

## Slovakia

---

*Slovak National Centre for Human Rights*

### **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.

### **Impact of 2020 rule of law reporting**

#### **Follow-up by State authorities**

There have been no follow-up actions by State authorities after the 2020 ENNHRI Rule of Law report.

#### **Impact on the Institution's work**

The Centre has decided to actively monitor the rule of law at national level. In 2021, it will publish a standalone report on the rule of law in Slovakia (due end of March 2021). The Centre has also designed a small rule of law project that focuses on bringing relevant stakeholders together to create a rule of law tracker – a tool that would enable to reflect on the rule of law in Slovakia and allow key stakeholders to make informed decisions about measures that might negatively (or positively) impact the rule of law in Slovakia. The tracker will be also used to report to the EU Mechanism on Rule of Law.

#### **Follow-up initiatives by the Institution**

Due to the COVID-19, the Centre has decided to use its resources to promote and protect human rights on the ground, especially concerning vulnerable groups such as patients, women, Roma and children. The measures adopted by the Government of the Slovak Republic and subsequent negative impacts of COVID-19 pandemic have not allowed the Centre to dedicate resources to any follow-up activities. Even if the Centre would attempt to carry out any specific follow-up

initiatives, the key stakeholders are fully occupied with managing the health, economy and human rights crisis. Therefore, the response of state authorities and/or regional actors would not be adequate, if any.

## **Independence and effectiveness of NHRIs**

### **Changes in the regulatory framework applicable to the Institution**

There have been no changes in the legislative framework after the 2020 ENNHRI Rule of Law report.

#### **Enabling space**

Given the current state of affairs (COVID-19 pandemic and change of the government in 2020), the situation has worsened. The Centre has been excluded/or not invited (as usual) to several policy and legislation processes. Some of the processes that the Centre participated in were impacted by the COVID-19 measures. The capacity of the Centre to intervene was restricted. The Council of the Government of the Slovak Republic on Human Rights, National Minorities and Gender Equality was not fully operational (some of its committees were fully disabled, e.g., Committee on Rights of LGBTI People).

When collecting information through regular procedures established by the Act No. 308/1993 Coll. on the Establishment of the Slovak National Centre for Human Rights, as amended, or the Act No. 211/2000 Coll. on Free Access to Information (the Freedom of Information Act), as amended, it took much more time to receive information and data. Some of the requests were not responded. Moreover, the Centre has been “bullied” after requesting information and data concerning the access to healthcare of patients other than those infected by SARS-COV-2. In response, the Centre was requested to provide information and expert opinions on its mandate in the field of healthcare. There were approximately 8 to 10 identical requests delivered over a period of two weeks from individual members of the Association of the Hospitals of the Slovak Republic (all members concerned were state-owned hospitals managed directly or indirectly by the Ministry of Health of the Slovak Republic).

### **Developments relevant for the independent and effective fulfilment of the NHRIs’ mandate**

The Centre would like to point out, that the situation was also impacted by the fact that the Centre did not have regular management – the position of the executive director was vacated in December 2019 due to the regular end of mandate. From January 2020 to October 2020, the Centre was managed by the executive director ad interim (an employee). However, his powers

were restricted by the Administrative Board, which also impacted on the mandate of the Centre. The new executive director was elected in September 2020 with the start of her mandate in November 2020.

## Human rights defenders and civil society space

After the elections, a new Minister of Labour, Social Affairs and Family of the Slovak Republic – Mr. Milan Krajniak (hereinafter the “Minister”) was appointed. The Minister is a conservative and decided to change the approach of the Ministry of Labour, Social Affairs and Family of the Slovak Republic (hereinafter the “Ministry”) to promotion and protection of gender equality on national level. The term of gender equality was stopped to be used and was changed for equality between men and women. All experts working for the Ministry and its contributory organisation – Institute for Research of Labour and Family – were either fired, demoted or pushed out. A new conservative management was introduced.

Against this background, the Ministry decided not to award grants to feminist organisations working on issues such as sexual and reproductive rights (including access to safe abortion) or LGBTI rights, despite the fact that the expert evaluating the applications for funding awarded the respective organisations with the highest number of points. Instead of that, the Ministry awarded funds to conservative (pro-life) organisations closely connected to the new management introduced at the Ministry. Apart from the state funded grant scheme, the Ministry fully stopped funding for the projects selected for funding within the EEA Norway grant scheme promoting gender equality and work-life balance (DGV01). The project of the Centre and its co-applicant (civil society organisation Freedom of Choice) was also selected for funding in April 2020. Until now, the grant agreement has not been signed.

