to the social origin, property and Roma ethnic origin of the plaintiff, the Ministry of Education or the municipality is responsible, in the context of the implementation of the principle of legal certainty.

In accordance with the described decision-making activity of the courts in matters of segregation, the Centre also records a legal problem where the courts infer responsibility for specific cases of segregation in education from the Ministry of Education. This appears to be a real legal problem, since there is no substantive legal relationship between the plaintiffs and the Ministry of Education and it cannot be inferred from the actions of a specific school or founder.

4.1.2 Selection of segregation cases handled by the Centre

74

The fact that segregation in education is still a current and ongoing problem is also confirmed by the cases that the Centre dealt with in this area in 2024. It not only continued to deal with previous cases, but also dealt with new ones, based on the effective exchange of information with the State School Inspectorate and its findings on the implementation of segregation

practices. These confirm that the victims of segregation are mainly Roma children, who are not only educated separately from children from the majority, but often also in worse conditions - in premises that are inadequate in terms of capacity and hygiene. On the other hand, the Centre positively assesses the implementation of desegregation measures by the school in Sačurov.

¹²⁹ Resolution of the Regional Court in Prešov dated October 22, 2024, file no.: 3Co/10/2024, available at: https://poradna-prava.sk/wp-content/uploads/2024/12/KMBT_215_03490.pdf

Intention to build a new elementary school on Jesenna Street in Trebišov

In June 2023, a client submitted a request to the Centre regarding the planned construction of a new elementary school in an excluded location in the city of Trebišov. The plan envisaged the construction of a new primary school with a capacity of 800-850 pupils, which is to be located in close proximity to the existing fully organised Ivan Kraska primary school attended by 1,080 pupils exclusively of Roma ethnicity, in which more than 360 pupils work in two shifts.¹³⁰ In connection with the plan to build a new primary school, the city of Trebišov applied for a non-refundable financial contribution within the framework of a call announced by the Ministry of Investments as the managing authority for the Integrated Regional Operational Programme with a focus on the preparation of projects of the Catching-up Regions initiative.¹³¹

According to the legal opinion of the Centre, the construction

of a new primary school within an excluded community will lead to a deepening of the already existing segregation of Roma children in the city. Together with the Advisory Service and Amnesty International Slovakia, the Centre sent an open letter to the European Commission in early 2024, drawing attention to the use of European Union funds to build a new primary school in an excluded area in the city of Trebišov.¹³² In January 2024, the Centre also addressed an open letter to the World Bank, as the Catching-up Regions initiative is implemented by the European Commission in cooperation with this institution. It expressed concern that the construction of a new school in very similar conditions to those at the Ivan Kraska Primary School will only deepen the segregation of Roma children in the city of Trebišov. It called on the World Bank to examine the use of funds through the Catching-up Regions initiative and to prevent the construc-

¹³⁰ The Centre has already reported more about this case in the Report on Human Rights Compliance for 2023, pp. 83-84, Available at: <https://www.snslp.sk/wp-content/uploads/Sprava-o-LP-za-rok-2023.pdf>

¹³¹ Catching-Up Regions (CURl) is an initiative to help regions that are lagging behind – to support growth and innovation in them, remove obstacles to better use of European funds and increase the benefits of these investments. The initiative has been implemented by the European Commission in cooperation with the World Bank since 2015. It was piloted in several regions of Poland and Romania, and in Slovakia, three regions are part of the initiative – the Prešov, Košice and Banská Bystrica self-governing regions. This project, which is part of a wider European Union policy, seeks to strengthen the competitiveness of less developed areas of Slovakia through investments in infrastructure, education and employment.

¹³² An open letter to the European Commission, which the Centre sent together with the Counseling Centre for Civil and Human Rights and Amnesty International Slovakia along with the complaint, is available online at: <https://www.snslp.sk/aktuality/list-europskej-komisii/>

tion of a segregated school for Roma children on Jesenna Street in Trebišov.

