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Institutional Structure for the Protection of Fundamental Human Rights at the National Level Slovakia

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**SLOVAK NATIONAL
CENTRE FOR
HUMAN RIGHTS**



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Table of Contents

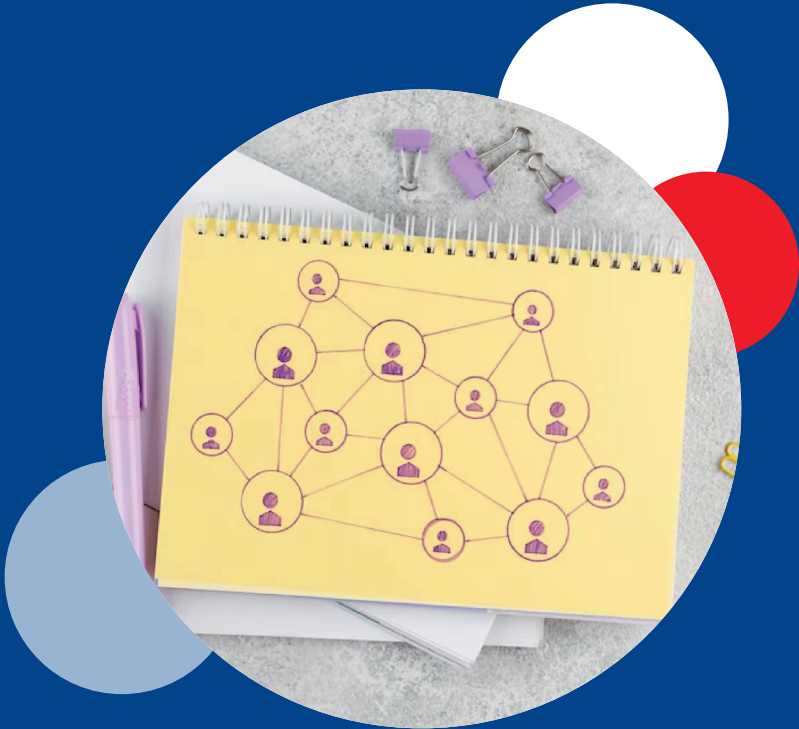
Abbreviations	5
1. Introduction.....	7
2. Independent institutions for the protection of human rights	9
2.1 Slovak National Centre for Human Rights	9
The Centre as the national human rights institution	10
The Centre as a National Anti-Discrimination Body	11
2.2 Public Defender of Rights	13
2.3 Offices of the Commissioner for Children and the Commissioner for Persons with Disabilities	15
2.3.1 Commissioner for Children	16
2.3.2 Commissioner for Persons with Disabilities	19
3. Special bodies with competence in the field of human rights protection	22
3.1 The Constitutional Court of the Slovak Republic	22
3.2 The Prosecution Service of the Slovak Republic	24
3.3 Service Complaints Ombudsman	25
4. State administration bodies with competence in the field of human rights	27
4.1 Ministry of Justice of the Slovak Republic	28
4.1.1 Special structures of the Ministry of Justice of the Slovak Republic at the national level derived from the membership of the Slovak Republic in regional and international institutions.....	29
4.1.1.1 Agent of the Slovak Republic before The Court of Justice of the European Union	29
4.1.1.2 Government Agent representing the Slovak Republic before the European Court of Human Rights	30
4.2 Centre for Legal Aid	31
4.3 Centre for International Legal Protection of Children and Youth	32
4.4 Migration Office of the Ministry of Interior of the Slovak Republic	32
5. Regulatory and Supervisory State Administration Bodies with National Competence	34
5.1 Office for the Protection of Whistleblowers of Anti-Social Activities	34
5.2 Office for Personal Data Protection	36
5.3 Health Care Surveillance Authority	37
6. State administration inspection bodies with national competence	38
6.1 National Labour Inspectorate and labour inspectorates	38
6.2 Slovak Trade Inspection	39
6.3 State School Inspection	40

7.	Advisory bodies with competence in the field of human rights	42
7.1	Government Council for Human Rights, National Minorities and Gender Equality and its Committees	42
7.2	Government Council for Persons with Disabilities	45
7.3	Plenipotentiary of the Government of the Slovak Republic for the Development of the Civil Society	47
7.4	Plenipotentiary of the Government of the Slovak Republic for Roma Communities	47
7.5	Plenipotentiary of the Government of the Slovak Republic for National Minorities	48
8.	National Strategy for Human Rights Protection and Promotion	50
8.1	Institutional arrangements, implementation, and monitoring mechanisms, including independent and non-governmental organisations	50
8.2	Frameworks of priorities and tasks in the field of promotion and protection of human rights	52
8.3	Report on the Implementation of the National Strategy	53
9.	Analysis of the Nature of National Institutions' Mandate within the Structure of Human Rights Protection in Slovakia and Concluding Recommendations	55
9.1	Independent institutions for the protection of human rights and special bodies with competence in the field of human rights protection	55
9.2	State Administration Bodies with Competence in the Field of Human Rights	56
9.3	Advisory Bodies to the Government of the Slovak Republic with Competence in the Field of Human Rights	57
9.4	Final recommendations	58

Abbreviations

Antidiscrimination Act	Act No. 365/2004 Coll. on equal treatment in certain areas and protection against discrimination, amending and supplementing certain other laws (Antidiscrimination Act)
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECHR	European Court of Human Rights
EU	European Union
Migration Office	Migration Office of the Ministry of Interior of the Slovak Republic
Ministry of Justice SR	Ministry of Justice of the Slovak Republic
Ministry of the Interior SR	Ministry of the Interior of the Slovak Republic
Amendment to the PDR Act	Act No. 110/2023 Coll. amending Act No. 564/2001 Coll. on the Public Defender of Rights as amended and supplementing certain acts
NPM	National Preventive Mechanism
NCSR	National Council of the Slovak Republic
UN	United Nations
The Prosecution Service of the SR	The Prosecution Service of the Slovak Republic
Government Council for Human	Slovak Government Council for Human Rights, National
Rights	Minorities and Gender Equality
STI	Slovak Trade Inspection
Centre	Slovak National Centre for Human Rights
SSI	State School Inspection
WPO	The Whistleblower Protection Office

Constitution of the Slovak Republic	Constitutional Act of Slovak National Council No. 460/1992 Coll. Constitution of the Slovak Republic
Constitutional Court of Slovakia	Constitutional Court of the Slovak Republic
Government	The Government of the Slovak Republic
PDR	The Public Defender of Rights
Act on the protection of personal data	Act No. 18/2018 Coll. on the Personal Data Protection and on amendments and supplementation of certain laws
Labour inspection act	Act No. 125/2006 Coll. on Labor Inspection and on Amendment and Supplement to Act No. 82/2005 Coll. on Illegal Work and Illegal Employment and on Amendments and Supplements to Certain Acts, as amended
the Commissioners Act	Act No. 176/2015 Coll. on the Commissioner for Children and the Commissioner for Persons with Disabilities and on amendments and supplements to certain acts
Whistleblower protection act	Act No. 54/2019 Coll. on Protection of Whistleblowers of Anti-social Activity and on Amendments and Supplements to Certain Act
Act on public prosecutors	153/2001 Coll. on the Prosecution Service as amended ('act on the Prosecution Service') and Act No. 154/2001 Coll. on Prosecuting Counsels and Legal Reversioners of the Public Prosecution, as amended
School self-government act	Act No. 596/2003 on State Administration in Education and School Self-Government and on Change and Supplements of some Acts as amended by Subsequent Provisions
PDR Act	Act No. 564/2001 Coll. on the Public Defender of Rights
Act on establishing the Centre	Act No. 308/1993 Coll. on the Establishment of the Slovak National Centre for Human Rights



1. Introduction

This study analyses the institutional structure of human rights protection in the Slovak Republic. The system of human rights protection is structured through the mandates of individual national institutions and public authorities. This study introduces the institutions and public authorities that are explicitly entrusted by law with competencies in the field of human rights, as well as the institutions that ensure the protection of fundamental rights within a specific mandate. Analysis of the relevant provisions of the laws regulating the competencies of the selected institutions and public authorities constitutes the primary form of research. The study also provides information on how an individual can approach these institutions or public authorities.

In accordance with the Constitution of the Slovak Republic, the Slovak Republic is a sovereign, democratic, and legally consistent state.¹ According to the Constitutional Court of the Slovak Republic, one of the aspects of the concept of a material, legally consistent state is the requirement of respect for fundamental rights and freedoms and their actual and effective enforceability by the subjects to whom these rights are guaranteed before all state authorities.² Protection of individuals against the state is the purpose of the guarantee of fundamental rights, so that the individual may enjoy his or her proper status in society.³ The Constitution of the Slovak Republic guarantees that fundamental rights and freedoms are inalienable, irrevocable, imprescriptible, and immutable.⁴ The nature of fundamental rights and freedoms implies that every single public authority is bound to exercise these rights in practise.⁵ In addition to the public

authorities, there are several institutions established or empowered by the Constitution of the Slovak Republic or by law, operating in the field of human rights protection, whose mission is to promote fundamental rights and freedoms independently of the State.

In order to obtain a comprehensive picture of the structure of fundamental rights protection in the Slovak Republic, it is necessary to analyse the mandate of independent institutions whose primary mission is the protection of fundamental rights and freedoms. It is also necessary to focus on state bodies, whose mandate is not constituted in the form of an independent human rights institution but is based on the constitutional principle of protection of respect for fundamental human rights. The guarantee of fundamental rights within the framework of the legal mandate is part of their mission. The advisory bodies to the Government, whose role is to promote various human rights-related policies in State policy, entrusted to them by the Government within the scope of the mandate given to them, cannot be overlooked.

At the same time, international organisations of which the Slovak Republic is a member also play a significant role. Through its membership in international and regional organisations such as the UN, the Council of Europe, and the EU, the Slovak Republic is bound by a number of human rights obligations that also define the nature of human rights protection at the national level.

1 Art. 1 of the Constitution of the Slovak Republic.
2 Ruling of the Constitutional Court of the Slovak Republic, Case No. PL. ÚS 17/08 of 20 May 2009.
3 Drgonec J., Ústava Slovenskej republiky, Veľký komentár 2. vydanie, C. H. Beck, 2019, p. 349.
4 Art. 12 of the Constitution of the Slovak Republic.
5 Drgonec J., Ústava Slovenskej republiky, Veľký komentár 2. vydanie, C. H. Beck, 2019, p. 348.



2. Independent institutions for the protection of human rights

2.1 Slovak National Centre for Human Rights⁶

The Slovak National Centre for Human Rights ('the Centre') is an independent national human rights institution established by Act No. 308/1993 Coll. on the Establishment of the Slovak National Centre for Human Rights, as amended ('the act on establishing the Centre'). The Centre's status as a national anti-discrimination body relates to adopting Act No. 365/2004 Coll. on equal treatment in certain areas and protection against discrimination, amending and supplementing certain other laws ('the Anti-Discrimination Act'). The Anti-Discrimination Act regulates the application of the principle of equal treatment and sets forth the means of legal protection in the event a breach of this principle occurs. The adoption of the Act granted the Centre a number of competencies in relation to the application of the principle of equal treatment, thus shaping the Centre's mandate into its current form.

The basic framework of competencies through which the Centre fulfils its mission is based on the Act establishing the Centre, pursuant to which the Centre shall, in particular:

- monitor and evaluate compliance with human rights and the principle of equal treatment;
- collect and, upon request, provide information on racism, xenophobia and anti-Semitism in the Slovak Republic;
- conduct research and surveys in order to provide data on human rights; collect and disseminate information related to this field;
- prepare educational activities and participate in awareness campaigns in order to improve tolerance in society;
- provide legal assistance to victims of

discrimination and intolerance;

- issue expert opinions on matters of compliance with the principle of equal treatment pursuant to a specific regulation at the request of natural or legal persons or at its own initiative;
- carry out independent inquiries concerning discrimination;
- draft and publish reports and recommendations on discrimination-related issues;
- provide library services;
- provide services in the field of human rights.⁷

The Act establishing the Centre also grants the Centre the power to represent a party in proceedings related to compliance with the principle of equal treatment. At the same time, as part of its independent mandate in the field of protection and promotion of human rights and fundamental freedoms, the Centre shall, by April 30th of each year, draw up and publish a report on the compliance with fundamental rights and freedoms, including the principle of equal treatment, in the Slovak Republic. Individual state authorities, courts, prosecutors, local or regional self-government, and other public institutions have a legal obligation to provide information on compliance with fundamental rights at the request of the Centre. The Centre's right to request information on human rights also applies to non-governmental organisations working in the field of human rights.⁸

Within its remit, the Centre therefore has two mandates:

- the mandate of a national human rights institution, as an independent institu-

6 Official website of the Slovak National Centre for Human Rights, available at: <https://www.snsip.sk/>.

7 Section 1(2) of the Act on establishing the Centre.

8 Ibid, Section 1(4) and (5).

tion established under an agreement between the Government of the Slovak Republic and the United Nations ('UN')⁹, whose mission is to monitor human rights and fundamental freedoms compliance at the national level;

- the mandate of the National Anti-Dis-

crimination Equality Body, as a national independent anti-discrimination body that monitors compliance with the principle of equal treatment. This mandate is based on the anti-discrimination act.¹⁰

The Centre as the national human rights institution

In general, national human rights institutions are institutions independent of the State that have a broad mandate to enable the promotion and protection of fundamental human rights at the national level. A characteristic feature of these institutions is that they are accredited on the basis of compliance with the so-called Paris Principles.¹¹ The Paris Principles were adopted by UN General Assembly Resolution 48/134 of 1993 and defined the internationally agreed minimum standards that national human rights institutions must meet in order to be considered independent. Compliance with Paris Principles is determined by the Global Network of National Human Rights Institutions (GANHRI) through the Sub-Committee on Accreditation (CoA).¹² By their very nature, NHRIs are supposed to represent a kind of bridge between civil society on the one hand and the state as the primary guarantor of human rights on the other. At the same time, however, these institutions, in their capacity as national human rights experts, bridge the protection of human rights in the national context with protection in the broader international context¹³.

The Paris Principles were and are defined by the following fundamental criteria:

- establishment on a legal or constitutional basis;
- the broadest possible mandate to promote human rights;
- formal and institutional independence;
- promotion of pluralism, which includes all social aspects;
- adequate and autonomous funding;
- freedom to address human rights issues as they arise;
- annual reporting on the national human rights situation;
- cooperation with national and international entities, including NGOs.

Based on the extent to which the legal set-up of the mandate and functioning of a particular national institution meets the above criteria, it is granted an accreditation status of A-status (full compliance) or B-status (partial compliance).¹⁴ The Centre is currently accredited with B-status, based on the result of the last re-accreditation in March 2014.¹⁵

9 Communication of the Ministry of Foreign Affairs of the Slovak Republic No. 29/1995 Coll.

10 Slovak National Centre for Human Rights and its mandates are available at: <https://www.snsip.sk/o-nas/o-snsip/>.

11 About National Human Rights Institutions, ENNHRI, available in English at: <https://ennhri.org/about-nhris/>.

12 Accreditation, GANHRI, available in English at: <https://ganhri.org/accreditation/>.

13 About National Human Rights Institutions, ENHRI, available in English at: <https://ennhri.org/about-nhris/>

14 UN Paris Principles & Accreditation, ENNHRI available in English at: <https://ennhri.org/about-nhris/un-paris-principles-and-accreditation/>.

15 Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA), GANHRI, p. 8, available in English at: https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/GANHRI/SCA_MARCH_2014_FINAL_REPORT_-_ENGLISH.pdf.

The Centre as National Equality Body

The National Equality Body is a national independent organisation that promotes one of the EU's core values, namely the value of equal treatment, within the member states of the European Union ("EU")¹⁶. The primary legal basis for the creation of anti-discrimination bodies was Council Directive 2000/43/EC of 29 June 2000, which established the principle of equal treatment between individuals regardless of their racial or ethnic origin¹⁷. According to this Directive, the national equality body's mandate is to:

- provide independent assistance to victims of discrimination in filing a claim on the grounds of discrimination,
- conduct independent inquiries into discrimination,
- publish independent reports and make recommendations on any issue relating to such discrimination.¹⁸

The status of national anti-discrimination bodies has also been reinforced by the following EU legislation: Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services;¹⁹ Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of

employment and occupation;²⁰ Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity²¹.

