

Slovakia

Slovak National Centre for Human Rights

Independence and effectiveness of the NHRI

International accreditation status and SCA recommendations

In March 2014, the Slovak NHRI was re-accredited with B-status. While recognising that the NHRI interprets its mandate broadly, the SCA found that the mandate has a strong emphasis on equality and non-discrimination, thus it encouraged the NHRI to advocate for legislative amendments that would clarify its mandate to promote and protect all human rights. The SCA also recommended further security of tenure of the decision-making body of the NHRI and the need to ensure it can operate with sufficient budget.

Developments relevant for the independent and effective fulfilment of the NHRI's mandate

There have not been any significant changes in the environment in which the Slovak NHRI operates that would be relevant for its independent and effective fulfilment of its mandate. Taking into consideration all shortcomings of the establishing law and financing of the Slovak NHRI, it operates independently and effectively to fulfil all its mandates to the fullest.

Changes in the national regulatory framework applicable to the NHRI change since the last review by the SCA

The national regulatory framework applicable to the NHRI has not been changed since the last review by the SCA. The Government of the Slovak Republic adopted a resolution by which, it has undertaken the obligation to draft and submit the laws to the National Council of the Slovak Republic that would bring the Slovak NHRI in compliance with the Paris Principles. The Government of the Slovak Republic has reinforced its intention to do so by accepting all recommendations of the relevant UN committees as well as recommendations received during the Universal Periodic Review in 2019 concerning strengthening the Slovak NHRI, and bringing it in compliance with the Paris Principles.

In 2018, the Ministry of Justice of the Slovak Republic as a ministry responsible for preparation of the law have issued two scenarios. In first, the Ministry of Justice of the Slovak Republic planned to transfer the NHRI mandate to the Public Defender of Rights. In the second scenario, it planned to strengthen the existing establishing laws of the Slovak National Centre for Human Rights so it can apply for the re-accreditation with status A.

In the end, the Ministry of Justice of the Slovak Republic decided to develop and submit to the national parliament laws extending the existing NHRI mandate of the Slovak National Centre for Human Rights. To ensure that the laws are sufficient to bring the Slovak NHRI in compliance with the Paris Principles, the Slovak National Centre submitted the law proposals to the Office of the Democratic Institutions and Human Rights for review. The Office of the Democratic Institutions and Human Rights evaluated the law proposal and, in its statement, stressed that the law proposal is not sufficient to bring the Slovak NHRI in compliance with the Paris Principles and was concerned by several of its legal provisions. However, the legal proposals submitted to the National Council of the Slovak Republic have not been approved and the law failed to pass in June 2019.

Moreover, these proposals were highly criticised by non-governmental organisations and other stakeholders taking a part in the respective participatory process (inter-ministerial commenting procedure).

As of now, status quo is maintained. The Ministry of Justice has communicated the Centre its intention to re-open the process under the new government but any particular steps have been undertaken yet considering the new government has been formed in March 2020 and is now busy to address the current situation regarding COVID-19.

References

2018 Legislation Procedures (including the comments of non-governmental organisations and other stakeholders):

- <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2018/234>
- <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2018/656>
- <https://rokovania.gov.sk/RVL/Resolution/17482/1>

Human rights defenders and civil society space

The Slovak National Centre for Human Rights has found evidence of practice that restrict the governmental funding to certain civil society organisations based on protected discriminatory grounds, nepotism, and corruption.

In 2018 – 2019, there were multiple cases reported concerning **violation of principle of equal treatment and non-discrimination** regarding various sources of governmental funding under the Office of the Government of the Slovak Republic, Plenipotentiary of the Government of the Slovak Republic for National and Ethnic Minorities, Ministry of Culture of the Slovak Republic or Ministry of Education, Science, Research and Sport of the Slovak Republic. Majority of these funds were established to support civil society organisations, academia and other institutions or have been regularly to support such stakeholders (despite not being predominantly established for such purpose).

According to leading civil society organisations and media outlets, the Office of the Government of the Slovak Republic awarded the funding to media outlets and civil society organisations based on the political affiliation and in exchange for providing support during the parliamentary elections held on 29 February 2020. The Minority Culture Fund established by the Plenipotentiary of the Government of the Slovak Republic for National and Ethnic Minorities distributed funding among civil society organisations based on the nepotism. Even though projects submitted by the respective civil society organisations did not meet requirements of the call, the organisations were awarded funding. It was reported that this was due to being close to the established member of the selection committee.

At the Ministry of Culture of the Slovak Republic, the funds were distributed contrary to the principle of equal treatment. The minister of culture excluded civil society organisations representing LGBTI communities from providing funding, despite the recommendation of the selection committee to fund the proposed project.

Moreover, similar discrepancies were reported by civil society organisations and media regarding the Ministry of Education, Science, Research and Sport of the Slovak Republic that funding for promotion of science and research was distributed by the ministry contrary to the applicable laws. Approximately, seven applicants that received funding did not meet the legal requirements for being awarded the financial funds. According to the reports, these applicants have not been active in the field of science nor research. Plus, it was found out that these applicants are remarkably close to the political party, which nominated the Minister of Education.