According to the Centre's findings from publicly available sources, on January 31, 2024, the city of Trebišov submitted an application to the Vojčice Municipality Building Authority for a decision on the location of the construction "*Elementary School on Jesenna Street, Trebišov*". After mutual negotiations with the city, the Greek Catholic Eparchy of Košice was to express interest in its construction and operation, which should subsequently be the founder of the school. The developer who will implement the construction should be the non-profit organization of the Greek Catholic Eparchy of Košice - Kolégium sv. Gorazd n.o. The City Council in Trebišov,

76

at its meeting on February 12, 2024, approved the conclusion of the Agreement on the future contract for the establishment of an easement in favor of the future authorized Kolégium sv. Gorazd n.o. and the conclusion of the Contract on the Assignment of the Rights and Obligations of the Builder between the City of Trebišov as the assignor and the College of St. Gorazd n.o. as the assignee.¹³³ According to the information available to the Centre, the construction of a new elementary school did not take place in 2024 and it will continue to monitor the situation, continuously evaluate it and, if necessary, proceed with due diligence in accordance with the legal mandate to protect the rights and legally protected interests of Roma children.

Primary School with Kindergarten Podskalka 58, Humenné

In 2023, the Centre received a complaint regarding the Primary School with Kindergarten Podskalka 58, Humenné (hereinafter referred to as the "Primary School with Kindergarten Podskalka"), attended exclusively by Roma pupils. The primary school has classes only in the first two grades, and in the higher grades, pupils enter other primary schools in the city. In the founding jurisdic-

tion of the city of Humenné, the school district for the Primary School with Kindergarten Podskalka is designated only for Podskalka Street, while other kindergartens and primary schools have sufficient free capacities so that pupils currently attending the Primary School with Kindergarten Podskalka can be educated within them.¹³⁴

¹³³ Available in the minutes of the meeting of the city council in Trebišov held on February 12, 2024, Available at: https://www.trebisov.sk/userimages/files/msz_zapisnice/2024/msz_2024-02-12_zapisnica.pdf

¹³⁴ The Centre has already reported more about this case in the 2023 Human Rights Report, pp. 85-86, Available at: <https://www.snslp.sk/wp-content/uploads/Sprava-o-LP-za-rok-2023.pdf>

The principal of the Primary School with Kindergarten Podskalka informed the Centre about the intention to establish a third grade of the first level within the primary school. The above procedure represents a targeted prolongation of the separation of Roma children from children from the majority and has no objective justification. Separate education of Roma boys and girls in the Podskalka primary school and kindergarten represents a clear contradiction with the prohibition of segregation under the Education Act and at the same time fulfills the defining features of direct discrimination in the field of education on the grounds of ethnicity. According to the legal opinion of the Centre, the responsibility for the existing illegal situation in this case lies primarily with the city of Humenné as the found-

er, who, by purpose-setting the school district, created a school with the exclusive representation of students of Roma ethnicity. Confirmation that such purpose-setting of the school district violates the rights of Roma children to non-discrimination can also be seen in the established decision-making practice of the European Court of Human Rights.¹³⁵

In 2024, the Centre communicated with the city of Humenné as the founder of the Podskalka primary school and kindergarten in this matter. The city of Humenné in cooperation with the Centre, is preparing a desegregation plan that is intended to correct the illegal state of segregation of Roma male and female pupils of the Podskalka Elementary School and Kindergarten.

77

Sačurov Elementary School

The Centre for Human Rights Law reported in 2022 on the case of segregation of Roma children in the Elementary School in the municipality of Sačurov.¹³⁶ The Prešov School Inspection Centre (hereinafter referred to as the “Inspection Centre”) ordered the school to eliminate the segregation status and provide rediagnos-

tic psychological and special pedagogical examinations for students with alleged mental disabilities as early as May 2019. The school provided rediagnostic examinations, while not immediately taking measures to educate these children in accordance with the conclusions of the rediagnostic examinations and only 3 children

¹³⁵ Compare paragraph 71 of the judgment of the ECtHR in *Lavida and Others v. Greece*, application number: 7973/10, available at: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-120188%22%7D>

¹³⁶ The Centre has already reported more about this case in the Report on Human Rights Compliance for 2022, pp. 46-47, Available at: <https://www.snsip.sk/wp-content/uploads/Spravo-LP-za-rok-2022-na-web.pdf>

out of 50, in whom it was not possible to reliably exclude or confirm mental disability through a control psychological examination, were placed in so-called regular classes. The remaining 47 children, including six in whom mental disability was reliably excluded, were further educated in special classes. The school principal stated during the subsequent inspection that all students in whom mental disability was excluded or could not be reliably confirmed or excluded by the rediagnostic examination would be placed in specialized classes.