In December 2022, the European Commission introduced proposals for two directives:

- Proposal for a Council Directive on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in the field of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and deleting Article 13 of Directive 2000/43/EC and Article 12 of Directive 2004/113/EC,²²
- Proposal for a Directive of the European Parliament and of the Council on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and deleting Article 20 of Directive 2006/54/EC and Article 11 of Directive 2010/41/EU.²³

These Directives establish binding standards for national equality bodies in order to define

16 EQUALITY BODIES, EQUINET, available in English at: <https://equineteurope.org/what-are-equality-bodies/>.

17 Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

18 Ibid, Art. 13 (2).

19 Council Directive 2004/113/EC of 13 December 2004 implemented the principle of equal treatment between men and women in the access to and supply of goods and services.

20 Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

21 Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC.

22 Available in English at: https://commission.europa.eu/document/download/797a4729-bc57-4e91-b703-bbbd4bdea8b4_en?file-name=1_1_201224_prop_council_dir_eq_bo_en.pdf.

23 Available in English at: https://commission.europa.eu/document/download/4e5f2ee4-7529-4153-8032-273f70857880_en?file-name=1_4_201221_prop_dir_par_council_eq_bo_en.pdf.

minimum standards for the level of protection against discrimination. The Directives are intended to achieve the extension of competencies, strengthen independence, and ensure sufficient resources and accessibility for all victims of discrimination. The Centre, as a national equality body, welcomes the proposals for directives on standards, as the current European legislation is very vague in defining their status, authority, and tasks. In this context, the Centre called on the Slovak Government to support the proposals put forward by the European Commission in the framework of the negotiations at the European level and to ensure the rapid and effective transposition of the subject regulation into the law of the Slovak Republic.²⁴

The Centre is the only Slovak national anti-discrimination body, and this status was granted to it on the basis of the National Equality Bodies Act, whereby the Slovak Republic incorporated EU national equality body legislation into its law. The Centre as a national equality body:

- monitors compliance with the principle of equal treatment and carries out specialised research in the field of equality and non-discrimination;
- drafts and publishes reports and recommendations on discrimination-related issues;
- provide legal assistance to victims of discrimination and of intolerance and represents those involved in proceedings relating to breaches of the principle of equal treatment;
- issues expert opinions on matters of compliance with the principle of equal treatment;
- carries out independent inquiries concerning discrimination;
- organises activities in order to increase awareness and tolerance in society;
- organises training, counselling and skills-building activities for specific relevant actors in relation to the performance of their duties;
- establishes networks with relevant actors at the national and international levels.²⁵

2.2 Public Defender of Rights²⁶

The Public Defender of Rights ('PDR') is an independent body of the Slovak Republic that protects the fundamental rights and freedoms of natural and legal persons in proceedings before public administration bodies and other public authorities if their actions, decision-making, or inaction interferes with these rights and is contrary to the law of the Slovak Republic or the principles of a democratic state. This institute was established by the

adoption of Constitutional Act No. 90/2001 Coll. of 23 February 2001, which amended and supplemented the Constitution of the Slovak Republic. A second section entitled 'Public Defender of Rights' with Article 151a. was incorporated into the eighth title of the Constitution of the Slovak Republic.²⁷ Subsequently, Act No. 564/2001 Coll. on the Public Defender of Rights was adopted.

²⁴ Vitame návrhy smerníc o štandardoch pre orgány pre rovnaké zaobchádzanie (We welcome the draft directives on standards for equal treatment bodies), The Centre, available at: <https://www.snsip.sk/aktuality/vitame-navrhy-smernico-standardoch-pre-organy-pre-rovnake-zaobchadzanie/>.

²⁵ Section 1(2) and (3) of the Act on establishing the Centre.

²⁶ Official website of the PDR, available at: <https://vop.gov.sk/>.

²⁷ Art. 151a Section 1 of the Constitution of the Slovak Republic.

The extent and manner of the procedure by which the PDR is involved in the protection of fundamental rights are therefore regulated by the Constitution of the Slovak Republic and the PDR Act. In terms of the Constitution of the Slovak Republic, it is an atypical institution that represents so-called soft power, meaning that the degree of success in fulfilling the duties of the PDR is conditioned by the degree of respect for other branches of the state power.²⁸

The jurisdiction of the PDR applies to state administration bodies, local self-government bodies, and legal and natural persons who, pursuant to the law, decide on the rights and obligations of natural and legal persons in the field of public administration. On the other hand, the following are excluded from the jurisdiction of the PDR: the National Council of the Slovak Republic ('NCSR'), the President of the Slovak Republic, the Government of the Slovak Republic, the Commissioner for Children, the Commissioner for Persons with Disabilities, the Constitutional Court of the Slovak Republic, the Supreme Audit Office of the Slovak Republic, intelligence services, investigators of the Slovak Police Force (if they operate within the scope of their decision-making powers), affairs of a mobilization and operational nature, The Prosecution Service of the Slovak Republic and the courts (with the exception of the bodies governing the management and administration of the courts and the grounds for presumed disciplinary misconduct of a judge and prosecutor).²⁹

The PDR is elected by the National Council of the Slovak Republic from candidates nomi-

nated by at least fifteen members. Any citizen of the Slovak Republic who fulfils the following criteria may be elected as the PDR:

- on the day of the election, has attained the age of 35 years,
- has full legal capacity,
- is of good repute, and his/her education, abilities, experience and moral qualities warrant that he/she will duly perform the duties of the office,
- is not a member of any political party or political movement,
- has permanent residence in the territory of the Slovak Republic,
- agrees to the election.³⁰

The term of office of the VOP shall be five years, and the same person may be elected for a maximum of two consecutive terms.³¹

Anyone who deems that his or her fundamental rights and freedoms have been violated by a public authority may lodge a complaint with the PDR. However, the PDR is not limited to complaints from natural and legal persons and may also act on his or her own initiative.³²

In order to fulfil his or her role as defender of fundamental rights and freedoms, the Act on the Public Defender of Rights grants the Public Defender of Rights so-called investigative powers.³³ When processing a complaint, the PDR is authorised to:

- enter the premises of public administration bodies;
- require the public administration body to provide the necessary files and documents, as well as explanations on the matter to which

28 Report on the activities of the Public Defender of Rights for the period 2020, Office of the PDR, available at: https://vop.gov.sk/wp-content/uploads/2021/10/VOP_VS20_SK_1.pdf.

29 Section 3(2) of the PDR Act.

30 Ibid, Section 4(1) and Section 2.

31 Ibid, Section 5.

32 Ibid, Section 11 and following.

33 Hamuláková Z., Verejný ochranca práv (ombudsman) a dobrá verejná správa, in: Dny práva/Days of Law 2019, Právnická fakulta, Univerzita Komenského v Bratislave, p. 81, available at: <https://shorturl.at/ijsJ2>.

the complaint relates, even if a special regulation restricts the right of access to files to a defined category of subjects;

- ask the employees of the public administration body questions;
- to speak, even without the presence of other persons, with individuals detained in places of confinement, imprisonment, disciplinary punishment of soldiers, protective treatment, protective education, detention, institutional treatment, or institutional education, and in police custody cells, as well as in other premises where their personal freedom is restricted.³⁴

Public authorities have a legal obligation to provide assistance to the PDR. They are required to provide information and explanations, to allow access to the file, to present an opinion on factual and legal issues, to deal with the evidence and measures proposed, and, in the event of inaction, to implement the measures proposed, provided that the PDR makes such a request. The public authorities are also required to allow the PDR to attend the oral hearing and to ask the participants in the proceedings and interested persons questions.³⁵

If the PDR determines that the findings indicate that fundamental rights and freedoms have been violated, he or she shall notify the public authority responsible for the violation thereof, together with a proposal for action to be taken by that public authority. The public authority shall inform the PDR of the position taken on the complaint and the resulting measures taken. Provided that the measures taken are not considered sufficient by

the PDR, he or she may address a superior authority or the Government of the Slovak Republic. If, according to the PDR, even such a procedure fails, he or she will inform the NCSR of this fact.³⁶ The proposal of the PDR is in general not binding to the public authority to which it is addressed, as it is not a legally enforceable decision. The law does not entrust the PDR with punitive measures against public authorities either.³⁷

The PDR shall also notify the competent authority of the fact that a crime or other offence has been committed if he or she becomes aware of facts indicating that such a crime or other offence has been committed. In addition to the above, the PDR may initiate an action to amend or repeal a regulation issued by a public authority if it finds that such a regulation violates fundamental rights and freedoms³⁸. Under the Constitution of the Slovak Republic, the PDR has active legitimacy to initiate proceedings in such a case.³⁹ The case law of the Constitutional Court of the Slovak Republic sets out the criteria that must be fulfilled in the event that the PDR brings an application for the initiation of proceedings on the conformity of legislation. According to the case law, 'The public Defender of Rights may object to the unconstitutionality only of a law that regulates fundamental rights and freedoms and the application of which comes into question in a matter that the Public Defender of Rights is examining in a proceeding initiated by a legal or natural person or on his or her own accord, without an initiative, but relating to a specific activity within the scope of their constitutionally conferred competence.'⁴⁰

34 Section 17(1) of the PDR Act.

35 Ibid, Section 17(2).

36 Ibid, Section 17 and following.

37 Hamuláková Z., Verejný ochranca práv (ombudsman) a dobrá verejná správa, in: Dny práva/Days of Law 2019, Právnická fakulta, Univerzita Komenského v Bratislave, p. 82, available at: <https://shorturl.at/ijjsJ2>.

38 Section 18 and following of the PDR Act.

39 Art. 151a Section 2 of the Constitution of the Slovak Republic.

40 Resolution of the Constitutional Court of the Slovak Republic, Case No. PL. ÚS 5/2014 of 05.03.2014 and Resolution of the Constitutional Court of the Slovak Republic, Case No. PL. ÚS 40/2014 of 17.12.2014.

On 1 May 2023, Act No. 110/2023 Coll. amending Act No. 564/2001 Coll. on the Public Defender of Rights as amended and supplementing certain acts ('the amendment to the PDR Act') entered into force. With this amendment, the PDR was mandated to act as the coordinating body of the National Preventive Mechanism ('NPM') under the The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (OPCAT). In order to perform these tasks, the PDR shall undertake systematic visits, either following a motion or on his or her own initiative, to places where persons deprived of their liberty by public authorities are or may be present, with

the purpose of enhancing the protection of such persons from torture, cruel, inhuman, or degrading treatment or punishment, and other ill-treatment. This competence shall extend to facilities where arrest, imprisonment, detention, asylum, and other places where persons deprived of their liberty by public authorities are or may be held, in particular detention cells and detention facilities for foreign nationals. The PDR, as a coordinating body, issues conclusions, reports, and recommendations, including a special report on the conduct and results of the visits, and communicates with the relevant international contracting authority.⁴¹

2.3 Offices of the Commissioner for Children and the Commissioner for Persons with Disabilities

16

The Office of the Commissioner for Children and the Office of the Commissioner for Persons with Disabilities are legally established in Act No. 176/2015 Coll. on the Commissioner for Children and the Commissioner for Persons with Disabilities and on Amendments and Supplements to Certain Acts ('the Commissioners Act'). The establishment thereof was associated with the fulfilment of the Slovak Republic's obligations arising from the ratification of the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities, which impose the obligation to establish a separate and independent monitoring mechanism for the monitoring of the fundamental rights of children and the fundamental rights of persons with disabilities.

For both offices, the Commissioners Act defines the same conditions of electability. Any natural person who fulfils the following conditions may be elected Commissioner:

- is a citizen of the Slovak Republic,
- has full legal capacity,
- has attained a second-degree university education,
- is of good repute,
- is accepted by representative organisations, and
- has given his or her written consent to candidature.⁴²

The Commissioner shall be elected by the National Council of the Slovak Republic from among the candidates nominated by the relevant committee.⁴³ Only a Member of the Na-

41 Article I of the Amendment to the PDR Act amending Act No. 564/2001 Coll. on the Public Defender of Rights, as amended and supplementing certain acts.

42 Section 15(1) of the Commissioners Act.

43 Ibid, Section 16(1).

tional Council of the Slovak Republic may submit a proposal for a candidate for the office of Commissioner to the relevant committee. The term of office of the Commissioner shall be six years⁴⁴. While holding the office, the Commissioner may not hold any other public office

or any other paid position, be a member of a political party or political movement, engage in business, or any other income-generating activity, except for exceptions specifically defined by the law.⁴⁵

2.3.1 Commissioner for Children⁴⁶

In the area of human rights protection, the role of the Commissioner for Children is to participate in protecting the rights of children by promoting and enforcing the rights granted to the child by international treaties which are binding for the Slovak Republic.⁴⁷ This office was established as a result of the recognition of the need for a body independent of the State, whose competencies are exclusively directed towards the promotion of the best interests of the child and other rights of children.⁴⁸ Ratification of the UN Convention on the Rights of the Child⁴⁹ and its Optional Protocols is the basic framework.⁵⁰ The Office of the Commissioner for Children is based in Bratislava.

The competences of the Commissioner for Children are regulated by the Commissioners Act as follows:

- to assess the observance of the rights of the child following a motion or on his or her own initiative;
- to monitor the observance of the rights of the child, in particular by carrying out independent research on the fulfilment of obligations arising from international treaties to which the Slovak Republic is bound and by conducting research and surveys to monitor

the situation and developments in the field of children's rights;

- to promote the interests of children in society, to cooperate with children directly or through organisations working in the field of children's rights, to consult with children on matters that concern them, to examine children's viewpoints and to promote their interest in public matters;
- to promote awareness-raising of children's rights in society;
- to cooperate with foreign and international entities involved in exercising the rights of the child or protecting the rights of the child.⁵¹

In order to properly perform the duties of the office, the Commissioners Act confers several powers on the Commissioner for Children. The Commissioner for Children is entitled to request information and data for the purpose of assessing compliance with the rights of the child, copies of case files, to exercise the powers of the relevant public authorities, to issue opinions on the results of the assessment and monitoring of compliance with the rights of the child and to take measures, provided that a violation of the

44 Ibid, Section 17(1).

45 Ibid, Section 18(1).

46 Official website of the Commissioner for Children, Office of the Commissioner for Children, available at: <https://komisarpredeti.sk/>.

47 Section 2(1) of the Commissioners Act.

48 Report on the activities of the Commissioner for Children for 2021, available at: <https://komisarpredeti.sk/wp-content/uploads/2022/02/sprava-o-cinnosti-komisara-pre-deti-za-obdobie-roka-2021-final-1.pdf>.

49 Notification of the Federal Ministry of Foreign Affairs No. 104/1991 Coll. on the Arrangement of the Convention on the Rights of the Child.

50 Notification of the Ministry of Foreign and European Affairs of the Slovak Republic No. 91/2014 Coll. on the conclusion of the Optional Protocol to the Convention on the Rights of the Child on the notification procedure.

51 Section 4(1) of the Commissioners Act.

rights of the child has been identified. The Commissioner for Children is also entitled to speak to the child without the presence of third parties if the child's personal freedom is lawfully restricted (due to the imposition of a sanction or protective measure), to submit notifications to the UN Committee on the Rights of the Child, to make statements in the cases under consideration, to issue opinions, to propose remedies and to participate in proceedings before the courts.⁵²

Provided that the Commissioner's findings indicate that there is a severe threat to or violation of the rights of the child, the Commissioner may submit an emergency report to the National Council of the Slovak Republic, which may also include a proposal that the report be discussed at its next session.⁵³ However, the Act does not confer on the Commissioner for Children decision-making powers in matters of the protection of the rights of the child. This power is vested in the court or the authority for the social protection of children and social guardianship.⁵⁴

Pursuant to the Commissioners Act, the Commissioner for Children has an independent status and carries out his or her duties separately from other authorities that have competencies in the field of human rights. The competence of the Commissioner for Children applies to state administration bodies, local self-government bodies, and legal persons and natural persons who, according to a special regulation, interfere with rights and obligations in the field of public administration. The competence of the Commissioner also extends to legal persons and natural per-

sons - entrepreneurs, i.e., the private sector.⁵⁵ However, the Commissioner's competence excludes the exercise of the powers of the National Council of the Slovak Republic, of the President of the Slovak Republic, the Government of the Slovak Republic, the Constitutional Court of the Slovak Republic, the Prosecution Service of the Slovak Republic, the Court of Justice, the Supreme Audit Office of the Slovak Republic, the office of the Public Defender of Rights, the Commissioner for Persons with Disabilities, the intelligence services, and the exercise of the decision-making powers of a police officer who is a law-enforcement authority. The above does not apply with regard to the powers exercised by the said authorities in their capacity as public administration bodies.⁵⁶

Anyone can approach the Commissioner for Children about violations of children's rights or threats to children's rights. A child shall have the right to address the Commissioner for Children directly or through another person, even without the knowledge of the parents, guardian, custodian, or other person to whom the child has been entrusted in substitute care.⁵⁷

In the event that the complaint is unclear, the Commissioner shall invite the person who lodged the complaint to complete or clarify the unclear complaint within a specified period of time.⁵⁸ If the complaint is not adjourned, the result of the assessment of the complaint shall be a statement in writing, which shall be delivered to the person lodging the complaint; to the person whose rights have been violated or threatened; and to the person against

52 Responsibilities of the Commissioner, Commissioner for Children, available at: <https://komisarpredeti.sk/o-komisarovi/posobnost-komisara/#>.