Moreover, the Minister engaged in smears and misinformation about the feminist and pro-choice organisations (civil society organisations Freedom of Choice, Aspect and Alliance of Women Slovakia), their activities and funding by using his public social media accounts.

In November 2020, the Ministry amended laws on existing grant scheme and restricted the eligibility of potential applicants and beneficiaries. Under the new scheme, only organisations promoting marriage and values of family will be able to apply. The amendments excluded those organisations which are working on issues related to gender equality, including also protection and promotion of LGBTI rights.

The Centre made a public statement of the current state of affairs through available channels (e.g., website, social media). The Centre encouraged the Minister to apologize to the

organisations against which the misinformation and smears were directed and offered the respective organisations legal aid concerning their discrimination in the access to the funding provided by the grant scheme.

### *References*

- SME/Slovak Spectator: “New head of a Labour Ministry’s body considered controversial by some” (6 July 2020) available online in English at: <https://spectator.sme.sk/c/22441819/new-head-of-a-labour-ministrys-body-considered-controversial-by-some.html>
- SME/Slovak Spectator: “Conservative NGOs received gender equality subsidies despite experts' recommendations” (19 January 2021) available online in English at: <https://spectator.sme.sk/c/22577137/conservative-ngos-received-gender-equality-despite-experts-recommendations.html>
- Social media (Facebook) post made by the Minister of Labour, Social Affairs and Family of the Slovak Republic (20 January 2021): <https://www.facebook.com/krajniakmilan/photos/a.389503057883154/1807254349441344/>
- Website of the Centre: <http://snslp.sk/aktuality/sirenje-dezinformacii-o-zenskych-mimovladnych-organizaciach/>
- Social media (Facebook) post made by the Centre (21 January 2021): <https://www.facebook.com/Strediskopreludskeprava/photos/a.234969393520899/1300691433615351/>

## Checks and balances

### Reform of the composition of the Constitutional Court of the Slovak Republic

The newly enacted Constitutional Act from 9 December 2020 amending the Constitution of the Slovak Republic No. 460/1992 Coll. as amended (hereinafter the “Constitutional Act”), introducing multiple reforms in the justice system includes the amendment of the composition and elections of judges to the Constitutional Court of the Slovak Republic (hereinafter the Constitutional Court). According to the Ministry of the Justice of the Slovak Republic, the new composition should provide sufficient securities against the passivity of the National Council of the Slovak Republic (hereinafter the National Council) in case of the non-election of candidates for constitutional

judges, as well as a check against concentration of power in the hands of one political representation in case the majority of constitutional judges were elected by one political party.

In particular, the reform of the composition of the Constitutional Court of the Slovak Republic includes redefined conditions for the appointment of a judge of the Constitutional Court (integrity, moral credit), an increase in the quorum for the election of a candidate for a judge of the Constitutional Court (qualified majority), and public voting on candidates for judges of the Constitutional Court in the National Council of the Slovak Republic. With regard to the increase in the quorum, a qualified majority of all Members of the National Council will be required for the election of a candidate for the post of a Judge of the Constitutional Court of the Slovak Republic, i.e., at least 90 Members' votes. If the candidates fail to be elected by the qualified majority even in a re-election, only a simple majority of all Members will suffice in the new election.

The Constitutional Act also deals with the possible passivity of the National Council in the case of non-election of the required number of candidates for constitutional judges. Judges of the Constitutional Court will be able to be appointed by the President of the Slovak Republic even without the proposal of the National Council of the Slovak Republic, provided that the National Council of the Slovak Republic does not elect the required number of candidates within the specified time limits. The aim of the legal regulation is to avoid a situation where the Constitutional Court will be dysfunctional only because the political parties within the National Council are not able to agree on the necessary number of candidates for judges of the Constitutional Court of the Slovak Republic.

The Constitutional Act also contains a mechanism that prevents the concentration of power in the hands of one political representation in the event that a majority of constitutional judges are elected by a single political party. According to the new amendment, the tenure of judges of the Constitutional Court appointed after 1 January 2021 varies in length.