The non-transparent and exclusive distribution of funds aiming at supporting civil society organisations has been persisting for many years now. In recent years, the situation has considerably worsened. This practice is caused mostly due to corruption, nepotism and the lack of laws regulating the transparency of operating these funds and programmes. In this regard, the Slovak National Centre for Human Rights have been closely monitoring the situation and provided legal aid to the civil society organisation representing LGBTI community that has been excluded from funding by the Ministry of Culture of the Slovak Republic.

Last but not least, a new amendments of Forest Act were passed in the parliament that are restricting **right of public and civil society organisation to access information** and take a part in a participative processes related to protection of environment as established in Aarhus Convention. As an example, the public cannot fully contribute and express an opinion on logging in forests or cannot participate when any measures concerning extraordinary situations in forests are adopted. The Slovak National Centre for Human Rights have been closely monitored this situation and reported on the matter in its annual report.

References

Office of the Government of the Slovak Republic:

- <https://www.aktuality.sk/clanok/731692/valovej-dal-pellegrini-30-000-eur-vasaryova-ktorej-zivena-oslavuje-150-rokov-nedostala-ani-cent/>
- <https://volby.transparency.sk/parlament2020/2020/02/12/slovenka-propaguje-pellegriniho-on-ju-predtym-stedro-obdaroval/>

Minority Culture Fund:

- <https://domov.sme.sk/c/20820857/mimovladky-kritizuju-pochybne-dotacie-pre-narodnostne-mensiny.html>
- <https://www.aktuality.sk/clanok/588928/statny-fond-sa-nevie-zbavit-richtera-necha-ho-dalej-rozdavat-dotacie/>
- <https://www.aktuality.sk/clanok/585234/velka-hostina-dotacie-rozdavali-brat-a-sestra-ziskal-aj-syn/>

Ministry of Culture of the Slovak Republic:

- <https://dennikn.sk/1469435/ministerka-kultury-zastavila-vsetky-granty-pre-lgbti-organizacie-napriek-odporucaniam-komisie/>
- <http://inakost.sk/vyhlasenie-k-ministerstvu-kultury/>

Ministry of Education, Science, Research and Sport of the Slovak Republic:

- <https://domov.sme.sk/c/22020746/ministerstvo-skolstva-rozdelovalo-dotacie-v-rozpore-so-zakonom.html>

Forest Act:

- <https://www.prezident.sk/article/prezidentka-vratila-zakon-o-lesoch-zakon-o-ochrane-prirody-podpisala/>

Media pluralism

Since the death of the journalist Jan Kuciak and his fiancée, there has been a vivid public debate on the **projection of journalists**. Unfortunately, the state failed to adopt any relevant laws or measures to protect journalist against attacks. The investigation of the death of Jan Kuciak has been closely monitored by multiple watchdogs and media. So far, given the process of investigation has been completed and the indictment was submitted to the court. There are four people charged with three capital murders and other related crimes. The criminal trial is not yet completed. However, due to the public pressure, the trial is ongoing even though majority of other trials and court proceedings have been postponed due to the emergency state in the Slovak Republic concerning COVID-19 pandemic. Moreover, the National Criminal Agency and the Police of the Slovak Republic have started to investigate corruption and other crimes that has been linked to the death of Jan Kuciak. As of today, 18 people have been investigated, out of which 13 people are judges.

Apart from this, **practices of some public authorities toward the journalists** are still of concern. It was reported that the Office for Personal Data Protection has been threatening journalists from the Czech Centre for Investigative Journalism. These journalists acquired and published an audio-visual tape picturing a man investigated by the Police Force of the Slovak Republic for murder of Jan Kuciak, corruption, and frauds - Marian Kočner. On the tape, Marian Kočner is talking to the ex-Attorney General about his criminal activities. The Office for Personal Data Protection threatened the Czech Centre for Investigative Journalism by extremely high fine if the source that provided the tape is not disclosed to the data protection authority. The situation has been closely monitored by the Public Defender of Rights who is of an opinion that the Office for Personal Data Protection

breached the right to freedom of speech and right to information. It was reported that the director of the Office for Personal Data Protection has been close to Marian Kočner.

It also worth mentioning the recent amendments of press laws that introduced the **right of public authorities to answer to statements or facts concerning them disclosed to the public**. According to the new legal regulations, all public officials and authorities are entitled to reply to any information or articles published in media containing statements of fact about their persons. This right does not only belong to natural persons but also to legal persons. This introduces the obligation of respective media outlet to publish the response of the public official or the authority to challenged statements of fact. For this right to be triggered, it is necessary for the statement to be a true, incomplete or misleading factual claim concerning the honour, dignity or privacy of a natural person or the name or reputation of a legal person by reference to which a person can be accurately identified. This regulation was considered as a threat to the freedom of speech as well as freedom of press.