53 Section 5(2) of the Commissioners Act.

54 Report on the activities of the Commissioner for Children for 2021, available at: <https://komisarpredeti.sk/wp-content/uploads/2022/02/sprava-o-cinnosti-komisara-pre-deti-za-obdobie-roka-2021-final-1.pdf>.

55 Section 2 and following on the Commissioners Act.

56 Ibid, Section 3(2).

57 Ibid, Section 2.

58 Ibid, Section 21.

whom the complaint or the Commissioner's initiative is directed.⁵⁹

The amendment to the PDR Act also made changes to the Commissioners Act. The Commissioner for Children co-creates the NPM, whereby the Commissioner is entitled to make systematic visits to special educational institutions and institutions for social protection of children and social guardianship

and other places where children are or may be found who are restricted in their freedom by public authorities or as a result of dependence on the provision of care. He or she shall issue a special report on the conduct and outcome of such a visit, which he or she shall make available to the coordinating authority without undue delay and which he or she shall publish on his or her website.⁶⁰

2.3.2 Commissioner for Persons with Disabilities⁶¹

The Commissioner for Persons with Disabilities is an independent institution established to protect the fundamental rights and freedoms of persons with disabilities, whose status is regulated by the Commissioners Act. The establishment of this institute was the result of the ratification of the Convention on the Rights of Persons with Disabilities⁶² and its Optional Protocol,⁶³ by which the Slovak Republic undertook to create a separate and independent mechanism for the control and monitoring of the observance of the rights of persons with disabilities.⁶⁴ The Office of the Commissioner for Persons with Disabilities is based in Bratislava.⁶⁵

In order to fulfil his or her mission to protect the fundamental rights of persons with disabilities, the Commissioner for Persons with Disabilities performs statutory tasks, specifically:

- to assess (either following a motion or on his or her own initiative) and monitor compliance with the rights of persons with disabilities;⁶⁶
- to promote the interests of persons with disabilities in society, to cooperate with persons with disabilities directly or through organisations working in the field of the rights of persons with disabilities, to consult with persons with disabilities on matters that concern them, to examine the viewpoints of persons with disabilities and to promote their interest in public matters;
- to promote awareness-raising of persons with disabilities' rights in society;
- to cooperate with foreign and international entities involved in exercising the rights of the persons with disabilities or protecting the rights of persons with disabilities.

59 Ibid, Section 24 a.

60 Article IV of the amendment to the PDR Act.

61 Official website of the Office of the Commissioner for Persons with Disabilities, available at: <https://www.komisarprezdravotnepostihnutych.sk/>.

62 Notification of the Ministry of Foreign Affairs of the Slovak Republic No. 317/2010 Coll. on the conclusion of the Convention on the Rights of Persons with Disabilities.

63 Notification of the Ministry of Foreign Affairs of the Slovak Republic No. 318/2010 Coll. on the conclusion of the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

64 Explanatory report on the Commissioners Act.

65 Section 12 and following on the Commissioners Act.

66 Ibid, Section 10(1).

In order to properly carry out his or her duties, the Commissioners Act grants the Commissioner for Persons with Disabilities several powers, including the power to request information and case files for the purpose of assessing compliance with the rights of persons with disabilities, the exercise of powers by public authorities, and an opinion on the results of the Commissioner's assessment or monitoring. Furthermore, he or she shall be entitled to speak with a person with a disability in places where there has been a restriction of the personal freedom of that person, without the presence of third parties. On behalf of the person with a disability, he or she may submit a communication to the UN Committee on the Rights of Persons with Disabilities.⁶⁷

The Commissioner for Persons with Disabilities shall exercise his or her powers independently of other public authorities and bodies entrusted with competencies in the field of the protection of fundamental rights and freedoms. His or her jurisdiction extends to public authorities, local authorities, legal persons, and natural persons who, under a special regulation, interfere with the rights and obligations of natural persons and legal persons in the field of public administration, as well as to legal persons and natural persons - entrepreneurs, i.e., also to the private sector. According to the negative definition, the competence of the Commissioner for Persons with Disabilities does not apply to the exercise of the powers of the National Council of the Slovak Republic, of the President of the Slovak Republic, the Government of the Slovak Republic, the Constitutional Court of the Slovak Republic, the Prosecution Service of the Slovak Republic, the Court of Justice, the Supreme Audit Office of the Slovak Republic, the office of the Public Defender of Rights, the Commissioner

for Children, the intelligence services, and the exercise of the decision-making powers of a police officer who is a law-enforcement authority. The above does not apply with regard to the powers exercised by the said authorities in their capacity as public administration bodies.⁶⁸

Anyone, including natural persons whose legal capacity has been restricted, may apply to the Commissioner for Persons with Disabilities, directly or through another person, even without the knowledge of their legal representative, regarding violations of the rights of a person with a disability or threats to the rights of a person with a disability. A child may also apply to the Commissioner for Persons with Disabilities directly or through another person, even without the knowledge of his or her parents, guardian, custodian, or other person to whom the child has been entrusted in substitute care, foster care, or institutional care.⁶⁹ In the event that the complaint is unclear, the Commissioner shall invite the person who lodged the complaint to complete or clarify the unclear motion within a specified period of time.⁷⁰

The rights and legitimate interests of the person who lodged the complaint cannot be jeopardised by the handling of the complaint. The Commissioner's subsequent action may result in:

- submission of notices on behalf of the person with a disability;
- submission of a written statement;
- drawing up a generalised opinion on the matter of compliance with the rights of a disabled person;
- the adoption of measures and their review;

67 Ibid, Section 10(2).

68 Ibid, Section 9 and following.

69 Ibid, Section 8.

70 Ibid, Section 21a.

- lodging a complaint with the public prosecutor's office;
- instruction on the correct procedure;
- deferral of the complaint.⁷¹

If the complaint is not adjourned, the result of the assessment of the complaint shall be a statement in writing, which shall be delivered to the person lodging the complaint; to the person whose rights have been violated or threatened; and to the person against whom the complaint or the Commissioner's initiative is directed.⁷²

The amendment to the PDR Act also assigned the tasks of the NPM to the Commissioner for Persons with Disabilities. He or she is authorised to make systematic visits to establish-

ments where protective treatment is carried out and to places where persons with disabilities who are or may be restricted in their freedom by public authorities or as a result of their dependence on care are or may be found, in particular health care facilities, social services facilities and other facilities providing similar care, including facilities without registration under a special regulation. He or she shall issue a special report on the progress and outcome, which he or she shall make available to the coordinating authority (pdr) without undue delay and which he or she shall publish on his or her website.⁷³

71 Position of the Commissioner for Persons with Disabilities, Commissioner for Persons with Disabilities, available at: <https://www.komisar-prezdravotnepostihnutych.sk/Postavenie-komisarky-pre-osoby-so-zdravotnym-postihnutim>.

72 Section 24 and the Commissioners Act.

73 Article IV of the amendment to the PDR Act.



3. Special bodies with competence in the field of human rights protection

3.1 The Constitutional Court of the Slovak Republic⁷⁴

The Constitution of the Slovak Republic characterises the Constitutional Court of the Slovak Republic as an independent judicial authority vested with the mandate to protect constitutionality.⁷⁵ The Constitutional Court of the Slovak Republic has a key role in the protection of fundamental rights and freedoms.⁷⁶ The legal means by which an individual may seek the protection of fundamental rights and freedoms is a constitutional complaint under Article 127 of the Slovak Constitution, according to which an individual may apply to the Constitutional Court of the Slovak Republic if he or she believes that his or her fundamental rights and freedoms arising from the Constitution of the Slovak Republic or an international treaty have been violated unless another court decides their protection.

In order for a complainant to successfully seek the protection of fundamental rights and freedoms, a constitutional complaint must fulfil certain attributes:

- it must be addressed as a violation of fundamental rights and freedoms guaranteed by the Constitution of the Slovak Republic or an international treaty;
- the subject matter of the complaint cannot be decided by another court - it has a subsidiary character and is a means of 'ultima ratio' in the national law;⁷⁷
- the fundamental rights and freedoms have been infringed by an act of a public au-

thority – by a final decision, measure, or other measure;⁷⁸

- the violation of fundamental rights and freedoms occurred against an individualised subject – 'The Constitutional Court of the Slovak Republic, in proceedings on individual protection of fundamental rights and freedoms, cannot declare a violation of fundamental rights and freedoms without reference to a specific natural person or legal entity'.⁷⁹

Thus, a complaint may be lodged by a natural person or a legal person who claims that his or her fundamental rights or freedoms have been violated.⁸⁰ The complaint must be lodged within two months from the date on which the decision, notification of the measure, or notification of other action becomes final.⁸¹ For a measure or other interference, the time limit shall be calculated from the date on which the person who lodged the complaint could have become aware of the measure or other interference.⁸² A constitutional complaint must be submitted in writing, which means that it may be submitted in physical or electronic form.⁸³ In proceedings before the Constitutional Court, the complainant is required to be represented by a lawyer. The constitutional complaint must therefore be accompanied by a power of attorney for the representation of the complainant by a lawyer, in which the complainant explicitly grants the chosen lawyer the power of attorney to represent the

74 Official website of the Constitutional Court of the Slovak Republic, available at: <https://www.ustavnysud.sk/aktualne-informacie>

75 Art. 124 of the Constitution of the Slovak Republic.

76 Macejková, I., Ochrana ľudských práv v rámci rozhodovacej činnosti Ústavného súdu Slovenskej republiky, available at: https://www.ustavnysud.sk/documents/10182/992164/1_Prisp_Macejkova.pdf/3bb7dc39-4b45-42e2-ba15-e2a48650360c.

77 Ibid.

78 Section 122 of Act No. 314/2018 Coll. on the Constitutional Court of the Slovak Republic, amending and supplementing certain laws.

79 Resolution of the Constitutional Court of the Slovak Republic, Case No. II. ÚS 60/02-9 of 17 April 2002.

80 Section 122 of Act No. 314/2018 Coll. on the Constitutional Court of the Slovak Republic, amending and supplementing certain laws.

81 Ibid, Section 124.

82 Ibid, Section 124.

83 Ibid, Section 40(1).

complainant before the Constitutional Court of the Slovak Republic.⁸⁴ If the financial situation of the complainant warrants it and the claim for the protection of constitutionality is not obviously unsuccessful, the Constitutional Court of the Slovak Republic may appoint a legal representative to the complainant who makes a request for such an appointment.⁸⁵ As a rule, proceedings before the Constitutional Court of the Slovak Republic are not subject to court fees.⁸⁶ If the Constitutional Court of the Slovak Republic concludes that the complainant's fundamental rights and freedoms have been violated, it shall uphold the complaint, determine which fundamental rights have been violated and in what manner the violation occurred. The Constitutional Court of the Slovak Republic shall revoke the decision, measure, or other interference by which the violation occurred and may further:

- instruct the person who violated the complainant's fundamental rights and freedoms by his or her inaction to act in the matter;
- return the matter for further proceedings;
- prohibit further violations of the complainant's fundamental rights and freedoms;
- order the person who violated the fundamental rights and freedoms of the com-

plainant to restore the status prior to the violation of the fundamental rights and freedoms of the complainant;

- grant the complainant appropriate financial compensation, if he or she has so requested.⁸⁷

According to the established case law of the European Court of Human Rights ('ECHR'), a complaint under Article 127 of the Constitution of the Slovak Republic may be considered an effective remedy for a violation of fundamental rights, in the sense that it may prevent the continuation of the argued violation of the law and grant adequate compensation for the violation that has occurred. Therefore, it constitutes an effective domestic legal redress under the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).⁸⁸

The Constitutional Court publishes statistical information on the disposition of submissions on an annual basis. For illustrative purposes, the following statistical data may be presented concerning rulings in which the Constitutional Court of the Slovak Republic has declared a violation of fundamental rights and freedoms. The most frequent is the violation of the right to a hearing without undue delay.

84 Ibid, Section 34.

85 Ibid, Section 37(1).

86 Ibid, Section 71.

87 Ibid, Section 133(3).

88 ECHR, *Andrášik and others v. Slovakia*, complaint No. 57984/00, admissibility decision of: 22.10.2002.

	2018 ⁸⁹	2019 ⁹⁰	2020 ⁹¹	2021 ⁹²	2022 ⁹³
Number of findings in which the Constitutional Court of the Slovak Republic concluded that fundamental rights had been violated	400	185	447	600	597
Finding of violation of the fundamental right to a hearing without undue delay	268	120	312	392	383
Finding of violation of fundamental rights to judicial and other legal protection	117	61	137	182	189
Finding of violation of the fundamental right to personal freedom	15	5	6	35	24
Number of findings in which the Constitutional Court granted financial compensation	263	118	303	372	358

3.2 The Prosecution Service of the Slovak Republic⁹⁴

The legal basis of the Prosecution Service of the Slovak Republic ('the Prosecution Service of the SR') is provided in Articles 149 to 151 of the Constitution of the Slovak Republic. A more detailed definition is laid down in Act No. 153/2001 Coll. on the Prosecution Service, as amended ('the Prosecution Service Act') and Act No. 154/2001 Coll. on Prosecuting Counsels and Legal Reversioners of the Public Prosecution, as amended ('the Prosecutors Act').

Under the Constitution of the Slovak Republic, the Prosecution Service of the Slovak Republic is entrusted with the protection of rights and legally protected interests of natural per-

sons and legal persons and of the State.⁹⁵ The Prosecution Service of the Slovak Republic is therefore also included among the so-called law enforcement authorities. It performs its duties in both criminal and non-criminal proceedings. In criminal proceedings, the prosecutor supervises criminal proceedings and also acts as a procedural representative of the state. In civil proceedings, the public prosecutor may file a lawsuit (or a motion) or intervene in proceedings that have already been initiated.⁹⁶

Public prosecutors' obligation to protect fundamental human rights and freedoms is explicitly defined in the Prosecutors Act. Ac-

89 Selected statistical indicators of the decision-making activity of the Constitutional Court of the Slovak Republic for 2018 and 2019, available at: https://www.ustavnysud.sk/c/document_library/get_file?uuid=d285cf53-0bb9-4c95-82d4-d9146dd47e62&groupId=10182.

90 The values of the indicators in 2019 were significantly affected by the vacancy of the positions of judges of the Constitutional Court of the Slovak Republic after the term of office of 9 out of 13 judges ended on 16 February 2019. The plenary was completed only on 10 October 2019.

Selected statistical indicators of the decision-making activity of the Constitutional Court of the Slovak Republic for 2018 and 2019, available at: https://www.ustavnysud.sk/c/document_library/get_file?uuid=d285cf53-0bb9-4c95-82d4-d9146dd47e62&groupId=10182.

91 Selected statistical indicators of the decision-making activity of the Constitutional Court of the Slovak Republic for 2019 and 2020, available at: https://www.ustavnysud.sk/c/document_library/get_file?uuid=6181ffc-601f-4f67-bb8a-9c1605025718&groupId=10182.

92 Selected statistical indicators of the decision-making activity of the Constitutional Court of the Slovak Republic for the years 2020 and 2021, available at: https://www.ustavnysud.sk/c/document_library/get_file?uuid=de9cd42a-9909-4fb0-8966-2fc70b94fa45&groupId=10182.