### **Amendment of the legislation on the state of emergency**

In December 2020, the National Council of the Slovak Republic approved the amendment to Constitutional Act No. 227/2002 on State security in times of war, state of war, state of emergency, and state of crisis, as amended (hereinafter the "Constitutional Act on State Security") according to which the Government of the Slovak Republic can extend the declared state of emergency repeatedly, at most by 40 days. According to the enacted amendment, the extension of the state of emergency will have to be approved by the National Council, no later than 20 days after the extension becomes effective. According to the press release of the Ministry of Interior, this amendment was approved with the aim of constitutional safeguard in the system of the

division of power and the system of checks and balances in a parliamentary republic. Such constitutional safeguard shall also be introduced when declaring a state of emergency again. The resolution of the National Council on the approval of the extension of the state of emergency or the repeated declaration of the state of emergency will be published in the Collection of Laws. The amendment also explicitly stipulates that a state of emergency can be declared on the territory of the Slovak Republic. In relation to the adopted amendment to the Constitutional Act on State Security, Act No. 314/2018 on the Constitutional Court of the Slovak Republic, amending and supplementing certain other acts ("Act on the Constitutional Court") was also amended with the aim to include the possibility for the Constitutional Court of the Slovak Republic to review the decision on the extension of the state of emergency.

The level of trust of citizens in the state authorities remains constantly low, also in 2020. For example, when it comes to the level of trust in the national justice system, pursuant to the Eurobarometer survey findings, it remains very low. Out of all EU Member States, the level of trust in Slovak Republic is the second lowest, just after Croatia. In fact, 26% of respondents rated the independence of the Slovak justice system as very bad and 38% as fairly bad in the Eurobarometer survey. In comparison with the previous years' results of the survey, the level of mistrust has increased by 4%. Only 26% of respondents perceived the level of independence of the national justice system as very good or fairly good. The main reason often stated by the respondents in relation to the perceived lack of independence of the justice system is the interference or pressure from the Government of the Slovak Republic. In fact, the overall country results for all EU Member States show that Croatia and the Slovak Republic are the only Member States in which at least half of respondents indicated the interference or pressure from the government and politicians as the main reason for the low level of trust in the independence of the judiciary.

Accelerated legislative procedures also threaten the system of checks and balances. In 2020, accelerated legislative procedures have taken place in the Slovak Republic. A number of legislative proposals have undergone accelerated legislative procedures in response to the COVID-19 pandemic, or as part of measures directly related to the Covid-19 pandemic. For instance, the abovementioned law amending the Constitutional Act on State security as well as the amendment to the Act on the Constitutional Court were adopted in an accelerated legislative procedure. The newly adopted Constitutional Act not only enables the government to repeatedly extend the declared state of emergency, for a maximum of 40 days, with the approval of the National Council of the Slovak Republic but also includes a number of essential restrictions and obligations adopted for an emergency declared for reasons other than danger to life and health in connection with a pandemic. Among others, restrictions on the inviolability of the person, the

privacy of persons and restrictions on freedom of movement and residence are regulated in the same constitutional act. The National Council of the Slovak Republic discussed this constitutional act involving restrictions of fundamental rights and freedoms in an accelerated legislative procedure. Such measures create the legal basis for increasing the powers of the executive, including restriction on freedom of movement, freedom of assembly, or respect for personal and private life (creating limited accountability of the executive). In addition, a number of legislative proposals that do not directly relate to combatting the Covid-19 pandemic have been adopted in accelerated legislative processes.

The current status of the Centre regarding its role in the system of checks and balances remains weakened, namely due to the lack of consultation and cooperation from the state authorities when creating or passing legislative amendments. The acts being adopted may have a direct impact on the enjoyment of fundamental rights and freedoms, yet the Centre can only participate in the procedure as part of general public. Conducting impact assessments and consulting stakeholders, including the Centre, should be an established practice for enacting legislation with direct impact on fundamental rights and freedoms. There is a need for more systematic involvement of the Centre in the legislative process.

### *References*

- Constitutional Act from 9 December 2020 amending the Constitution of the Slovak Republic No. 460/1992 Coll. as amended, available in Slovak language at: <https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=489083>.
- Ministry of Justice of the Slovak Republic, 'Poslanci definitívne schválili reformné zmeny v justícií' 9 December 2020, available in Slovak language at: <https://www.justice.gov.sk/Stranky/aktualitadetail.aspx?announcementID=3060>.
- Proposal for the Constitutional act amending Constitutional Act No. 227/2002 on State security in times of war, state of war, state of emergency, and state of crisis, as amended, available at: <https://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&MasterID=8054>.
- Ministry of Interior of the Slovak Republic, 'Núdzový stav bude možné opakovane predložovať', Press release, 28 December 2020, available in Slovak language at: <https://www.minv.gov.sk/?tlacove-spravy&sprava=nudzovy-stav-bude-mozne-opakovane-predlzovat>.