References

Office for Personal Data Protection

- <https://www.vop.gov.sk/ochrana-novin-rskych-zdrojov-je-jedn-m-zo-z-kladn-ch-pilierov-slobody-prejavu>
- <https://www.tyzden.sk/politika/62398/urad-hrozi-investigativcom-pokutou-jeho-sefka-pracovala-pre-kocnera/>

Press Act

- <https://slovensko.hnonline.sk/2018125-caputova-podpisala-novelu-tlacoveho-zakona-politici-ziskaju-pravo-na-odpoved>

In-focus section on COVID-19 measures

Most significant impacts of measures taken in response to the COVID-19 outbreak on the rule of law in the country

The Government of the Slovak Republic has proclaimed the emergency state on 16 March 2020, and it has been extended several times. In respect the COVID-19 pandemic, the Government of the Slovak Republic also adopted several restrictive measures. While

majority of them are fully acceptable as they contribute to human rights protection, there are also measures that are extremely concerning.

Firstly, the **right to health** in the context of right to provision of health care was restricted contrary to the Constitution of the Slovak Republic. According to the Constitution of the Slovak Republic, everyone shall have the right to protection of his or her health. The citizens shall have the right to free health care and medical equipment for disabilities since medical insurance under the terms to be laid down by a law. According to the Constitutional Act 227/2002 Coll. on the Security of the State in Time of War, State of War, State of Emergency, as amended does not allow for the right to health to be restricted. In this regard, the Government of the Slovak Republic and the National Council of the Slovak Republic has not adopted any relevant laws and measures that would endanger provision of healthcare. However, political leaders have multiple times urged the healthcare and outpatient facilities to prepare for the COVID-19 patients and to stop providing preventive care as well as carry out any planned surgeries and treatments.

Moreover, the Ministry of Health of the Slovak Republic instructed that urgent care should be provided, especially regarding accidents, oncology patients and deliveries. Unfortunately, this caused a tremendous impact on patient that do not require urgent care, however neglecting a preventive care can have serious consequences such as patients with rheumatics, diabetes, or cardiac problems. Moreover, patients requiring exchange of joints, especially hip joint are restricted from having a surgery. The majority of these patients are living in unbearable pain and their mobility is significantly reduced. However, the most questionable practice introduced by the health facilities in respect to COVID-19 pandemic was complete termination of providing abortion services to women without a health indication. These issues have to be read in the light of relevant data related to the spread of COVID-19 in Slovakia: as of 22 April 2020, there have been only 13 dead and 231 patients hospitalised with COVID-19 or with suspicion of COVID-19.

Moreover, the situation has been serious in respect to **Roma communities** and their quarantine. In the beginning of the mandate, the Government of the Slovak Republic has set requirements for quarantining towns and certain areas of towns (e.g. streets, communities). However, there have been mass testing and quarantining Roma communities regardless of the habitat (whether living in dwelling or integrated in cities) as they were proclaimed by the Prime Minister of the Slovak Republic as a ticking bomb. In the beginning, more than 6500 people in multiple locations were put to the quarantine due to 32 Roma tested positive for COVID-19. People who tested positive for COVID-19 were

kept with healthy people even though, it was not possible to separate COVID-19 positive Roma from healthy inhabitants. It was reported that the Public Health Authority of the Slovak Republic refused to inform people who were tested about the results and other important information regarding the quarantine, their rights, and next steps. Serious issues concerning supplying people in quarantine with food, basic medicines and other essentials were reported. The situation is even more concerning considering low-hygiene standards in Roma settlements, limited or no access to drinking water, lack of sanitation and overcrowding of dwellings.

Last but not least, the measures adopted under the COVID-19 emergency pose issues as regards **data protection and privacy**. Laws allowing the Government of the Slovak Republic to have access various data, including data on location sourced by mobile operators and telecommunication companies passed in the National Council of the Slovak Republic. Thanks to this legal regulation, the Government of the Slovak Republic and its bodies, including the Public Health Authority of the Slovak Republic have access to information about calls and messages sent among citizens and their location, so the citizens are monitored without their permission or knowledge.

The Slovak National Centre for Human Rights is closely monitoring the situation and will publish its complex findings in a form of a report in autumn 2020.

Most important challenges due to COVID-19 for the NHRI's functioning

Up to date, there were no disruption to the functioning of the Slovak National Centre for Human Rights. All educational activities aiming at providing human rights education to pupils, students and adults were postponed due to the closure of all schools and "home office" arrangements in most companies and public authorities. In respect to research activities, the Slovak National Centre for Human Rights have postponed collection of data in the field as well as conducting focus groups. However, when possible, the Slovak National Centre for Human Rights deliver its services online or via phone. When it is not possible, clients are served as usual.

References

- <https://www.slov-lex.sk/-/vyhlasenie-nudzoveho-stavu?inheritRedirect=true&redirect=%2Fdomov>