93 Ibid.

94 Official website of the General Prosecutor's Office of the Slovak Republic, available at: <https://www.genpro.gov.sk/>.

95 Art. 149 of the Constitution of the Slovak Republic.

96 Section 19(2) of the Act on the Prosecution Service.

ording to Article 26(1)(f), the prosecutor is obliged to 'protect human dignity, fundamental human rights and freedoms, not to disadvantage or harm parties or participants in proceedings on account of their sex, race, colour, language, faith and religion, political or other opinions, national or social origin, membership of a nationality or ethnic group, property, descent or other status.'

Under the Act on the Prosecution Service, prosecutors exercise the powers of the pro-

secutor's office, i.e., by:

- supervising compliance with the law in places where persons deprived of their personal freedom or persons whose personal freedom is restricted on the basis of a decision of a court or other authorised state authority are detained;
- supervising the compliance with the law by public administration bodies to the extent provided for by this Act,
- participating in the development of legislation.⁹⁷

3.3 Service Complaints Ombudsman

The amendment of Act No. 281/2015 Coll. on the Civil Service of Professional Soldiers and on Amendments of Some Laws⁹⁸ (the 'Professional Soldiers' Civil Service Act'), established a new institution of the Service Complaints Ombudsman in 2022.

The Service Complaints Ombudsman protects the fundamental rights and freedoms of professional soldiers against violations of such rights and freedoms in respect of actions, decisions, or inactions of any of the entities which act and decide on behalf of the State in matters relating to the service of a professional soldier. The competence of the Service Complaints Ombudsman does not extend to the decision-making powers of authorised members of the Military Police in proceedings concerning criminal offenses committed by professional soldiers.⁹⁹

The Service Complaints Ombudsman shall contribute to the protection of the fundamental rights and freedoms of professional

soldiers by independently and objectively investigating suspected violations of the fundamental rights and freedoms of professional soldiers, in the conduct of which he or she shall be bound only by the Constitution of the Slovak Republic, constitutional laws, laws, and other generally binding legal provisions, international treaties to which the Slovak Republic is bound, legally binding EU acts, and shall take into consideration the internationally recognised standards for the professional practice of service complaints ombudsmen. He or she shall perform his or her duties in the capacity of a civil servant and shall be accountable to the Minister of Defence of the Slovak Republic for the performance of his or her duties.¹⁰⁰

The Service Complaints Ombudsman may be approached by any professional soldier or citizen whose service has been terminated within the period of six months from the date of receipt of the order for dismissal from the service.¹⁰¹

⁹⁷ Ibid, Section 4.

⁹⁸ Act No. 420/2022 Coll. amending Act No. 281/2015 Coll. on the Civil Service of Professional Soldiers and on the Amendment to Certain Acts, as Amended, and Amending Certain Acts.

⁹⁹ Section 4a of the Act on the Civil Service of Professional Soldiers.

¹⁰⁰ Ibid, Section 4b.

¹⁰¹ Ibid, Section 4c.



4. State administration bodies with competence in the field of human rights

4.1 Ministry of Justice of the Slovak Republic¹⁰²

The Ministry of Justice of the Slovak Republic is the central state administration body for courts and the penitentiary system.¹⁰³ To the extent and in the manner prescribed by law, it performs the administration of courts regarding personnel, financial, organisational, and economic matters and performs other tasks as provided for by law. The Ministry of Justice of the Slovak Republic also ensures the development and implementation of state policy and the coordination of the performance of tasks in the field of human rights.¹⁰⁴

Tasks in the field of human rights at the Ministry of Justice are performed by a special Human Rights Division. Specific tasks include mainly the following:

- drafting legislation in the field of protection and promotion of human rights;
- ensuring the implementation of tasks in the field of development and implementation of state policy and coordination of the implementation of tasks in the field of human rights;
- collecting and registering proposals for amendments to human rights legislation;
- preparation of an analysis of the parts of the law of the Slovak Republic that fall within the competence of the Ministry of Justice of the Slovak Republic in relation to relevant EU legal documents and Council of Europe Conventions;
- ensuring the preparation of drafts of legislative texts for the transposition of EU law and the implementation of the Council of Eu-

rope Conventions;

- drafting bilateral and multilateral international treaties in the field of international cooperation on the protection of human rights and fundamental freedoms;
- preparing proposals for the Slovak Republic's accession to human rights treaties, maintaining the related records, and monitoring their implementation;
- assisting the Ministry of Foreign and European Affairs of the Slovak Republic in the preparation of the position of the Slovak Republic on complaints submitted to the UN Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political Rights;
- ensuring the tasks arising for the Ministry of Justice of the Slovak Republic from the statute of the Slovak Government Council for Human Rights, National Minorities, and Gender Equality;
- ensuring the agenda of the secretariat of the Committee on the Rights of Lesbian, Gay, Bisexual, Transgender, and Intersex Persons;
- ensuring the competence of the Ministry of Justice of the Slovak Republic in the provision of subsidies within its competence;
- deciding on matters concerning the accreditation of the victims of crime support programme;
- ensuring the development and implementation of state policy and coordinating the performance of tasks in the field of protection of victims of crime.¹⁰⁵

102 Official website of the Ministry of Justice of the Slovak Republic, available at: <https://www.justice.gov.sk/>.

103 Section 13(1) of the Act No. 575/2001 Coll. on the Organization of the Activity of the Government and on the Organization of the Central State Administration.

104 *Ibid.*, Section 13(9).

105 Article 115 of the Organizational Code 12/2016 of the Ministry of Justice of the Slovak Republic of 28 April 2016 No. 41557/2016/100, available at: https://www.justice.gov.sk/dokumenty/2022/10/UZ-12_2016-pn-22_2022.pdf.

The Human Rights Division acts as the focal point for the Charter of Fundamental Rights of the European Union, which was established under the Strategy to strengthen the application of the Charter of Fundamental Rights in the EU to facilitate the flow of information and best practices on the Charter of Fundamental Rights itself and to coordinate the capacity-building efforts in the country. As of May 2023, this focal point had not carried out any specific activities, apart from an initial meeting at the European level in autumn 2022.¹⁰⁶

Certain tasks in the field of human rights are also carried out by the Prison Department of

the Ministry of Justice of the Slovak Republic, namely:

- cooperates with the General Directorate of the Prison and Court Guard Service, the Prosecution Service, national and supranational monitoring and humanitarian institutions in the field of human rights protection in detention and imprisonment facilities;
- in cooperation with the General Directorate of the Prison and Court Guard Service, submits proposals for measures and oversees the implementation of the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.¹⁰⁷

4.1.1 Special structures of the Ministry of Justice of the Slovak Republic at the national level derived from the membership of the Slovak Republic in regional and international institutions

4.1.1.1 Agent of the Slovak Republic before the Court of Justice of the European Union¹⁰⁸

Representation of the Slovak Republic in proceedings before the Court of Justice of the European Union is ensured by the Ministry of Justice of the Slovak Republic through the Office of the Agent of the Slovak Republic before The Court of Justice of the European Union. The activities of the Office are managed by the Agent of the Slovak Republic before The Court of Justice of the European Union, who is appointed and dismissed by the Minister of Justice of the Slovak Republic following a selection procedure and is authorised to repre-

sent the Slovak Republic before The Court of Justice of the European Union.¹⁰⁹

The competence of the Agent of the Slovak Republic before The Court of Justice of the European Union is defined in Article 2 of the Procedures for the Representation of the Slovak Republic before The Court of Justice of the European Union, entitled 'Tasks and Authorisation of the Agent'. The Agent before The Court of Justice of the European Union shall, in particular:

- represent and defend the interests of

¹⁰⁶ Information provided at the working meeting on 24 May 2023.

¹⁰⁷ Article 44a of the Organizational Code 12/2016 of the Ministry of Justice of the Slovak Republic of 28 April 2016 No. 41557/2016/100, available at: https://www.justice.gov.sk/dokumenty/2022/10/UZ-12_2016-pn-22_2022.pdf.

¹⁰⁸ Government Agent of the Slovak Republic before The Court of Justice of the European Union, Ministry of Justice of the Slovak Republic, available at: <https://www.justice.gov.sk/ministerstvo/zastupca-sr-pred-sudmi-eu/>.

¹⁰⁹ Procedures for Representing the Slovak Republic before The Court of Justice of the European Union, Ministry of Justice of the Slovak Republic, available at: https://www.justice.gov.sk/dokumenty/2021/03/2020_08_13_Postupy-pre-zastupovanie-SR-pred-sudmi-EU.pdf.

the Slovak Republic in proceedings before The Court of Justice of the European Union;

- file submissions and statements to The Court of Justice of the European Union and participate in oral hearings before The Court of Justice of the European Union;
- chair, manage and coordinate the activities of the Inter-Ministerial Commission for the Representation of the Slovak Republic before The Courts of Justice of the European Union;
- inform the cooperating entities concerned, to the extent necessary, of the proceedings initiated and of the acts carried out by him or her in those proceedings;
- inform, to the extent necessary and without undue delay, the cooperating entities concerned, or other entities concerned, of the

obligations of the Slovak Republic arising from judgments or other decisions of The Court of Justice of the European Union in proceedings in which the Slovak Republic was a party, including compensation for the costs of the proceedings or financial penalties;

- provide, within the scope of his or her competences, assistance to The Ministry of Foreign and European Affairs in drafting statements, comments, opinions, notifications, or other materials addressed to the European Commission, the European Council, the Council of the EU, or other EU institutions, bodies, offices, or agencies;
- represents the Slovak Republic in the Working Party of the Council of Europe on The Court of Justice of the European Union.

4.1.1.2 Government Agent representing the Slovak Republic before the European Court of Human Rights¹¹⁰

The Slovak Republic's interests in proceedings before the ECHR are advocated by the Government Agent representing the Slovak Republic before the European Court of Human Rights. His or her role in the proceedings is to communicate with the ECHR on behalf of the Government of the Slovak Republic, to submit opinions to the ECHR on its behalf, to inform the ECHR of the content of Slovak legislation, to explain the actions of the national authorities and to convey their views. The Government Agent is thus an 'advocate' of the State - a party to the proceedings, as is the complainant.¹¹¹

Within the scope of his or her competence, the Government Agent shall:

- represent the State in proceedings before the ECHR;
- draw up opinions on behalf of the Government of the Slovak Republic on a complaint lodged against the Slovak Republic after it has been communicated to the Government of the Slovak Republic;
- inform the Government of the Slovak Republic about the obligations arising from the decisions of the ECHR and submit an annual report on his or her activities to the Government of the Slovak Republic;
- provide information on the development of legislation in the field of human rights and freedoms in the Slovak Republic to the competent bodies of the Council of Europe.

¹¹⁰ Government Agent representing the Slovak Republic before the European Court of Human Rights, Ministry of Justice of the Slovak Republic, available at: <https://www.justice.gov.sk/ministerstvo/zastupca-sr-pred-europskym-sudom-pre-ludske-prava/>.

¹¹¹ Basic information on proceedings before the European Court of Human Rights, Ministry of Justice of the Slovak Republic, available at: <https://www.justice.gov.sk/ministerstvo/zastupca-sr-pred-europskym-sudom-pre-ludske-prava/zakladne-informacie-o-konani-pred-europskym-sudom-pre-ludske-prava/#zastupca-vlady-sr-pred-eslp>.

The Office of the Agent:

- prepares documentation and opinion drafts on complaints against the Slovak Republic based on the instructions and requests of the Agent;
- provides administrative and technical services for the preparation and transmission of official opinions of the Government of the Slovak Republic and other documents to the

EOCHR and to the involved authorities within the Slovak Republic;

- prepares, maintains, and archives the documentation necessary for the activities of the Agent, keeps records of the deadlines in the proceedings before the EOCHR;
- provides administration for the translation of official opinions into English.¹¹²

4.2 Centre for Legal Aid¹¹³

The Centre for Legal Aid is a state budgetary organisation established by Act No. 327/2005 Coll. on the Provision of Legal Aid for People in Material Need. The mission of the Centre for Legal Aid is to provide comprehensive legal aid to persons who, due to lack of means, are unable to use paid legal services.¹¹⁴ The mission of the Centre for Legal Aid is to fulfil the citizen's right of access to justice. It provides legal advice to citizens as well as representation in court by a lawyer or staff member appointed by the Centre.¹¹⁵ The Centre for Legal Aid is under the direct jurisdiction of the Ministry of Justice of the Slovak Republic.¹¹⁶ As of 1 March 2017, the Centre's remit was extended to include the agenda of so-called personal bankruptcy.

The Centre for Legal Aid provides legal services either completely without the financial involvement of a natural person or with his or her partial financial involvement. Free le-

gal aid is provided to persons whose income does not exceed 1.4 times the amount of the subsistence minimum, the dispute is not obviously unsuccessful, and the value of the dispute must exceed the minimum wage (except for disputes for which the value cannot be quantified in monetary terms). Legal aid with a financial involvement of 20% shall be granted provided that the income of the natural person exceeds 1.4 times the minimum subsistence figure and at the same time does not exceed 1.6 times that figure and provided that the natural person is unable to secure legal representation using his or her own assets.¹¹⁷

Legal aid is defined as the provision of legal services, including, in particular, legal advice, assistance in out-of-court procedures, mediation, drafting of pleadings, representation before the courts, the performing of related acts, and the partial or full reimbursement of related costs.¹¹⁸

112 Zástupca SR pred Európskym súdom pre ľudské práva, Ministerstvo spravodlivosti SR, dostupné na: <https://www.justice.gov.sk/ministerstvo/zastupca-sr-pred-europskym-sudom-pre-ludske-prava/>.

113 The official website of the Centre for Legal Aid, available at: <https://www.centrumpravnejpomoci.sk/>

114 Section 1 a Section 5 of the Act No. 327/2005 Z. z. on the Provision of Legal Aid for People in Material Need.

115 About us, Centre for Legal Aid, available at: <https://www.centrumpravnejpomoci.sk/sekcia/4-o-nas>.

116 Article 3 of the Organizational Code 12/2016 of the Ministry of Justice of the Slovak Republic of 28 April 2016 No. 41557/2016/100, available at: https://www.justice.gov.sk/dokumenty/2022/10/UZ-12_2016-pn-22_2022.pdf.

117 Section 6 and following of the Act No. 327/2005 Z. z. on the Provision of Legal Aid for People in Material Need.

118 Section 4(1)(a) of the Act No. 327/2005 Z. z. on the Provision of Legal Aid for People in Material Need.

4.3 Centre for International Legal Protection of Children and Youth¹¹⁹

The Centre for International Legal Protection of Children and Youth is a state body established by the Ministry of Labour, Social Affairs, and Family of the Slovak Republic as its budgetary organisation. The legal basis for its existence is provided by Act No. 305/2005 Coll. on Social and Legal Protection of Children and Social Guardianship and on Amending and Supplementing Certain Acts. The Centre for International Legal Protection of Children and Young People acts as a body appointed to implement international conventions and EU legal acts.¹²⁰

On the basis of a statutory mandate, the Centre for International Legal Protection of Children and Young Persons:

- performs the tasks of receiving authority and sending authority in the field of the enforcement of maintenance payments

under international conventions;

- performs tasks of a central authority under international conventions and EU legal acts;
- issues a certificate under the international Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption;
- performs other tasks in the field of social protection of children in relation to foreign countries under specific regulations;
- cooperates with receiving authorities and sending authorities of Contracting States abroad, central authorities of Contracting States abroad, embassies, central state administration authorities, banks, foreign bank branches, local state administration authorities, local self-government authorities, and accredited entities.¹²¹

4.4 Migration Office of the Ministry of Interior of the Slovak Republic¹²²

The Migration Office of the Ministry of the Interior of the Slovak Republic ('Migration Office'), as the first instance administrative authority deciding on granting asylum and subsidiary protection to foreign nationals, acts in accordance with the provisions of Act No. 480/2002 Coll. on Asylum and Amendment of Some Acts, which reflects, in particular, the 1951

Geneva Convention Relating to the Status of Refugees¹²³ and the 1967 New York Protocol Relating to the Status of Refugees,¹²⁴ as well as the relevant European directives or regulations governing the international protection of foreign nationals.¹²⁵ The Migration Office was established by the Resolution No. 501 of

119 Centre for International Legal Protection of Children and Youth, available at: <https://www.cipc.gov.sk/>.

120 Centre for International Legal Protection of Children and Youth, Status, and Competence, available at: <https://www.cipc.gov.sk/centrum/#Postavenie-a-posobnost>.