- Act No. 314/2018 on the Constitutional Court of the Slovak Republic, available in Slovak language at: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2018/314/>.

## Functioning of justice systems

### General observations about the functioning of the justice system

In 2020, the Government of the Slovak Republic has initiated numerous proposals for amendments of legislation and reform plans to strengthen the functioning of the justice system in the Slovak Republic. These proposals include the amendment of the Criminal Code of the Slovak Republic (including introducing a new criminal offence of abuse of law to prosecute judges for unlawful decisions), amendments to the Constitution of the Slovak Republic (partial loss of functional immunity of judges, new proposal improving the structure and the appointment procedure for members of the Judicial Council of the Slovak Republic, abolition of the consent of the Constitutional Court of the Slovak Republic as a condition for the detention of a judge or a Prosecutor General), the introduction of a compulsory retirement age for judges of general court (67 years) and judges of the Constitutional Court of the Slovak Republic (72 years) and the creation of the supreme administrative court.

### Reform of the Judicial Council of the Slovak Republic

The Constitutional Act contains reformed plans in the change of the composition of the Judicial Council, including amending the appointment processes to guarantee regional representation. In this regard, it includes a rule according to which the National Council of the Slovak Republic, the President of the Slovak Republic and the Government of the Slovak Republic will nominate only non-judges to the Judicial Council of the Slovak Republic. The intention according to the author of the legislation was to ensure a balance in decision-making for the whole judiciary, but also to contribute to increasing the public control of the judiciary, which is one of the constitutional tasks of the Judicial Council of the Slovak Republic. In addition, a regional principle was also introduced for the election of members of the Judicial Council of the Slovak Republic by judges. One member of the Judicial Council of the Slovak Republic will be elected by the judges of the Supreme Court of the Slovak Republic and the Supreme Administrative Court of the Slovak Republic from among themselves, and the other eight members of the Judicial Council of the Slovak Republic will be elected by judges of other general courts in the respective constituencies. In this way, the proportional representation of the regions in the Judicial Council of the Slovak Republic will be ensured.

The new legislation extends the powers of the Judicial Council of the Slovak Republic in strengthening controls of asset declaration of judges. It enables the Judicial Council of the Slovak Republic to actively monitor the fulfilment of the conditions of judicial competence.

### **The creation of the Supreme Administrative Court**

The Constitutional Act also created the Supreme Administrative Court of the Slovak Republic which is included in the system of courts and has an equivalent position in the hierarchy as general courts with the Supreme Court of the Slovak Republic. In addition to the general jurisdiction of the Supreme Administrative Court of the Slovak Republic in the field of administrative justice, the Supreme Administrative Court will act as a disciplinary court for judges of general courts, prosecutors and, to the extent provided by law, for other professions. The Supreme Administrative Court of the Slovak Republic should start operating in the second half of 2021, primarily by appointing the head of the Court. The selection of the head of the Supreme Administrative Court of the Slovak Republic will be in April 2021 as announced by the Head of the Judicial Council of the Slovak Republic in March 2021.

### **Strengthening the protection of fundamental rights – reform of the Constitutional Court of the Slovak Republic proceedings**

The enacted Constitutional Act also introduces the possibility for the Senate of the Constitutional Court, which acts and decides on individual complaints of natural and legal persons alleging violations of their fundamental rights and freedoms guaranteed by international treaties, to initiate proceedings on the conformity of legal regulations concerning the individual complaint with the Constitution of the Slovak Republic, constitutional acts and international treaties. This strengthens the constitutional system of human rights protection, because if the Senate believes that a law or other regulation is in conflict with the Constitution of the Slovak Republic, it will be able to turn to the Plenary of the Constitutional Court to assess the compliance of the challenged law with the Constitution. The amendment will be effective from 1 January 2025.

### **The new Court Map**

The proposal to reform the court map as introduced by the Ministry of Justice of the Slovak Republic, has not received as much support as the previously introduced reforms to the justice system. As stated by the Ministry of Justice of the Slovak Republic, one of the basic goals of the new court map is the specialisation of judges. The specialisation of judges shall be presumed for criminal, civil, family and commercial matters in general courts and for administrative matters in a separate administrative judiciary. As mentioned by the Ministry of Justice of the Slovak Republic, the current network of 54 district courts does not meet the condition that three specialised judges

be employed in the court, which is necessary for the random allocation of files to work. The new court map also takes into account the long-term downward trend in court cases.