78

The Centre monitored the situation at the school following the warning from the Inspection Centre in November 2022. At the time of the monitoring, the aforementioned specialized classes had already been established at the school, the purpose of which was to facilitate the transition from special to regular classes. A total of 48 students attended the specialized classes. In the 2022/2023 school year, the school provided an adequate form of education in accordance with the conclusions from the rediagnostic examinations to only

19 students. Another 16 pupils, including four whose examinations ruled out mental disability, were transferred to regular classes by the school, but were educated in the form of school integration.

The Centre found out from subsequent communication with the school that 18 pupils were re-diagnosed in June 2023,¹³⁷ who were transferred from specialized to regular classes without integration in the 2023/2024 school year after this re-diagnosis. A subsequent inspection by the Inspection Centre¹³⁸ confirmed that the school had complied with all the imposed measures and, in accordance with the conclusions of the re-diagnostic examinations, had provided all identified pupils with an adequate form of education. In 2024, the Inspection Centre carried out two inspections of the school,¹³⁹ during which no findings were made related to the organisation of teaching in terms of possible segregation of pupils. Based on the above, the Centre notes that the school has taken gradual steps to eliminate the segregation situation identified by the Inspection Centre in 2022.

137 5 pupils who completed school attendance as of June 2023 and 7 pupils who were in their 10th year of school attendance in the 2023/2024 school year were not re-diagnosed by the decision of the school inspection.

138 Follow-up inspection conducted to determine the status of the elimination of persistent deficiencies dated September 19, 2023.

139 A comprehensive inspection on June 5, 2024, and a follow-up inspection on October 23, 2024.

Elementary School Moskovská 1, Michalovce

At the end of 2024, the State School Inspectorate (hereinafter referred to as the “inspection”) delivered to the Centre several findings on the application of segregation practices, which it noted in the course of its inspection activities. One of the inspected schools was Elementary School, Moskovská 1, Michalovce, in the premises of which it carried out a comprehensive inspection focused, among other things, on the conditions of upbringing and education.

At the time of the inspection, the school provided upbringing and education to 557 children, 372 of whom came from the marginalized Roma community. 368 pupils were diagnosed with special educational needs, 86 of whom were with health disabilities and 282 from socially disadvantaged backgrounds. A total of 18 classes were established at the 1st level, and 12 classes at the 2nd level. The school had a total of 19 classes set up only for pupils from marginalised Roma communities. The educational process took place in the premises of the main workplace of the Primary School at Moskovská 1, Michalovce, and in an allocated workplace at Mlynská 1, Michalovce, located directly in the Roma settlement. After completing primary education, the school divided pupils

into so-called regular classes and classes with extended teaching of the subject Practical Education. Classes with extended teaching of Practical Education were exclusively allocated to pupils from the Roma settlement, and the school created homogeneous groups of Roma pupils at the 2nd level, even when dividing pupils into groups.¹⁴⁰

The quality of the conditions of education and training at the time of the inspection was negatively affected by the insufficient and inappropriately used premises of the main workplace for the education of pupils from the marginalised Roma community. Their education was segregated, in insufficiently equipped and hygienically unsuitable premises, different from those of other educated pupils. By unjustified spatial exclusion and failure to provide education to pupils from the marginalised Roma community together in classes with the majority, the school did not create the conditions for inclusive education for pupils.

According to the Centre's preliminary legal opinion, the case in question involves unjustified spatial exclusion of pupils from the marginalised Roma community. Such conclusions result, among other things, from

¹⁴⁰ In teaching foreign languages, physical education and sports, computer science, and technology.

the established decision-making practice of the European Court of Human Rights, which has reasoned that the placement and retention of a group of Roma children throughout their education at primary school in a special, ethnically homogeneous class can be considered segregation.¹⁴¹ As part of the inspection, the

Inspectorate imposed measures on the school, among other things, to eliminate the identified shortcomings in connection with the implementation of segregation practices. The Centre will not only monitor the situation at this school, but also propose specific recommendations to eliminate segregation.