121 Section 74 of Act No. 305/2005 Coll. on Social and Legal Protection of Children and Social Guardianship and on Amending and Supplementing Certain Acts.

122 Official website of the Migration Office, available at: <https://www.minv.sk/?migraacny-urad-mv-sr>.

123 Act No. 480/2002 Coll. on Asylum and Amendment of Some Acts.

124 Notification of the Ministry of Foreign Affairs of the Slovak Republic No. 319/1996 Coll., adopting the Geneva Convention relating to the Status of Refugees of 31 January 1967 and the New York Protocol relating to the Status of Refugees of 31 January 1967.

125 A list of the relevant regulations and links to the relevant regulations can be found at: <https://www.minv.sk/?dokumenty-na-stiahnutie-3>.

the Government of the Slovak Republic dated 13 July 1993¹²⁶ to ensure the implementation of the tasks of migration policy. Until 2012, the Migration Office was an independent budgetary organisation of the Ministry of the Interior of the Slovak Republic; at present, it is one of its organisational units.¹²⁷

The Migration Office secures and performs tasks in the field of:

- development of asylum and partial migration and integration policy of the state; it coordinates the development of strategic migration policy plans of the Slovak Republic, such as the presently valid Migration Policy of the Slovak Republic: Perspective until the Year 2025;¹²⁸
- deciding on administrative procedures related to the granting of asylum, the granting of subsidiary protection, and the granting of temporary refuge; including the legal representation of the Ministry of Interior of the Slovak Republic in the courts in asylum-related proceedings; as well as documenting the status and the analysis of information on the countries of origin of asylum seekers; also performs tasks in the area of the so-called Dublin procedure¹²⁹ which regulates Regulation (EU) 604/2013 of 26 June 2013, establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-coun-

try national or a stateless person;¹³⁰

- establishing asylum facilities and ensuring their operation in the field of admission; including social work in asylum facilities of the Ministry of the Interior of the Slovak Republic; in the field of cooperation with institutions, bodies, and organisations at national and international levels; is responsible for the activities of the Steering Committee for Migration and Integration of Foreigners in the Slovak Republic; is the national contact point for the European Union Agency for Asylum.¹³¹

The procedure for granting asylum shall be initiated following a declaration of the foreign national that he or she is applying for asylum or subsidiary protection in the territory of the Slovak Republic, filed with the competent police department.¹³² The local and substantive jurisdiction of the police department is further regulated in Section 3(2) of Act No. 480/2002 Coll. on Asylum and Amendment of Some Acts.

The police department shall subsequently record this declaration on an official form and immediately send it to the Migration Office, which shall decide on the application. The law requires the applicant to report to the detention camp in Humenné within 24 hours after submitting the declaration. If he or she fails to appear within three days, the Migration Office will terminate the asylum procedure.

126 Resolution of the Government of the Slovak Republic of 13 July 1993 No. 501 on the proposal for the institutional provision of a comprehensive solution to migration issues in the Slovak Republic, including the organizational structure of the Office for Migration, available at: https://www.vlada.gov.sk/uznesenia/1993/0713/uz_0501_1993.html.

127 Migration Office, Ministry of Interior of the Slovak Republic, available at <https://www.minv.sk/?migracny-urad-mv-sr>.

128 Migration Policy of the Slovak Republic: Perspective until the Year 2025, Ministry of Interior of the Slovak Republic, available at: <https://www.minv.sk/?zamer-migracnej-politiky-slovenskej-republiky&subor=419162>.

129 The Dublin Procedure determines which country is responsible for the examination and decision on an asylum application, according to the rules established in the so-called Dublin Regulation. See for more details: League for Human Rights: The Dublin Procedure - what does it mean and how does it work, available at: <https://www.hrl.sk/assets/files/obsah/93-Dublinsk%C3%A9%20konanie%20.pdf>.

130 Regulation (EU) 604/2013 of 26 June 2013, establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast).

131 Migration Office, Ministry of Interior of the Slovak Republic, available at <https://www.minv.sk/?migracny-urad-mv-sr>.

132 Section 3(1) of Act No. 480/2002 Coll. on Asylum and Amendment of Some Acts.

After the medical examinations in the detention camp, the applicant will be transferred to a residential camp. If the applicant has sufficient financial means, he or she may apply for a residence permit outside the camp. After a thorough investigation of the facts and evi-

dence, the administrative authority shall issue a decision on the case, with a legal obligation to make a decision in the asylum procedure within 90 days of the initiation of the procedure. In justified cases, this time-limit may be extended.¹³³



5. Regulatory and Supervisory State Administration Bodies with National Competence

Regulatory and supervisory state administration bodies are state administration bodies established by law with special competence in a specific area throughout the territory of the Slovak Republic. They were established as a result of the state administration restructuring in order to ensure independence in the

activities of these bodies. In the system of state administration bodies, they do not have any directly superior central state administration body.¹³⁴ This chapter provides an overview of the regulatory and supervisory bodies that exercise competencies in selected areas of protection and promotion of human rights.

5.1 Office for the Protection of Whistleblowers of Anti-Social Activities¹³⁵

The Office for the Protection of Whistleblowers of Anti-social Activities ('The Whistleblower Protection Office') is an independent state administration body established by Act No. 54/2019 Coll. on Protection of Whistleblowers of Anti-social Activity and on Amendments and Supplements to Certain Act ('Whistleblower Protection Act'), with the mission to protect the rights and legitimate interests of whistleblowers of anti-social activities. The Whistleblower Protection Office is a budgetary organisation which is linked to the State budget. It is headquartered in Bratislava, but it may set up detached offices outside its seat.¹³⁶

A whistleblower is a person who, in good faith, makes a report of facts relating to anti-social activities which have come to his or her knowledge in connection with the exercise of his or her profession, occupation, position, function, or in connection with an activity in the public interest.¹³⁷

The Whistleblower Protection Office has been carrying out its activities since 2 September 2021. Formerly, the tasks related to

the notification of anti-social activities and the protection of whistleblowers were entrusted to National Labour Inspectorate. From a long-term perspective, such a solution has proven to be ineffective. The protection of whistleblowers is regulated by legislation at the EU level, namely Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law.¹³⁸ At the time of the adoption process of this Directive, Slovakia already had legislation to protect whistleblowers in force and was one of the few countries that had the basic rules for the protection of whistleblowers established through legislation.

When reporting anti-social activities, the Whistleblower Protection Office provides protection, legal advice, and accompaniment to whistleblowers throughout the entire process, from the actual submission of the report until the ruling of the court.¹³⁹ Whistleblowers who receive protection under the Act may contact the Whistleblowers' Protection Office if they believe that an employment action has been taken against them that they do not agree

134 Vrabko M. a kol., *Správne právo hmotné. Všeobecná časť*. Bratislava C. H. Beck 2012. p. 132.

135 Official website of the Office for the Protection of Whistleblowers of Anti-Social Activities, available at: <https://www.oznamovatelia.sk/>.

136 Section 13 of Act No. 54/2019 Coll. on the Protection of Whistleblowers of Anti-Social Activities.

137 *Ibid.*, Section 2.

138 Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law.

139 *Chránime odvážnych a zodpovedných whistleblowerov (We protect courageous and responsible whistleblowers)*, Office for the Protection of Whistleblowers of Anti-Social Activities, available at: <https://www.oznamovatelia.sk/nasa-misia-a-hodnoty/>.

with. The Whistleblower Protection Office may suspend the action unless the employer proves that it has no causal connection with the report. In addition to the above, employer employment actions directed at a protected whistleblower are subject to the approval of the Whistleblower Protection Office. There are exceptions to this rule for those actions to which the whistleblower has consented, actions that confer a particular entitlement on the whistleblower, and actions related to the termination of employment that are not the result of an employer's evaluation of the whistleblower's position.¹⁴⁰

Under the Whistleblower Protection Act, the Whistleblower Protection Office:

- makes decisions on matters of whistleblower protection in the case of reporting serious anti-social activities and suspension of the effectiveness of a labour-law act;
 - monitors the implementation of the Whistleblower Protection Act, compliance with the provisions on the provision of protection and the exercise of protection, the manner in which the employer has treated the whistleblower in the period following the submission of a report, and compliance with the provisions on the internal system for the verification of reports;
 - notify the competent authorities of suspected sanctions against an employee in the context of reporting an anti-social activity;
 - raises public and employers' awareness of whistleblowing and the provision of protection to whistleblowers;
 - provides employers with advice on the development of an internal regulation on whistleblowing and on the mechanism for complying with it;
- provides advice and consultation on whistleblowing;
 - issues expert opinions and methodological guidelines on matters related to the protection of whistleblowers;
 - provides practical training and training of responsible persons;
 - cooperates with the State authorities in the development of legislation and submits suggestions for its amendment to the central bodies of the State administration in accordance with its own findings and observations;
 - cooperates with the Centre on matters related to the protection of whistleblowers;
 - cooperates with equivalent institutions and organisations in the EU and other countries;
 - perform other tasks, if provided for by law or special regulations.¹⁴¹

In order to perform its functions, the Whistleblower Protection Act confers several powers on the Whistleblower Protection Office, under which it may:

- require the presentation of the necessary documentation, records and other documents and examine the content thereof;
- request explanations and examine the manner and effectiveness of the handling of the report;
- draw the attention of the public authorities' head officials to the insufficient or incorrect handling of a report and ask for redress;
- warn the employer that the planned employment action may violate the provisions of the Whistleblower Protection Act;
- recommend measures to the employer to ensure compliance with the Whistleblower Protection Act.¹⁴²

140 Section 12 and Section 7 of Act No. 54/2019 Coll. on the Protection of Whistleblowers of Anti-Social Activities.

141 Ibid, Section 13(6).

142 Ibid, Section 13(6).

The Whistleblower Protection Office is also authorised to impose fines of up to EUR 2,000 for the offence committed by a person who takes an employment action against a whistleblower without the consent of the Office if consent is required, or who penalises a whistleblower in connection with the submission

of a report, or who breaches the obligation of confidentiality as to the identity of the whistleblower.¹⁴³ The Office is also authorised to penalise an employer who fails to comply with its obligations in relation to the internal mechanism for reporting anti-social activities, up to a maximum of EUR 20,000.¹⁴⁴

5.2 Office for Personal Data Protection¹⁴⁵

The Office for Personal Data Protection is the supervisory authority of the state administration involved in protecting the fundamental rights of natural persons in the processing of personal data and also supervises the protection of personal data (including the protection of personal data processed by the competent authorities for the purposes of criminal procedures). The legal basis is reflected in Act No. 18/2018 Coll. on the Protection of Personal Data and on the Amendment and Supplementation of Certain Acts ('Personal Data Protection Act'). It is headquartered in Bratislava and has nationwide competence, while it may set up detached offices to perform its tasks.¹⁴⁶

Activities of the Office for Personal Data Protection include in particular:

- monitoring compliance with the provisions of the Personal Data Protection Act and the development of new information technologies that have an impact on the processing of personal data;
- commenting on proposed legislation related to personal data;
- methodological guidance to actors involved in personal data processing;

- increasing public awareness of the rights and risks associated with personal data;
- providing information to concerned parties on the exercise of their rights;
- verifying the legality of the personal data processing in the exercise of supervision.¹⁴⁷

Anyone who claims to be directly affected by his or her rights under the Personal Data Protection Act may apply to the Office for Personal Data Protection by lodging a petition for the initiation of a proceeding. However, the Office for Personal Data Protection may also initiate proceedings without a petition if it determines violations in relation to the protection of personal data. Assuming that it decides that there has been a breach of the concerned person's rights or a failure to comply with legal obligations, it has a number of legal powers at its disposal, including, e.g., imposing remedial measures, withdrawing the granted certificate (in order to demonstrate the compliance of the data processing and the existence of adequate guarantees for data protection), or imposing a fine.¹⁴⁸

143 Ibid, Section 18(1) and (2).

144 Ibid, Section 19(1).

145 Office for Personal Data Protection of the Slovak Republic, available at: <https://dataprotection.gov.sk/uouu/>.

146 Section 80 of the Act No. 18/2018 Coll. on Personal Data Protection and on Changing and Amending of other Acts.

147 Ibid, Section 81.

148 Ibid, Section 100 and following.

5.3 Health Care Surveillance Authority¹⁴⁹

The Health Care Supervisory Authority is established by Act No. 581/2004 Coll. on Health Insurance Companies, Health Care Supervision and on the Amendment and Supplementing of Certain Laws, as Amended. It exercises remote supervision over health insurance companies, insurance payers, health care providers, insured persons, and other persons to whom a special regulation imposes obligations. It shall also carry out on-site supervision

of health insurance companies, insurance payers, and health care providers.¹⁵⁰

Any person who believes that his or her rights and legally protected interests have been violated during the provision of health care or the provision of public health care may lodge a complaint with the Health Care Supervisory Authority.¹⁵¹

¹⁴⁹ Health Care Supervisory Authority, available at: <https://www.udzs-sk.sk/urad/zakladne-informacie/>.

¹⁵⁰ Section 43 of Act No. 581/2004 Coll. on Health Insurance Companies, Health Care Supervision and on Amendments to Certain Acts.

¹⁵¹ *Ibid* Section 43a(1)



6. State administration inspection bodies with national competence

State administration inspection bodies with a national scope are also called inspectorates. They are permanent state administration bodies established by law, but subordinate to the central state administration bodies. Inspection bodies of the national administration act as separate legal entities or as an organisational part of the central administration.

A common feature of these state bodies is the nature of their activities, which are directed toward administrative supervision, control, and inspection.¹⁵² In this section, we present an overview of those inspection bodies whose activities have an impact on the protection and promotion of human rights.

6.1 National Labour Inspectorate¹⁵³ and labour inspectorates

The National Labour Inspectorate is a state administration body based in Košice. The legal basis for its operation is provided by Act No. 125/2006 Coll. on Labour Inspection and on Amendment and Supplementation of Act No. 82/2005 Coll. on Illegal Work and Illegal Employment and on Amendment and Supplementation of Certain Acts, as amended¹⁵⁴ ('Labour Inspection Act'). The strategic objective of the Labour Inspectorate is to contribute to the realisation of the fundamental interest of society, which is to ensure a balance between commercial and economic interests on the one hand and the employability and health of employees on the other. This objective is in line with the promotion of economic and social development in the EU.¹⁵⁵

The National Labour Inspectorate is therefore a state administration body which ensures tasks in the field of labour inspection with a nationwide scope, manages and supervises labour inspectorates, and standardises and rationalises the working methods of labour inspectorates. It also serves as an appellate

body in cases decided by a labour inspectorate.¹⁵⁶

Labour inspection is carried out by labour inspectorates within the scope of the tasks laid down in Section 7 of the Labour Inspection Act.¹⁵⁷ The headquarters and territorial districts of the labour inspectorates are identical to those of the regions.¹⁵⁸ Labour inspectorates are state administration bodies that ensure the execution of labour inspections of employers and natural persons who are entrepreneurs and are not employers.¹⁵⁹

Labour inspectorates supervise compliance with:

- labour-law legislation, e.g., the Labour Code;
- legislation governing civil service relations;
- regulations to ensure health and safety at work;
- regulations governing the prohibition of illegal work and illegal employment;
- obligations arising from collective

152 Vrabko M. a kol., *Správne právo hmotné. Všeobecná časť*. Bratislava C. H. Beck 2012. p. 133.

153 Official website of the National Labour Inspectorate, available at: <https://www.ip.gov.sk/>.

154 Section 5 and following of the Labour Inspection Act.

155 Brožúra NIP (NLI Brochure), National Labour Inspectorate, available at: https://www.ip.gov.sk/wp-content/uploads/2017/11/ipa_4AF5.pdf.

156 Labour Inspection, Ministry of Labour, Social Affairs and Family of the Slovak Republic, available at: <https://www.employment.gov.sk/sk/praca-zamestnanost/inspekcia-prace/>.

157 Section 7(3) of the Labour Inspection Act.

158 *Ibid*, Section 7(1).