The Ministry of Justice of the Slovak Republic has been organising numerous roundtables, inviting representatives from selected groups of experts to discuss the proposed court map reform that should change the system of courts.

### *References*

- Constitutional Act from 9 December 2020 amending the Constitution of the Slovak Republic No. 460/1992 Coll. as amended, available in Slovak language at: <https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=489083>.
- Proposal for the Constitutional Act amending the Constitution of the Slovak Republic No. 460/1992 Coll. as amended, available in Slovak Language at: <https://www.nrsr.sk/web/Default.aspx?sid=zakony/cpt&ZakZborID=13&CisObdobia=8&ID=270>
- Constitutional Act from 9 December 2020 amending the Constitution of the Slovak Republic No. 460/1992 Coll. as amended, available in Slovak language at: <https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=489083>
- Ministry of Justice of the Slovak Republic, 9 July 2020, available at: <https://www.justice.gov.sk/Stranky/aktualitadetail.aspx?announcementID=2884>.
- Judicial Council of the Slovak Republic, available in Slovak language at: <https://www.sudnarada.gov.sk/vyhlasenie-novej-volby-kandidata-na-funkciu-prveho-predsedu-najvyssieho-spravneho-sudu-slovenskej-republiky/>
- Ministry of Justice of the Slovak Republic, 'Reform of the Court Map,' available in Slovak language at: <https://www.justice.gov.sk/Stranky/Ministerstvo/Sudna-mapa.aspx>.

## Media pluralism and freedom of expression

### Safety of journalists

The rise in violence against journalist and the challenges to the safety of journalists has been previously highlighted and remain an issue in the Slovak Republic also in 2020. As reported by the

Council of Europe's Platform to promote the protection of journalism and safety of journalists, from the period of January 2020 to 1 March 2021, there have been two alerts relating to the safety of journalists in Slovakia. One regarding an investigative journalist of the Slovakian news website Aktuality.sk who reported to the police that he found a pistol bullet in the mailbox of his Bratislava apartment, and one alert on surveillance of a newspaper editor, who reported to the police suspicious behavior, namely that she had been monitored and photographed. As is clear from the Statement of the Permanent Representative of the Slovak Republic of the Council of Europe, pursuant to the Slovak Criminal Code, the Slovak law enforcement authorities are conducting criminal investigations in both cases. In addition, pursuant to the reply of the Permanent Representative, the Ministry of Culture of the Slovak Republic is preparing a media legislative package, which should enhance the constitutional protection of journalists in the exercise of their profession, especially in the protection of their resources.

Furthermore, an additional alert was published with regard to media freedom. In 2020, criminal proceedings against a newspaper opinion writer were initiated, including criminal charges of criminal defamation. Police investigators concluded that the author's article called for the suppression of religious people's freedom of expression and "defamed the expressions of their faith" and charged the author with defamation on account of religious belief under Article 423 of the Slovak Criminal Code. According to the reply of the Permanent Representative of the Slovak Republic to the Council of Europe, the criminal proceedings against the accused are not lawfully completed and the authorities of the Slovak Republic shall proceed consistently in accordance with the principle of the presumption of innocence.

### *References*

- Council of Europe, Platform to promote the protection of journalism and safety of journalists, 'Media freedom alerts', available at: [https://www.coe.int/en/web/media-freedom/all-alerts?p\\_p\\_id=sojdashboard\\_WAR\\_coesojportlet&p\\_p\\_lifecycle=0&p\\_p\\_col\\_id=column-4&p\\_p\\_col\\_count=1&\\_sojdashboard\\_WAR\\_coesojportlet\\_keywords=&\\_sojdashboard\\_WAR\\_coesojportlet\\_selectedStringFilters=year.2021,year.2020&\\_sojdashboard\\_WAR\\_coesojportlet\\_selectedCategories=11709578](https://www.coe.int/en/web/media-freedom/all-alerts?p_p_id=sojdashboard_WAR_coesojportlet&p_p_lifecycle=0&p_p_col_id=column-4&p_p_col_count=1&_sojdashboard_WAR_coesojportlet_keywords=&_sojdashboard_WAR_coesojportlet_selectedStringFilters=year.2021,year.2020&_sojdashboard_WAR_coesojportlet_selectedCategories=11709578).