Elementary School, 8. mája 640/39, Svidník

80 In 2024, the Inspectorate also inspected the Elementary School at ul. 8. mája 39, Svidník. At the time of the inspection, the school provided education to 236 students, of which 13 came from the marginalized Roma community. The school had 12 classes, of which 11 were regular classes and 1 sports class. As part of the inspection, the Inspectorate found that the school educated a total of 24 students in the 5th grade in the 2024/2025 school year. The stated number of students did not exceed the maximum number of students permitted by the School Act in a lower secondary education class. Despite this, the school classified these students into two classes – 5.A and 5.B. 14 pupils (10 non-Roma pupils and 4 Roma pupils) were included in class 5A, who came exclusively from the town of Svidník, and 4 of them were from a socially disadvantaged background. 10 pupils from the village of Lodomírová

were included in class 5B, all of whom were of Roma ethnicity and 9 of whom were from a socially disadvantaged background. It was further found that when teaching the subjects mathematics and Slovak language and literature, pupils of classes 6A and 6B were divided into 2 groups, so that pupils of exclusively Roma ethnicity were included in one group.

Based on cooperation with the Counselling Centre, the Centre found that pupils included in class 5B come from the village of Lodomírová, where they are educated only in the first four grades of the Lodomírová Primary School. After completing the fourth grade, children from this school continue at other schools. The school justified their placement in a separate class by saying that it was a temporary solution to overcome the learning gap of the students who came from Lodomírová. It therefore cre-

¹⁴¹ Compare paragraph 184 of the judgment of the ECtHR in the case of Oršuš and Others v. Croatia, application number: 15766/03, available at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%5B%5C22001-97689%22%5D%7D>

ated a separate class for them to make up for the differences, and in the following school year they are to continue in the class together with other children. The Centre will monitor

the situation at this school, especially the fact that such a division of classes in the grade is only temporary to make up for the differences, as the school claims.

Recommendations:

The Centre recommends to:

1. The Ministry of Investments and the Ministry of Education to define non-compliance with the principles of desegregation, deghettoization and destigmatization as an exclusion criterion from the possibility of applying for funds for the construction and expansion of school premises and school facilities.
2. The Ministry of Education to adopt a control mechanism that would contribute to the supervision of the use of funds from the call for the elimination of two-shift operation of primary schools in accordance with the principles of desegregation, deghettoization and destigmatization.
3. The Ministry of Education to review the legal framework of ethnic education so that it is in line with the UNESCO Convention against Discrimination in Education, as well as with the European Charter.
4. The Ministry of Education to review the pilot project of an ethnic school in Austria in terms of its compliance with Art. 2 lit. b) of the UNESCO Convention against Discrimination in Education, as well as with Art. 8, paragraph 1, letter b) of the European Charter.



82 Conclusion

The presented Report for 2024 provides an objective and up-to-date picture of the state of observance of human rights and fundamental freedoms and presents specific and targeted recommendations aimed at improving the state of protection and promotion of human rights and fundamental freedoms in the territory of the Slovak Republic, including the requirement to comply with the principle of equal treatment.

In the first chapter, the Centre assessed the implementation of the recommendations addressed to individual entities in the Report for 2023. The Centre notes that most of the recommendations have not been implemented by their addressees and appeals to their addressees to implement those that have not been implemented so far. Given the fact that most of the recommendations have not been implemented by their addressees, the Centre follows up on them in individual chapters of the Report for 2024 and develops them in more detail.

In the second chapter, the Centre focused its attention on hate speech (not only) in the online space and the potential risks of its impact on the normative guarantees of the protection of human rights and fundamental freedoms. The legal frameworks of the issue of hate speech are diverse depending

on the hypotheses of legal norms of a private and public nature. In the area of protection and promotion of human rights and fundamental freedoms, they are discussed through the prism of the protection of freedom of expression and its collision with the protection of the human rights of minorities or persons to whom constitutional and international human rights norms grant special protection in the context of the exercise of their human rights and fundamental freedoms. Due to the absence of systematically organized knowledge about the normative and content framework of hate speech, the Centre presents a comprehensive picture of the previously absent knowledge in the second chapter. It synthesizes them with its own findings, as well as the results of monitoring processes implemented in the Slovak Republic and the European Union. The Centre receives with concern and calls for remedial action information about the occurrence of hate speech, especially by representatives of state authorities, against the above-mentioned minorities.