159 Labour Inspection, Ministry of Labour, Social Affairs and Family of the Slovak Republic, available at: <https://www.employment.gov.sk/sk/praca-zamestnanost/inspekcia-prace/>.

agreements and compliance with the employer's obligation to conclude an employer's agreement and to make contributions to supplementary pension savings for employees engaged in hazardous occupations.¹⁶⁰

Labour inspections are carried out:

- at all workplaces of employers and natural persons who are entrepreneurs and are not employers, including their workplaces located on private land and in the residences of natural persons;
- on all premises where the domestic worker carries out the agreed work;
- on any premises where the employee carries out work under an agreement for work performed outside the employment relationship.¹⁶¹

Labour inspections shall be carried out by labour inspectors and shall be identified by an identity card when carrying out labour inspections.¹⁶²

The competent labour inspectorate may be contacted by means of a complaint by an employee or a group of employees whose rights have been harmed by a violation of obligations arising from labour-law relations, as well as by representatives of employees who are employed by an employer with whom they have detected a violation of labour-law regulations by means of inspection activities.¹⁶³ A complaint by a former employee submitted within one month after the termination of the employment relationship shall also constitute a complaint.¹⁶⁴

6.2 Slovak Trade Inspection¹⁶⁵

42

The Slovak Trade Inspection ('STI') is the state inspection body of the internal market in matters of consumer protection with nationwide competence. In the execution of this task, the STI inspects the sale of products and the provision of services to consumers, carries out state supervision and control of business in the energy sector pursuant to special regulations and market surveillance pursuant to a special regulation. Competences of the STI are laid down in Act No. 128/2002 Coll. on State Control of Internal Market in the Consumer Protection Issues and on Amendments and Supplements to Certain Acts. This Act defines the rights and obligations of the STI in general terms, but also in relation to specific

regulations governing consumer protection in specific areas.

The STI exercises control and supervision over compliance with the obligations arising from more than 490 legal regulations. Within the scope of its mandate, it may impose on-the-spot measures, protective measures, interim measures, and fines for breaches of obligations arising from legislation within its supervisory remit. On the basis of the inspection it carries out, it proposes the suspension or revocation of trade licences, and provides professional and methodological assistance to district authorities, municipalities, consumer associations, and other legal entities

160 Ibid.

161 Section 2(2) of Act No. 125/2006 Coll. on Labor Inspection and on Amendment and Supplement to Act No. 82/2005 Coll. on Illegal work and Illegal Employment and on Amendments and Supplements to Certain Acts, as amended.

162 Labour Inspection, Ministry of Labour, Social Affairs and Family of the Slovak Republic, available at: <https://www.employment.gov.sk/sk/praca-zamestnanost/inspekcia-prace/>.

163 Section 150(2) of Act No. 311/2001 Coll., Labour Code.

164 Complaints and suggestions, National Labour Inspectorate, available at: <https://www.ip.gov.sk/staznosti-a-podnety/>.

165 Official website of the Slovak Trade Inspection, available at: <https://www.soi.sk/>.

established for the protection of consumers. STI also provides advice to consumers; cooperates with state and public administration bodies, consumer associations, supervisory authorities of other EU Member States, the European Economic and Social Committee, and the relevant UN bodies in the exchange of information in the field of market surveillance. STI is also tasked with enforcing fines and debts against businesses and individuals and informing them of the risk to life, health, and property of consumers or the environment from the sale of dangerous products, dealing with consumer reports and complaints, and clarifying offences.¹⁶⁶

Since 2016, together with other state administration bodies, the STI has been carrying out the role of an alternative dispute resolution body under a special regulation¹⁶⁷, with the objective of establishing a new means for consumers to resolve their dispute with the seller

quickly, efficiently, less formally and above all free of charge, or at minimal cost. The aim is to reach an amicable agreement between the consumer and the seller to resolve the dispute, which, once both parties agree to its wording, becomes a binding legal ground.

Pursuant to Section 3 of Act No. 250/2007 Coll. Consumer Protection Act and amending Act No. 372/1990 Coll. of the Slovak National Council on Offences, as amended, every consumer has the right to products and services of standard quality, to make a complaint, to compensation for damages, to education, information, to the protection of his or her health, safety and economic interests, and to lodge complaints and reports with the supervisory, oversight and inspection bodies - which in terms of the internal market is the STI. The consumer may contact the STI by lodging a petition for an inspection in matters falling within the competence of the STI.¹⁶⁸

6.3 State School Inspection¹⁶⁹

The State School Inspection ('SSI') is a state administration body in education established pursuant to Act No. 596/2003 Coll. on State Administration in Education and School Self-Government and on Amendments and Supplements to Certain Acts, as amended (the 'School Self-Government Act'). It is a budgetary organisation with legal entity status.¹⁷⁰

The SSI fulfils the role of state supervision over the quality of pedagogical management, the quality of education and training, and the

material and technical conditions, including practical teaching in schools and educational facilities, practical teaching sites, and the quality of activities in special educational institutions and educational counselling and prevention institutions. It handles complaints and petitions in this field. It is independent in its activities.¹⁷¹

Complaints to the SSI may be lodged in writing or electronically. A complaint alleges a violation of a legal provision, but it is not the applicant's own right. The SSI handles each

166 STI Status, Slovak Trade Inspection, available at: <https://www.soi.sk/sk/SOI/Postavenie-SOI.soi>.

167 Act No. 391/2015 Coll. on Alternative Dispute Resolution of Consumer Disputes and on Amendments to Certain Acts.

168 Lodging complaints, suggestions and requests, Slovak Trade Inspection, available at: <https://www.soi.sk/sk/Podavanie-podnetov-staznos-ti-navrhov-a-ziadosti.soi>.

169 Official website of the State School Inspection, available at: <https://www.ssi.sk/>.

170 State Trade Inspection Statute, available at: https://www.ssi.sk/wp-content/uploads/2020/12/STATUT_SSI_odatky.pdf.

171 State School Inspection, available at: <https://www.ssi.sk/o-urade/>.

complaint on an individual basis. If the content of the complaint indicates a breach of legislation, it may inspect the school immediately or include it in its inspection plan. When con-

ducting an inspection, the SSI shall act in accordance with the law, and objectively ascertain and evaluate the facts. The law does not set deadlines for handling the complaint.¹⁷²



7. Advisory bodies with competence in the field of human rights

Advisory bodies may be formed by the Government of the Slovak Republic to carry out specific tasks of the Government of the Slovak Republic pursuant to Act No. 575/2001 Coll. on the Organization of the Activity of the Government and on the Organization of the Central State Administration. Advisory bod-

ies of the Government of the Slovak Republic carry out coordinating, consultative or expert tasks. The tasks, the composition of the advisory bodies of the Government of the Slovak Republic, and the principles of their proceedings shall be determined by statutes approved by the Government of the Slovak Republic.¹⁷³

7.1 Government Council for Human Rights, National Minorities and Gender Equality and its Committees¹⁷⁴

The Government Council for Human Rights, National Minorities and Gender Equality ('GCHR') is a permanent professional, advisory, coordinating, and consulting body of the Government of the Slovak Republic in the field of protection of fundamental human rights and freedoms, political and civil rights, rights of persons belonging to national minorities and ethnic groups, economic, social and cultural rights, environmental protection rights and cultural heritage, children rights and the promotion of their best interests, rights of the elderly, rights of gays, lesbians, bisexuals, transgender, and intersex people in terms of promoting the principles of equal treatment, equal opportunities, and gender equality.¹⁷⁵

The GCHR monitors compliance with the Constitution of the Slovak Republic, the Charter of Fundamental Rights and Freedoms, international treaties on human rights and fundamental freedoms to which the Slovak Republic is bound, legally binding EU acts, and other legislation regulating the protection of and respect for fundamental human rights and freedoms within the scope of its

competence. It operates in order to increase general awareness of human rights, information on the state of compliance with human rights, and the adoption of measures for their enforcement. The GCHR emphasises the recommendations of independent human rights institutions, expert bodies and UN institutions, the Council of Europe, the EU, and the Organization for Security and Co-operation in Europe, and monitors developments and new legislation on human rights.¹⁷⁶

The GCHR comprises a Chairperson, Vice-Chairpersons, a Secretary and other members. It is chaired by the Minister of Justice of the Slovak Republic. The other members of the GCHR are:

- State Secretary of the Ministry of Health of the Slovak Republic;
- State Secretary of the Ministry of the Interior of the Slovak Republic;
- State Secretary of the Ministry of Finance of the Slovak Republic;
- State Secretary of the Ministry of Economy of the Slovak Republic;
- State Secretary of the Ministry of the

173 Section 2 of the Act No. 575/2001 Coll. on the Organization of the Activity of the Government and on the Organization of the Central State Administration.

174 Official website of the Government Council for Human Rights, National Minorities and Gender Equality, Ministry of Justice of the Slovak Republic, available at: <https://www.justice.gov.sk/ministerstvo/rada-vlady-sr-pre-ludske-prava-narodnostne-mensiny-a-rodovu-rovnost/>.

175 Ibid.

176 The Government Council for Human Rights, National Minorities and Gender Equality Statute, available at: <https://view.officeapps.live.com/view.aspx?src=https%3A%2F%2Fwww.justice.gov.sk%2Fdokumenty%2F2023%2F03%2FStatut-RVLP.docx&wdOrigin=BROWSELINK>.

Environment of the Slovak Republic;

- - State Secretary of the Ministry of Transport of the Slovak Republic;
- State Secretary of the Ministry of Agriculture and Rural Development of the Slovak Republic;
- State Secretary of the Ministry of Foreign and European Affairs of the Slovak Republic;
- State Secretary of the Ministry of Defence of the Slovak Republic;
- Head of the Office of the Government of the Slovak Republic;
- representative of the Association of Towns and Communities of Slovakia;
- representative of the Union of Towns and Cities of Slovakia;
- representative of the Association of Self-Governing Regions of the Slovak Republic SK8;
- nine distinguished experts in theory and practice in the field of human rights, nominated by organisations and institutions;
- Plenipotentiary of the Government of the Slovak Republic for National Minorities;
- Plenipotentiary of the Government of the Slovak Republic for Roma Communities;
- Plenipotentiary of the Government of the Slovak Republic for the Development of the Civil Society;
- The Public Defender of Rights
- Executive Director of the Centre;
- Vice-Chairpersons of the Committees referred to in Section 6 of the Statute;
- the second deputy chairman of the Council of the Government of the Slovak Republic on the Rights of Elderly and the Adaptation of Public Policies to Population Ageing Process;
- representative of the Council of the Government of the Slovak Republic for Non-Governmental Non-Profit Organisations;

- Vice-Chairman of the Government Council for Persons with Disabilities.

Membership constitutes an honorary position.¹⁷⁷

In its competence, the Government Council of the Human Rights of the Slovak Republic shall, in particular:

- take positions on the national implementation of the Slovak Republic's international obligations in the field of human rights protection, in particular obligations arising from international conventions, including their related Optional Protocols ratified by the Slovak Republic, and treaties on human rights and fundamental freedoms to which the Slovak Republic is a party (including the Charter of Fundamental Rights of the EU);
- take note of drafts of reports on the implementation of international conventions ratified by the Slovak Republic and human rights treaties to which the Slovak Republic is a contracting party;
- participate in the coordination of departmental policies and activities of central government bodies in the field of human rights;
- cooperate with ministries and other central state administration bodies, municipalities, higher territorial units, local state administration bodies, non-governmental non-profit organisations, scientific centres, and academic institutions in the field of human rights, and submit to them suggestions, proposals, and recommendations in the field of its competence;
- submit proposals to the Government of the Slovak Republic concerning strategies and policy concepts in the areas of human rights protection, proposals for individual measures, and suggestions for improving the

human rights situation, either on its own initiative or within the framework of the tasks assigned to it by the Government;

- adopt opinions and resolutions on draft laws and other generally binding legislation, as well as governmental, ministerial, and other non-legislative measures which may have an impact on the protection of or respect for human rights; the Council may decide on the manner in which the materials referred to in the first sentence are to be submitted in the form of a resolution;
- adopt and publish opinions on topical issues in the field of human rights; in this regard, it may, as a whole or through its members, as well as the chairpersons of the committees and heads of working groups of the Council, request information and opinions from central government bodies.¹⁷⁸

The GCHR has committees which serve as its permanent expert bodies. The Centre is represented on all committees.¹⁷⁹ The Government of the Slovak Republic establishes these committees by resolution:

- Committee on National Minorities and Ethnic Groups;
- Committee on Gender Equality;
- Committee on Children and Youth;
- Committee on Research, Education and Training in Human Rights and Development Education;
- Committee on the Prevention and Elimination of Racism, Xenophobia, Anti-Semitism and Other Forms of Intolerance
- Committee on the Rights of Lesbian, Gay, Bisexual, Transgender and Intersex Persons.

Committees shall, in particular:

- submit suggestions to the GCHR on increasing the level of promotion, protection and observance of human rights;
- cooperate with the relevant ministries in drafting report proposals for the review mechanisms of international human rights treaties,
- on the basis of a resolution of the GCHR or on their own initiative, prepare proposals for the Council for partial and systemic measures to improve the observance of human rights in the Slovak Republic,
- prepare draft opinions and resolutions on draft laws, generally binding and internal legislation, as well as governmental, departmental, and other non-legislative measures that may have implications for the protection of or respect for human rights or are related to the development of civil society, for the meetings of the Slovak Government Council for Human Rights;
- cooperate with ministries and other central state administration bodies, municipalities, higher territorial units, local state administration bodies, non-governmental non-profit organisations, scientific centres, and academic institutions in the field of human rights.¹⁸⁰

In the area of their respective competence, the Committees may adopt principled opinions in the form of resolutions, which are obligatory for the GCHR. Resolutions are adopted by a 3/5 majority of all members of the Committee. The adoption of principled opinions shall be regulated by the statute of the committee concerned. Committees' principled

178 Ibid.

179 With the exception of the Committee on National Minorities and Ethnic Groups, where he or she has the status of a permanent invitee without voting rights, he or she has voting membership on all committees.

180 Government Council for Human Rights, National Minorities and Gender Equality Statute, available at: https://www.radavladyp.gov.sk/data/files/6260_statut-rvlp_konsolidovane-znenie_od_1_9_2015.pdf?csrt=17262771371705881711.

opinions addressed to the Government of the Slovak Republic are submitted by the GCHR to the Government of the Slovak Republic for

debate through its chairperson or the relevant vice-chairperson, who is also a member of the Government of the Slovak Republic.¹⁸¹

7.2 Government Council for Persons with Disabilities¹⁸²

The Government Council for Persons with Disabilities is a permanent professional, advisory, coordinating, consultative, and initiating body of the Government of the Slovak Republic for the rights of persons with disabilities, in addressing the issues of living conditions, equal opportunities, and equal treatment of persons with disabilities and in ensuring the cooperation of stakeholders in overcoming the consequences of disability.¹⁸³

The Government Council for Persons with Disabilities was established by Government Resolution No. 425 of 28 June 2022,¹⁸⁴ which approved the Statute of the Government Council for Persons with Disabilities.¹⁸⁵ It acts on its own initiative, taking into account the work plan of the Government of the Slovak Republic and the plan of legislative tasks of the Government of the Slovak Republic while following the strategic objectives and recommendations of international institutions and organisations in the field of the rights of persons with disabilities.¹⁸⁶

The Government Council for Persons with Disabilities shall, in particular:

- submit to the Government of the Slovak Republic suggestions to increase the level of promotion, protection, and observance of the rights of persons with disabilities;
- develop proposals and initiate the development of partial and systemic measures to promote the interests of persons with disabilities in addressing issues of living conditions, equal opportunities, and equal treatment;
- participate in the development, monitoring, and evaluation of the implementation of the National Programme for the Development of the Living Conditions of Persons with Disabilities;¹⁸⁷
- adopt opinions on draft laws and other generally binding legislation, as well as governmental, ministerial, and other strategies and measures that may have an impact on the living conditions of persons with disabilities;
- submit proposals to ministries and other central government bodies for the de-

¹⁸¹ Ibid.

¹⁸² Government Council of the Slovak Republic for Persons with Disabilities, Ministry of Labour, Social Affairs and Family of the Slovak Republic, available at: <https://www.employment.gov.sk/sk/ministerstvo/rada-vlady-sr-osoby-so-zdravotnym-postihnutim/>.