- Council of Europe, Platform to promote the protection of journalism and safety of journalists, 'Slovak Investigative Journalist Peter Sabo Finds Bullet in His Mailbox', 26 June 2020, available at: [https://www.coe.int/en/web/media-freedom/detail-alert?p\\_p\\_id=sojdashboard\\_WAR\\_coesojportlet&p\\_p\\_lifecycle=0&p\\_p\\_col\\_id=column-3&p\\_p\\_col\\_pos=1&p\\_p\\_col\\_count=11&\\_sojdashboard\\_WAR\\_coesojportlet\\_alertPK=68749398&\\_sojdashboard\\_WAR\\_coesojportlet\\_displayLink=SojPortlet.getDashboardPortletId%28%29](https://www.coe.int/en/web/media-freedom/detail-alert?p_p_id=sojdashboard_WAR_coesojportlet&p_p_lifecycle=0&p_p_col_id=column-3&p_p_col_pos=1&p_p_col_count=11&_sojdashboard_WAR_coesojportlet_alertPK=68749398&_sojdashboard_WAR_coesojportlet_displayLink=SojPortlet.getDashboardPortletId%28%29)
- Council of Europe, Platform to promote the protection of journalism and safety of journalists, 'Slovak Republic – Denník N Editor Monika Tódová Surveilled by Unknown Men', 15 January 2021, available at: [https://www.coe.int/en/web/media-freedom/detail-alert?p\\_p\\_id=sojdashboard\\_WAR\\_coesojportlet&p\\_p\\_lifecycle=0&p\\_p\\_col\\_id=column-3&p\\_p\\_col\\_pos=1&p\\_p\\_col\\_count=11&\\_sojdashboard\\_WAR\\_coesojportlet\\_alertPK=90042854&\\_sojdashboard\\_WAR\\_coesojportlet\\_displayLink=SojPortlet.getDashboardPortletId%28%29](https://www.coe.int/en/web/media-freedom/detail-alert?p_p_id=sojdashboard_WAR_coesojportlet&p_p_lifecycle=0&p_p_col_id=column-3&p_p_col_pos=1&p_p_col_count=11&_sojdashboard_WAR_coesojportlet_alertPK=90042854&_sojdashboard_WAR_coesojportlet_displayLink=SojPortlet.getDashboardPortletId%28%29).
- Statement of the Permanent Representative of the Slovak Republic to the Council of Europe on the alert submitted to the Platform to promote the protection of journalism and safety of journalists on 26 June 2020 entitled "Slovak Investigative Journalist Peter Sabo Finds Bullet in His Mailbox", available at: <https://rm.coe.int/slovakia-reply-en-journalist-p-sabo-finds-bullet-in-his-mailbox-15jummy/16809efced>.
- Statement of the Permanent Representative of the Slovak Republic to the Council of Europe on the alert submitted to the Platform to promote the protection of journalism and safety of journalists on 15 January 2021 entitled "Denník N Editor Monika Tódová Surveilled by Unknown Men", available at: <https://rm.coe.int/slovak-republic-reply-en-dennik-n-editor-monika-todova-surveilled-by-u/1680a141f3>.
- Council of Europe, Platform to promote the protection of journalism and safety of journalists, 'Slovak Columnist Charged with Criminal Defamation for Criticism of Priest,' 11 February 2021, available at: [https://www.coe.int/en/web/media-freedom/detail-alert?p\\_p\\_id=sojdashboard\\_WAR\\_coesojportlet&p\\_p\\_lifecycle=0&p\\_p\\_col\\_id=column-3&p\\_p\\_col\\_pos=1&p\\_p\\_col\\_count=11&\\_sojdashboard\\_WAR\\_coesojportlet\\_alertPK=60779625&\\_sojdashboard\\_WAR\\_coesojportlet\\_displayLink=SojPortlet.getDashboardPortletId%28%29](https://www.coe.int/en/web/media-freedom/detail-alert?p_p_id=sojdashboard_WAR_coesojportlet&p_p_lifecycle=0&p_p_col_id=column-3&p_p_col_pos=1&p_p_col_count=11&_sojdashboard_WAR_coesojportlet_alertPK=60779625&_sojdashboard_WAR_coesojportlet_displayLink=SojPortlet.getDashboardPortletId%28%29)