In the third chapter, the Centre expressed concern

about the gradual erosion of the rule of law in the Slovak Republic, not only in light of the challenges addressed in the third chapter, but also in light of other events and steps that the Centre discusses in more detail in the Rule of Law Report. The Centre will continue to issue a special report on the rule of law and organize activities to spread awareness about the need to strengthen the rule of law.

In the 2024 Rule of Law Report, the Centre, in addition to the risks to the implementation of civil and political rights in accordance with international standards, also addressed efforts to disrupt a free and independent media space dominated by facts, the ongoing practice of using positions in state administration as party assets that can be freely disposed of, as well as attacks on representatives of civil society and the media.

In the fourth chapter, the Centre pointed out the legislative

activity of the Slovak government in 2024 in relation to the School Act, which incorporated the legally binding Standards for Compliance with the Prohibition of Segregation in Education as basic rules, principles and procedures for preventing and eliminating segregation in education. In this context, the Centre expressed the legal opinion that such a legal regulation may lead to the creation of a parallel educational system for Roma children, separate from the regular educational stream. Within the framework of the chapter, the Centre also addressed the issue of passive subject-matter legitimacy in the decision-making activity of courts in cases of segregation in 2024, while concluding that there is inconsistency in determining passive subject-matter legitimated entities in the context of legal certainty in similar cases. The fourth chapter also includes cases that the Centre addressed in connection with segregation in education last year.

1. **to members of the National Council, members of the Government of the Slovak Republic**, not to attack in any way (even indirectly) vulnerable groups of the population living in the territory of the Slovak Republic, especially LGBTI+ people, Roma people, or refugees.
2. **to members of the Government of the Slovak Republic**, to refrain from intentions and actions aimed at limiting the financing of activities related to the support and protection of the rights of minorities living in the territory of the Slovak Republic, especially LGBTI+ people, and not to arouse in their members a feeling of threat from the restriction of their freedoms.
3. **to officials of local governments**, to publicly engage in the support and protection of the rights of minorities living in the territories they administer.
4. **to the media and public figures**, when reporting on negative actions by members of minorities, not to include irrelevant information about their origin, nationality, ethnicity or sexual orientation, thereby contributing to reducing the incidence of stereotypes and prejudices against minorities;
5. **to the media and public figures**, when reporting on positive actions by members of minorities, also to include information about their origin, nationality, ethnicity or sexual orientation, thus contributing to improving their perception by society as a whole and increasing the level of tolerance and mutual respect between the majority population and minorities.
6. **to members of the Government of the Slovak Republic**, to publicly acknowledge the important and legitimate role of human rights defenders in supporting human rights, democracy and the rule of law as a fundamental element of ensuring their protection, including by respecting the independence of their organizations and preventing the stigmatization of their work.

7. **to the members of the National Council** not to support the currently submitted amendment to the Act on Non-Profit Organizations (print 245) and to the members of the Government of the Slovak Republic to initiate a regular legislative process for the necessary changes to the legislation regulating civil society and lobbying, with the participation of representatives of civil society and respecting international standards.
8. **to the members of the Government of the Slovak Republic** to reconsider the blanket ban on gatherings regulated by the so-called lex assassination attempt and to leave the management of security risks to the relevant criminal justice authorities in individual cases based on specific circumstances that are subject to judicial review and are in line with international human rights standards.
9. **to the Ministry of Investments and the Ministry of Education** to define non-compliance with the principles of desegregation, deghettoization and destigmatization as an exclusionary criterion from the possibility of applying for financial resources for the purposes of construction and expansion of school premises and school facilities.
10. **to the Ministry of Education** to adopt a control mechanism that would contribute to the supervision of the use of funds from the call for the elimination of two-shift operation of primary schools in accordance with the principles of desegregation, deghettoization and destigmatization.
11. **to the Ministry of Education** to review the legal framework of ethnic education so that it is in line with the UNESCO Convention against Discrimination in Education, as well as with the European Charter.
12. **to the Ministry of Education** to review the pilot project of an ethnic school in Austria in terms of its compliance with Art. 2 letter b) of the UNESCO Convention against Discrimination in Education, as well as with Art. 8 paragraph 1 letter b) of the European Charter.