¹⁸³ Government Council of the Slovak Republic for Persons with Disabilities Statute, available at: <https://www.employment.gov.sk/files/sk/ministerstvo/rada-vlady-slovenskej-republiky-osoby-so-zdravotnym-postihnutim/statut-rady-vlady-sr-osoby-so-zdravotnym-postihnutim.pdf>.

¹⁸⁴ Resolution of the Government of the Slovak Republic No. 425/2022 on the proposal to transform the Committee for Persons with Disabilities into the Government Council of the Slovak Republic for Persons with Disabilities and the draft of Amendment No. 6 to the Government Council of the Slovak Republic for Human Rights, National Minorities and Gender Equality Statute, available at: https://www.employment.gov.sk/files/sk/ministerstvo/rady-vlady-slovenskej-republiky-osoby-so-zdravotnym-postihnutim/uznesenie-vlady-c-425_2022.pdf.

¹⁸⁵ Official website of the Government Council of the Slovak Republic for Persons with Disabilities, available at: <https://www.employment.gov.sk/sk/ministerstvo/rada-vlady-sr-osoby-so-zdravotnym-postihnutim/>.

¹⁸⁶ Government Council of the Slovak Republic for Persons with Disabilities Statute, available at: <https://www.employment.gov.sk/files/sk/ministerstvo/rada-vlady-slovenskej-republiky-osoby-so-zdravotnym-postihnutim/statut-rady-vlady-sr-osoby-so-zdravotnym-postihnutim.pdf>.

¹⁸⁷ National Programme for the Development of Living Conditions of Persons with Disabilities for 2021 – 2030, Ministry of Labour, Social Affairs and Family of the Slovak Republic, available at: https://www.komisarprezdravotnepostihnutych.sk/getmedia/f6d309c8-6eaa-48f9-b590-ef7d-776ddfd7/Material_NPRZPOZP_2021-2030.aspx.

velopment and amendment of legislation regulating the rights, obligations, and support of persons with disabilities in all aspects of life;

- cooperate with ministries and other central state administration bodies, local and regional self-government bodies, non-governmental non-profit organisations, universities, public research institutions, and the Slovak Academy of Sciences in the development of living conditions of persons with disabilities;
- adopt an opinion on draft reports for

the review mechanisms of international human rights treaties, in particular the UN Convention on the Rights of Persons with Disabilities;

- provides a framework for the debate and solution of issues in the field of the rights and living conditions of persons with disabilities;
- perform other tasks assigned to it by the Government of the Slovak Republic.¹⁸⁸

7.3 Plenipotentiary of the Government of the Slovak Republic for the Development of the Civil Society¹⁸⁹

The aim of the Plenipotentiary of the Government of the Slovak Republic for the Development of Civil Society is 'to contribute to ensuring that stakeholders from the public sector, the business sector, the politics, and the media, as well as the general public, better understand the need for and importance of civil society, so that they feel part of it and communicate with it more intensively'.¹⁹⁰ At the same time, the objective is to encourage these actors, through partnerships, to enable the development of mechanisms for civic participation.

The Plenipotentiary of the Government of the Slovak Republic for the Development of Civil Society and the Office of the Plenipotentiary of the Government of the Slovak Republic for the Development of Civil Society, which is subordinate to the Plenipotentiary of the Government of the Slovak Republic for the Development of Civil Society, is intended to serve in

particular as:

- an intermediary that actively links and instigates communication between the Government of the Slovak Republic and the public administration with non-governmental and non-profit organisations and other entities;
- a quality and comprehensive source of information on issues of civil society development and the need for public participation;
- a focal point for communication and/or coordination of non-governmental and non-profit organizations with contact persons in relevant ministries or relevant bodies and organizations of the Government of the Slovak Republic;
- an initiator of public policy development and changes in relation to civil society;
- a source of feedback, especially towards the Government of the Slovak Republic - on the basis of this feedback, he or she takes the initiative to propose the necessary solutions.¹⁹¹

188 Government Council of the Slovak Republic for Persons with Disabilities Statute, available at: <https://www.employment.gov.sk/files/sk/ministerstvo/rada-vlady-slovenskej-republiky-osoby-so-zdravotnym-postihnutim/statut-rady-vlady-sr-osoby-so-zdravotnym-postihnutim.pdf>.

189 Official website of the Plenipotentiary of the Government of the Slovak Republic for the Development of Civil Society, Ministry of the Interior of the Slovak Republic, available at: https://www.minv.sk/?ros_my.

190 Ibid.

191 Ibid.

7.4 Plenipotentiary of the Government of the Slovak Republic for Roma Communities¹⁹²

The Plenipotentiary of the Government of the Slovak Republic for Roma Communities is an advisory body to the Government of the Slovak Republic on the issue of Roma communities in the Slovak Republic and carries out tasks aiming at solving the issues of Roma communities. He or she also implements systemic measures to improve their status and their integration into society, specifically in the area of the development, implementation, and coordination of more effective policies and the implementation of systemic measures aimed at preventing the social exclusion of Roma communities and promoting their inclusion into society.¹⁹³

The main duties of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities include in particular:

- performing the task of the central state administration body for the coordination of the implementation of the inclusion of marginalised Roma communities;
- performing the role of the intermediary body in the field of promoting the inclusion of marginalised Roma communities;¹⁹⁴
- performing the role of a mediator of selected components of the Recovery and Resilience Plan of the Slovak Republic (6 Availability, development and quality of inclusive education at all levels, 7 Education for the 21st century);¹⁹⁵
- provision of activities of the national focal point for the implementation of the strategic framework for Roma inclusion in the framework of the EU Recommendations on equality, inclusion, and participation of Roma.¹⁹⁶

192 Official website of the Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities, available at: <https://www.romovia.vlada.gov.sk/>.

193 The main tasks of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities, available at: <https://www.romovia.vlada.gov.sk/urad/?csrt=18113528729867218312>.

194 Ministry of Investments, Regional Development and Informatization of the Slovak Republic: Creating a Better Slovakia, available at: https://drive.google.com/file/d/1p8lQdjw_jEV-cjIb_C97P6-gXMz1IK1L/view.

195 Recovery and Resilience Plan of the Slovak Republic, available at: <https://www.planobnovy.sk/site/assets/files/1019/kompletny-plan-obnovy.pdf>.

196 The main tasks of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities, available at: <https://www.romovia.vlada.gov.sk/urad/?csrt=18113528729867218312>.

7.5 Plenipotentiary of the Government of the Slovak Republic for National Minorities¹⁹⁷

The Plenipotentiary of the Government of the Slovak Republic for National Minorities has the status of an advisory body to the Government of the Slovak Republic in the field of preservation, development, and promotion of the rights of members of national minorities and implements systemic measures for the improvement of the status of national minorities.¹⁹⁸ In his or her activities, the Plenipotentiary of the Government of the Slovak Republic for National Minorities shall, in particular:

- ensure the enforcement and observance of the national and international obligations of the Slovak Republic in the field of the status and rights of members of national minorities;
- prepare, propose, and implement, in

cooperation with the Office of the Government of the Slovak Republic, ministries, and other central state administration bodies, medium-term and long-term measures in the field of preservation, development, and promotion of the rights of members of national minorities;

- promote the preservation, expression, protection, and development of the identity and cultural values of national minorities,
- encourage the participation of members of national minorities in addressing public affairs,
- ensures the improvement of education and training of members of national minorities.¹⁹⁹

¹⁹⁷ Official website of the Office of the Plenipotentiary of the Government of the Slovak Republic for National Minorities, available at: <https://www.narodnostnemensiny.vlada.gov.sk/>.

¹⁹⁸ Plenipotentiary of the Government of the Slovak Republic for National Minorities Statute, available at: <https://www.narodnostnemensiny.vlada.gov.sk/splnomocnec/statut-splnomocnenca-vlady-sr-pre-narodnostne-mensiny/?csrt=11391543150096349575>.

¹⁹⁹ *Ibid.*



8. National Strategy for Human Rights Protection and Promotion

The national system for the protection of fundamental rights undoubtedly includes the basic strategic human rights framework documents. The National Strategy for Human Rights Protection and Promotion ('National Strategy') can be considered the key strategic document for the protection of fundamental rights in the conditions of the Slovak Republic. The strategic objective of society to be achieved by the adoption of the National Strategy and the implementation of the measures resulting from it was to increase the effectiveness of the implementation of human rights commitments of the Slovak Republic, their exercise and enforceability, which will increase the quality of democracy, the rule of law and the social cohesion of the society.²⁰⁰ By outlining the content of this document, the basic value objectives towards which institutions with a human rights mandate should work are also brought into focus.

Legislative work on the National Strategy began in 2011 when the GCHR adopted the intention to develop a comprehensive strategic document for the protection and promotion of human rights. The participatory process of adopting this strategy lasted three years and

the first strategic document for the protection of human rights and freedoms was approved by the Government Resolution No. 71/2015 of 18 February 2015.²⁰¹

The adoption of the strategy was intended to strengthen the position of the agenda for the protection and promotion of human rights so that the values and principles of the protection of fundamental rights would become embedded in the public consciousness and become a principle of public policy-making. The national strategy outlines:

- basic human rights framework in the Slovak Republic;
- international legal obligations of the Slovak Republic and their implementation;
- institutional arrangements, implementation, and monitoring mechanisms, including independent and non-governmental organisations in the Slovak Republic;
- frameworks of priorities and tasks in the field of promotion and protection of human rights in the Slovak Republic.²⁰²

It is important to note, however, that the National Strategy does not refer to the Charter of Fundamental Rights of the European Union.

200 Baseline document for the strategy workshop discussions drafted by the Strategy Drafting Team, Government Human for Rights Council, available at: https://www.radavladyp.gov.sk/data/files/3818_strategia_odborne-podklady_vlastny-material_2406_pk_dh_fin.pdf?csrt=4494555867804827006?csrt=4494555867804827006.

201 Resolution of the Government of the Slovak Republic No. 71/2015 of 18 February 2015 on the draft National Strategy for the Protection and Promotion of Human Rights in the Slovak Republic, available at: <https://rokovania.gov.sk/RVL/Resolution/8280/1>.

202 Nationwide strategy, p. 1, available at: <https://www.minedu.sk/data/att/14484.pdf>.

8.1 Institutional arrangements, implementation, and monitoring mechanisms, including independent and non-governmental organisations

In terms of human rights structures, the key area of the National Strategy is 'Institutional arrangements, implementation and monitoring mechanisms, including independent and non-governmental organisations in the Slovak Republic'. According to the National Strategy, the key human rights guarantor should be the State itself, through the enactment of laws for the promotion and protection of human rights. It also creates state administration bodies, local governments, and public institutions that raise awareness, promote and protect human rights. At the same time, it should recognise and support the equal role of civil society organisations in this area. According to the National Strategy, the Slovak Republic, through its membership in the UN, the Council of Europe, the EU and the Organisation for Security and Co-operation in Europe, recognises the human rights expert mechanisms established by these institutions and considers them to constitute a unique frame of reference and criterion against which 'we judge the creation, evolution, and current condition of our own democratic mechanisms'. The State's responsibility in the field of human rights is twofold. First, the State is responsible for the proper functioning of public authorities and other mechanisms for the exercise of human rights. In addition, the State, as an entity with unique competencies and resources, should constitute the preconditions for individual responsibility for human rights, which is to be manifested in personal life, families, schools, work, civic, social, and political activities. In particular, education, training, and public awareness-raising can be regarded as pre-

requisites for this responsibility. Recognising the shortcomings in the training of all state-institutional and civil-societal actors for the actual exercise of human rights, by which we mean their application, use, respect, and defence, the National Strategy calls for systematic, lifelong and society-wide education and training in the field of democratic citizenship and human rights.²⁰³

According to the National Strategy, the legal basis for the status of human rights is the Constitution of the Slovak Republic, which, inter alia, establishes certain bodies and institutions that have a special status in the promotion and protection of human rights. According to the National Strategy, the following constitute the key institutions:

- courts – authorities for the protection of the legality and enforceability of the law, with particular regard to the Constitutional Court of the Slovak Republic as the ultimate national institution for assessing violations of rights;
- Slovak Bar Association – provides expert assistance to citizens addressing their complaints to the ECHR or to one of the UN human rights treaty bodies;
- National Council of the Slovak Republic – a legislative body that adopts laws regulating the exercise of fundamental rights and freedoms established in the Constitution of the Slovak Republic;
- President of the Slovak Republic – ratifies the laws adopted by the National Council of the Slovak Republic and if he or she believes that a certain law is not in compliance

with the Constitution of the Slovak Republic, he or she may appeal to the Constitutional Court of the Slovak Republic;

- Centre for Legal Aid – provides legal assistance to persons who, due to lack of means, cannot afford to exercise and secure their rights properly;
- Ministries and other Central Government bodies – draft laws, including those concerning fundamental human rights. The legal departments of the ministries have the obligation to assess the compliance of the draft legislation with the Constitution of the Slovak Republic, national standards, and international human rights obligations;
- the positions of Plenipotentiaries of the Government of the Slovak Republic for selected areas of human rights – for national minorities, for Roma communities, and for the development of civil society;
- GCHR – a permanent professional, advisory, coordinating, and consultative body

of the Government of the Slovak Republic in the field of protection of fundamental human rights and freedoms;

- The Centre – an independent institution with statutory competence in the field of human rights and fundamental freedoms and the observance of the principle of equal treatment;
- PDR – an independent body established by the Constitution of the Slovak Republic, which, to the extent and in the manner set out by law, protects the fundamental rights and freedoms of natural persons and legal entities in proceedings before public authorities and other public bodies when their actions, decision-making or inaction are contrary to the law;
- non-governmental non-profit organisations – civil society organisations, which should represent a relevant partner of the public administration in policy setting and implementation.²⁰⁴

8.2 Frameworks of priorities and tasks in the field of promotion and protection of human rights

The national strategy in the field 'Framework of priorities and tasks in the field of promotion and protection of human rights in the Slovak Republic' formulates the frameworks and priorities as interrelated, holistically, and synergistically interconnected and conditional. The aim of the document in this field is to indicate what measures need to be taken and implemented in order to substantially improve the enforceability of law in favour of specific civil, social, cultural, or economic rights. At the same time, it should facilitate the active involvement of all actors in this process – state and public authorities, civil society, and educational, scientific, and cultural institutions.

The national strategy formulates the following priorities and subordinate tasks:

- Priority I – Human Rights Agenda as one of the key reform programmes of the Government of the Slovak Republic. Analysis of the human rights status in the Slovak Republic
 - o Task I.1: Comprehensive analysis of the status of implementation and protection of human rights in the Slovak Republic, including institutional mechanisms
- Priority II – Strengthening the system of institutions for the promotion and protection of human rights in the Slovak Republic

²⁰⁴ Ibid, pp. 12-20.

- o Task II.1: To strengthen independent and other mechanisms for the protection of human rights in the Slovak Republic, non-governmental organisations and participation
- o Task II.2: Legislative and financial reinforcement of the agenda, public policies, institutions, and processes for the promotion and protection of human rights
 - Priority III – Education, training and research in the field of human rights in the Slovak Republic
- o Task III.1: Establishing a National Commission for Education and Training on Human Rights and Democratic Citizenship and the preparation of a relevant national plan for the period 2015-2020 under the mandate of the Ministry of Education, Science, Research and Sport of the Slovak Republic
 - Priority IV – Selected systemic measures for the area of judicial and other legal protection
- o Task IV.1: Continuous adoption of systemic measures in the field of judicial and other legal protection
- Priority V – Systemic measures to prevent and remove impediments to achieving real equality and a life of dignity for all population groups
- o Task V.1: Strengthening of the implementation of existing programme documents for vulnerable and marginalised groups and individuals and development of new programme documents
- o Task V.2: Strengthening the effective prevention and elimination of all forms of violence, in particular violence against women and children
 - Priority VI – Adoption of systematic and comprehensive measures against all forms of intolerance
- o Task VI.1: Adoption of systematic and comprehensive measures aimed at the prevention and elimination of all forms of intolerance
 - Priority VII – Full and systematic utilization of the Slovak Republic's membership in international human rights organizations for the purpose of achieving improved promotion and protection of human rights in the Slovak Republic
- o Task VII.1: To make use of communication with contractual and monitoring bodies for a more flexible implementation of international human rights law obligations into national legislation ²⁰⁵

8.3 Report on the Implementation of the National Strategy

On 10 January 2023, the Fourth Report on the Implementation of the National Strategy was published. The report was submitted by the Ministry of Justice of the Slovak Republic to the Government of the Slovak Republic.²⁰⁶ The Report on the Implementation of the National Strategy was prepared by the Ministry of Justice of the Slovak Republic and based

on the materials submitted by the Ministry of Labour, Social Affairs and Family of the Slovak Republic, the Ministry of Education, Science, Research and Sport of the Slovak Republic, the Ministry of the Interior of the Slovak Republic, the Ministry of Culture of the Slovak Republic, the Ministry of Foreign and European Affairs of the Slovak Republic, the Govern-

²⁰⁵ Ibid, pp. 21-24.