- Statement of the Permanent Representative of the Slovak Republic to the Council of Europe to the alert submitted to the Platform to promote the protection of journalism and safety of journalists on 11 February 2020 entitled “Slovak Columnist Charged with Criminal Defamation for Criticism of Priest”, available at: <https://rm.coe.int/slovakia-en-reply-slovak-columnist-charged-with-criminal-defamamtion-f/16809cdc>.
- Official Statement of the Spokesperson of the Police Force of the Slovak Republic, included in the article, ‘Polícia sa v roku 2020 venovala aj vyvracaniu hoaxov,’ 4 January 2021, available in Slovak language at: <https://www.teraz.sk/slovensko/policia-sa-v-roku-2020-venovala-aj-vyvr/518171-clanok.html>
- Ministry of Interior of the Slovak Republic, ‘Koronavírus: dávajte si pozor, akým informáciám uveríte’, Press release, 5 October 2020, available in Slovak language at: <https://www.minv.gov.sk/?tlacove-spravy&sprava=koronavirus-davajte-si-pozor-akym-informaciam-uverite>

## Corruption

### Anti-corruption framework

Challenges remain also in the area of fight against corruption. Pursuant to the findings of the latest Transparency International 2020 Corruption Perceptions Index, Slovakia scored 49/100, decreasing its position in comparison with the last three years’ ranking of the Corruption Perceptions Index. It was ranked 23rd in the EU and 60th globally. According to the findings of the Special Eurobarometer survey, 87% of respondents consider corruption widespread (EU average 71%) and 41% of people feel personally affected by corruption in their daily life (EU average 26%).

### Statistics on corruption

In 2020, the number of prosecutions of corruption offenses increased, with the number of indictments increasing by half to the highest level in ten years. Although, in recent years only few high-level corruption cases have been investigated and are being prosecuted, throughout 2019 and 2020, an increase in the number of cases concerning the criminal offence of corruption is reported. According to the statistics provided by the Office of the Special Prosecution, in 2019, 139 persons were prosecuted for corruption offences or suspected thereof, compared to 135 in 2018, 83 persons were indicted, compared to 48 in 2018, and 44 persons concluded plea bargain

agreements in 2019, compared to 63 in 2018. There are numerous pending criminal proceedings against a number of high-ranking public officials, including judges, prosecutors.

### **Whistle blowers Protection Act**

As reported previously, Act No. 54/2019 Coll. on the Protection of persons reporting on anti-social activities and on amendments to certain laws (hereinafter the “Act on Whistleblowers”) aims to increase the protection measures of whistleblowers by establishing an independent office for complaints. In February 2021, the National Council of the Slovak Republic elected the head of office, who now has 6 months to create the office which will commence its work on 1 September 2021. However, besides the election of the head, there have been no developments, or any particular steps being taken to make this office functioning and operable to serve its purpose.

### **New legislation on the selection of candidates for public officials**

In 2020, several acts and amendments have been enacted in order to make the selection procedure of staff in key positions, including public officials, transparent. For example, Act. No. 153/2001 Coll. on Public prosecution service, as amended, was revised and amended with the focus of enhancing the transparency of the selection procedure of the new Prosecutor General and Special Prosecutor. The amendments included enlarging the group of entities with a mandate to propose a candidate for Prosecutor General and Special Prosecutor, and conducting the selection procedure by detailed public hearings, in the presence of numerous representatives from the Office of the President of the Slovak Republic, external experts and representatives of non-governmental organisations.

Then again, the nomination procedures for the position of heads of district offices have not been as transparent, as the candidates have been nominated by the leading political party and appointed by the Government of the Slovak Republic.

### **Lack of regulation governing lobbying**

The Anti-corruption policy adopted in September 2019 already foresees the proposal for regulatory framework regarding lobbying. According to the available information from the news, the draft legislation is being prepared. The Slovak authorities indicated that the adoption of measures on lobbying should be a combination of legal regulation, a mandatory register of lobbyists and a code of conduct. The special register for lobbyists should consist of information on the matters in which the lobbyists plan to lobby, as well as information on their clients and costs and remuneration for the lobbyist's activities. However, no specific proposals have been submitted.