²⁰⁶ IV. Report on the implementation of the National Strategy for Human Rights Protection and Promotion in the Slovak Republic, The Government Office of the Slovak Republic, available at: <https://rokovania.gov.sk/RVL/Material/27952/1>.

ment Office of the Slovak Republic and the information provided by the Ministry of Justice of the Slovak Republic.²⁰⁷

It is important to emphasise that the Charter of Fundamental Rights of the European Union is only referred to once in this report, namely in the context of the new media law and the law on publications under the responsibility of the Ministry of Culture of the Slovak Republic. The approved reform is expected to bring about important and long-absent changes in the field of media law in the Slovak Republic and is mentioned in the context of Task II.2: Legislative and financial reinforcement of the agenda, public policies, institutions, and processes for the promotion and protection of human rights. The new Act on Media Services regulates the protection of human dignity and humanity and the protection of minors. Among other things, the law requires audiovisual media service providers to take appropriate measures to protect the general public

from content that involves incitement to violence or hatred against a group of persons or a member of a group, based on any of the discriminatory grounds listed in Article 21 of the Charter of Fundamental Rights of the European Union, or the distribution of which constitutes a criminal offence under EU law.²⁰⁸

The report addresses the need to update the National Strategy as it has been 7 years since it was adopted and therefore the Ministry of Justice of the Slovak Republic has expressed the necessity to update it. The report further expresses the demand for greater interaction and cooperation with the Centre (alongside other independent institutions for the promotion and protection of fundamental human rights), which results from the recommendations of international human rights monitoring bodies, with an emphasis on a participatory process in the implementation of the Strategy.²⁰⁹

207 Ibid.

208 Ibid, p. 10.

209 Ibid, pp. 2-3.



9. Analysis of the Nature of National Institutions' Mandate within the Structure of Human Rights Protection in Slovakia and Concluding Recommendations

With regard to the nature of the status of the analysed national institutions, they can be divided into the following categories:

- institutions for the protection of human rights and special bodies with competence in the field of human rights protection;

- state administration bodies with competence in the field of human rights;
- advisory bodies to the Government of the Slovak Republic with competence in the field of human rights.

9.1 Independent institutions for the protection of human rights and special bodies with competence in the field of human rights protection

Based on the nature of their mandate, institutions for the protection of human rights can be divided into two groups, namely those with a general human rights mandate (the Centre, the PDR) and those institutions whose human rights mandate is confined to a specific group of rights (the Commissioner for Children and the Commissioner for Persons with Disabilities).

The Centre has two mandates, that of a national institution for human rights and that of a national anti-discrimination body. The role of the PDR is to draw attention to violations of rights and to seek redress, as the PDR has no power to overrule the decisions of the authorities concerned.

The foundation of the Office of the Commissioner for Children and the Office of the Commissioner for Persons with Disabilities is a consequence of the Slovak Republic's membership in the United Nations and the ratification of the relevant UN Conventions, which place an obligation to have an independent monitoring mechanism to monitor the fundamental rights of children or the fundamental rights of persons with disabilities. Their activity consists mainly in assessing, monitoring

and enforcing a certain category of fundamental rights. In order to carry out their mandate, the law grants them a number of powers in relation to the various state authorities.

The independence of the Commissioners is based on the fact that the public authorities cannot interfere with the performance of their duties or actions. It is entirely up to the Commissioners when and how to exercise their delegated powers, which means that no public authority is entitled to issue instructions, suggestions, or proposals as to how he or she should deal with the matters entrusted to him or her. The manner in which matters are to be dealt with is determined by the relevant law or convention. Independence is also guaranteed by institutional safeguards in the form of the incompatibility of the exercise of the Commissioners' functions with other constitutional positions.^{210 211}

Particular reference can be made to the Service Complaints Ombudsman who defends the fundamental rights and freedoms of professional soldiers, and who is accountable to the Minister of Defence for the exercise of his or her duties and the fulfillment of his or her statutory tasks; to the Prosecution Service of

210 Commissioner for Children: Report on the activities of the Commissioner for Children for 2022, available at: <https://komisarpredeti.sk/wp-content/uploads/2023/04/sprava-o-cinnosti-komisara-pre-deti-za-rok-2022.pdf>.

211 Commissioner for Persons with Disabilities: Report of the Commissioner for Persons with Disabilities for 2022, available at: https://www.komisarprezdravotnepostihnutych.sk/getmedia/3c1c561b-e3a5-4a97-b674-2075c2aea733/SPRAVA_2022_vr_public_view.aspx?disposition=preview&ReturnUrl=%2fZverejnovanie%3filbrary%3dSpravy-o-cinnosti.

the Slovak Republic as a special constitutional legal protection body acting in the public interest; and to the Constitutional Court of the Slovak Republic, which also plays a key role in the protection of human rights, as an independent judicial authority for the protection

of constitutionality. These institutions by their nature cannot be classified as independent human rights institutions, but they occupy an irreplaceable position in the national human rights structure.

9.2 State Administration Bodies with Competence in the Field of Human Rights

State administration bodies with competence in the field of human rights include a number of state bodies of different nature. All state bodies, including those with authority in the field of human rights, act only in accordance with the Constitution of the Slovak Republic, within its limits and to the extent and in the manner provided for by law. The Ministry of Justice of the Slovak Republic serves as the central authority coordinating state policy in the field of human rights. The Ministry of Justice also provides subsidies in the area of promotion of fundamental human rights. Under the direct responsibility of the Ministry of Justice of the Slovak Republic, the Government Agent of the Slovak Republic before The Court of Justice of the European Union, the Government Agent representing the Slovak Republic before the European Court of Human Rights and the Centre for Legal Aid carry out their activities.

Furthermore, in the field of human rights, the Centre for International Legal Protection of Children and Youth, as a state body established by the Ministry of Labour, Social Affairs and Family of the Slovak Republic, and the Migration Office, which operates as an organisational unit of the Ministry of the Interior of the Slovak Republic, play an important role.

Regulatory and supervisory state administration bodies also have a place in the structure of human rights, as state administration bodies established by law with special com-

petence in a particular area throughout the territory of the Slovak Republic, which have no directly superior central state administration body. These include the Whistleblower Protection Office, the Office for Personal Data Protection and the Health Care Supervisory Authority.

The importance cannot be denied to the selected inspection bodies of the state administration as statutory bodies of the state administration subordinate to the central bodies of the state administration. Their activities relate to administrative supervision, control and inspection. The National Labour Inspectorate, the Slovak Trade Inspection, and the State School Inspection can be included in this category.

The competence of the analysed state bodies in the field of human rights is always defined within the framework of the law and a certain legal area in which they have been given a mandate by law, namely:

- Centre for Legal Aid – provides comprehensive legal aid to persons who, due to lack of means, are unable to use paid legal services to exercise their rights properly;
- Centre for International Legal Protection of Children and Youth – provides legal protection for children and youth in relation to foreign countries;
- Migration Office - decides on granting asylum and providing subsidiary protection to foreign nationals;

- Whistleblower Protection Office – protects the rights and legitimate interests of whistleblowers of anti-social activities;
- Office for Personal Data Protection – participates in the protection of the fundamental rights of natural persons in the processing of personal data and also supervises the protection of personal data;
- Health Care Supervisory Authority – provides protection to persons whose rights and legitimate interests have been violated in the provision of health care or the provision of public health care;
- National Labour Inspectorate – ensures supervision of compliance with legisla-

tion related to the exercise of the right to work;

- STI – ensures legal protection of consumers and consumer rights;
- SSI – performs the function of state oversight over the quality of pedagogical management, the quality of education, and the material and technical conditions associated with it.

These institutions do not explicitly hold a mandate in the field of human rights, but the promotion of human rights within their scope of competence constitutes an essential part of their mission.

9.3 Advisory Bodies to the Government of the Slovak Republic with Competence in the Field of Human Rights

62

A common feature of these institutions is that they are advisory bodies established by the Government of the Slovak Republic for the purpose of carrying out specific tasks assigned to them by the Government of the Slovak Republic. The option of establishing such advisory bodies is regulated in Act No. 575/2001 Coll. on the Organization of the Activity of the Government and on the Organization of the Central State Administration. Thus, pursuant to the Act, the Government of the Slovak Republic may appoint and dismiss its plenipotentiaries, the scope of whose powers it determines upon appointment. It may also establish its advisory bodies (councils). Advisory bodies of the Government of the Slovak Republic carry out coordinating, consultative

or expert tasks. The tasks, the composition of the advisory bodies of the Government of the Slovak Republic, and the principles of their proceedings shall be determined by statutes approved by the Government of the Slovak Republic.²¹²

These bodies are therefore bound by the statutes defining the range of their competences in their activities. Generalizing their competencies, it can be stated that their role is to promote various policies related to human rights-related policies in State policy, entrusted to them by the Government of the Slovak Republic within the scope of the mandate given to them.

²¹² Section 2 of the Act No. 575/2001 Coll. on the Organization of the Activity of the Government and on the Organization of the Central State Administration.

9.4 Final Recommendations

Based on an analysis of the broader institutional architecture for the protection and promotion of human rights, the Centre recommends the following in order to raise aware-

ness of the Charter of Fundamental Rights of the European Union and to increase its potential for the protection and promotion of human rights in the Slovak Republic:

- **Strengthening the legal framework in the field of human rights**

The constitutional legal system of the Slovak Republic implies that all state authorities may act only under the Constitution of the Slovak Republic, within its limits and to the extent and in the manner laid down by law. It follows that the law (or the Constitution of the Slovak Republic itself) directly determines the competence of state bodies. The inclusion of an

explicit obligation for State bodies entrusted with a mandate in the field of fundamental rights and freedoms to take into account relevant human rights documents, including the Charter of Fundamental Rights of the European Union, in the exercise of their activities could greatly contribute to the strengthening of a human rights culture.

- **Education focused on legal practice**

Based on the experience of the Focal Point for the Charter of Fundamental Rights of the European Union, it can be concluded that the Charter of Fundamental Rights of the European Union is not frequently applied in the conditions of the Slovak Republic, as it is more efficient and easier to refer to the European Convention on Human Rights. The ECHR has universal validity, whereas the Charter of Fundamental Rights of the European Union is applicable only when the matter in question concerns EU law. Thus, when invoking the Charter of Fundamental Rights of the European Union, the necessary procedure is to demonstrate a connection to EU law. More often, legal practice refers to the ECHR, which consequently results in a lack of experience with the application of the Charter of Fundamental Rights of the European Union. A key factor that would

lead to a revival of the Charter of Fundamental Rights of the European Union as a source of law in practice is education, particularly with an emphasis on the innovative and unique aspects that the Charter of Fundamental Rights of the European Union provides in comparison to the ECHR. It is in this area that the scope for its application as a source of law can be seen. An important prerequisite for the application of the Charter of Fundamental Rights of the European Union is, in any case, education on the application of the Charter of Fundamental Rights of the European Union, targeted at legal practitioners (in particular judges, prosecutors, or lawyers). Educational activities should also be directed at persons in training for the exercise of those professions, i.e. senior judicial officers, public prosecutors, paralegals, or law students.

- **Updating the National Strategy**

Almost 10 years have passed since the adoption of the present strategy for the protection of fundamental rights. Work on this strategy began in 2011, so it does not take into account current human rights and societal needs. The new strategy should reflect the recommendations addressed to the Slovak Republic by international monitoring mechanisms and judicial authorities in the area of implementation of human rights obligations. Most of these

recommendations have not been implemented even partially.²¹³ The new strategy should constitute a comprehensive and flexible document, the implementation of which could be monitored on the basis of clear measurable indicators and deadlines for the fulfilment of individual objectives. Its elaboration should be ensured through an effective participatory process.

- **A national human rights institution in complete compliance with the Paris Principles**

The most recent re-accreditation of the Centre took place in 2014 when the Centre was awarded accreditation status 'B'. At that time, the GNAHRI Sub-Committee on Accreditation recognized that the Centre interprets its human rights mandate broadly, but that the law places a strong emphasis on equality and non-discrimination. It was therefore recommended that the Centre pursue legislative changes that would further the statutory mandate to promote and protect all human rights. The GANHRI Sub-Committee on Accreditation also recommended that the mechanism for securing the tenure of the decision-making body be strengthened and stressed the need to ensure that the Centre operates with a sufficient budget.²¹⁴

The Amendment to the PDR Act effective from May 2023 also amended the Act on establishing the Centre, stipulating that the reports produced and published by the Centre are independent reports in line with the recommendations made by the European Com-

mission to the Slovak Republic under the EU Pilot 4446/13/JUST procedure. However, this change does not have a significant impact on the implementation of the Paris Principles.

The Centre therefore consistently appeals for legislative changes to strengthen the mandate and achieve 'A' accreditation status. In 2019, a legislative proposal was submitted that would substantially amend the Act on establishing the Centre. Following a request to the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE-ODIHR), ODIHR assessed the proposed amendment, highlighted problematic aspects, and made recommendations to ensure compliance with international standards. While the proposed amendment failed to be adopted, the recommendations can serve as a guideline for new potential legislative changes.²¹⁵

The recommendations primarily concerned the mandate. The Centre's mandate from a human rights perspective should be worded

213 ENNHRI 2023 Report on the State of the Rule of Law in the European Union, p. 521-522, available in English at: <https://ennhri.org/wp-content/uploads/2023/05/ENNHRI-2023-Report-on-the-State-of-the-Rule-of-Law-in-the-European-Union.pdf>.

214 Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA), GANHRI, p. 8-11, available in English at: https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/GANHRI/SCA_MARCH_2014_FINAL_REPORT_-_ENGLISH.pdf.

215 Observations of the Slovak National Centre for Human Rights in relation to the thirteenth periodic report of Slovakia to the Committee on the Elimination of Racial Discrimination, available in English at: https://www.snslp.sk/wp-content/uploads/CERD_submission_SNCHR_final.pdf.

as broadly as possible. It would be appropriate for the Centre to have some mechanism for dealing with human rights complaints in general, similar to discrimination, but this mandate should not overlap with the functions of the PDR. It is also requested that the relationship between the Centre and other institutions, in particular the PDR, be clearly defined. It is further recommended that the Centre's position with regard to commenting on draft laws be strengthened. The annual human rights report should be submitted directly to the National Council of the Slovak Republic, which should be required to address it.²¹⁶

Further recommendations were made on the funding of the Centre. The law should provide for an obligation to ensure that the Centre operates with an adequate budget and is financially autonomous. The Centre should have its own budget chapter within the government budget. Any reduction in the budget compared to the previous year should be duly justified. Legislation should also explicitly allow the Centre to receive subsidies from third parties.

Recommendations were also made concerning the management of the institution. The

principle of pluralistic representation should be directly included in the criteria for the election of members to the Board of Directors. The dismissal of members of the Board of Directors should be clearly defined by law, with the possibility to appeal against such a decision. At the same time, adequate remuneration should be introduced for the performance of the duties of a member of the Board of Directors. The principle of pluralism should also be preserved in the election of the Executive Director.²¹⁷

In particular, the recommendations also focused on the legislative process of amending the law which relates to the Centre. It is recommended that consultations on the legislative process should take place between the Centre, the relevant government department responsible for drafting the amendments, civil society, the Office of the High Commissioner for Human Rights, and ENNHRI. The last set of recommendations focused on staff members who should enjoy criminal and civil immunity during and for the performance of their duties. This would guarantee independence and the ability to critically analyse and comment on human rights issues.²¹⁸

216 OSCE/ODIHR: Opinion on the Draft Amendments to the Act on Establishment of the Slovak National Centre for Human Rights, 2019, available in English at: <https://www.osce.org/files/f/documents/5/0/434804.pdf>.

217 Ibid.

218 Ibid.