## Asset declaration and conflict of interest of the Members of the National Council of the Slovak Republic

The obligation for Members of the National Council of the Slovak Republic to declare gifts or other benefits and the use of immovable or movable assets has improved through amendments to Constitutional Act No. 357/2004 Coll. on Protection of public interest in the performance of functions of public officials (“Constitutional act on protection of public interest”) as is also clear from the GRECO’s Second Addendum to the Second Compliance Report of the Fourth Evaluation Round on the Slovak republic. However, the thresholds set remain a subject of concern vis-à-vis the minimum wage. Furthermore, as recommended by GRECO in the Second Compliance Report, the mandate of the Committee on the Incompatibility of Functions of the National Council of the Slovak Republic needed to be revised to allow for more proactivity in the supervision and enforcement of rules on conflicts of interest, asset declaration and other duties and restrictions applicable under the constitutional act on protection of public interest. New provisions concerning the amendments to Constitutional act on protection of public interest have entered into force on 1 January 2020.

### *References*

- Special Eurobarometer Survey 502, ‘Corruption’, June 2020, available at: <https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/yearFrom/1974/yearTo/2021/surveyKy/2247>.
- Statistics of the General Prosecution of the Slovak Republic, available at: <https://www.genpro.gov.sk/statistiky/statisticky-prehľad-trestnej-a-netrestnej-cinnosti-za-rok-2020-3a68.html>.
- Office of the Special Prosecution, ‘Report of the Special Prosecutor on the activities of the Office of the Special Prosecution and findings of the Office of the Special Prosecution on the status of legality in 2019’ November 2020, available in Slovak language at: <https://www.nrsr.sk/web/Default.aspx?sid=zakony/cpt&ZakZborID=13&CisObdobia=8&ID=116>
- Office of the Government of the Slovak Republic, ‘Prevention of Corruption’, 26 February 2021, available at: <https://www.bojprotikorupcii.gov.sk/urad-na-ochranu-oznamovatelov-protispolocenskej-cinnosti-ma-svoju-sefku/>.

- Proposal of the Members of the National Council of the Slovak Republic to amend Act No. 153/2001 Coll. on Public Prosecution Service, amending Act of the National Council of the Slovak Republic No. 350/1996 Coll. on the Rules of Procedure of the National Council of the Slovak Republic, as amended, May 2020, available in Slovak language at:  
<https://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&ZakZborID=13&CisObdobia=8&CPT=108>.
- Act No. 153/2001 Coll. on Public Prosecution Service, amending Act of the National Council of the Slovak Republic No. 350/1996 Coll. on the Rules of Procedure of the National Council of the Slovak Republic, as amended, available in Slovak language at:  
<https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2001/153/>.
- Ministry of Interior of the Slovak Republic, 'Kandidátov na šéfov okresných úradov môže každý lustrovať na stránke prednostovia.sk', Press release, 6 July 2020, available in Slovak language at: <https://www.minv.sk/?tlacove-spravy-7&sprava=kandidatov-na-sefov-okresnych-uradov-moze-kazdy-lustrovat-na-stranke-prednostovia-sk>.
- Resolution of the Government of the Slovak Republic No. 585/2018, 'Anti-corruption policy of the Slovak Republic for the period 2019-2023', 12 December 2018, available in Slovak language at: <https://www.bojprotikorupcii.gov.sk/protikorupcna-politika-sr/>.
- Council of Europe's Group of States against Corruption, 'Fourth Evaluation Round – Corruption prevention in respect of members of parliament, judges and prosecutors, Second Addendum to the Second Compliance Report', GrecoRC4(2020)14, adopted 29 October 2020, published 3 February 2021, p. 2-3, available at:  
<https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680a1417a>.

## Impact of measures taken in response to COVID-19 on the national rule of law environment

### Most significant impacts of measures taken in response to the COVID-19 outbreak on the rule of law and human rights protection

#### *The impact of COVID-19 measures on access to education*

With the beginning of the COVID-19 pandemic, the Slovak Republic took the precaution of closing the schools as an attempt to contain the spread of the virus. Schools were forced to

replace classes with distance learning and home schooling, in most cases facilitated by teachers and parents.

However, the access to distance learning depends on the availability of information and communication technologies, which makes it possible to continue teaching and learning when physical interaction is no longer possible. As was further observed, although the absence of in-person lessons can be somewhat compensated using online platforms and other technology-rich activities, access to the necessary information and communication technologies is not equally distributed across the population. Due to the currently valid restriction on freedom of movement and a valid curfew, pupils without access to distance education using digital technologies do not have the possibility of full-time education in any form. In particular, this may severely impact the access to education of students from socio-economically disadvantaged backgrounds who lack the means to access these devices. This in turn, increases learning inequalities.

In fact, according to the survey published by the Institute of Education Policy under the Ministry of Education, Science, Research and Sport of the Slovak Republic in September 2020, based on data collected from principals and teachers around the country, almost 50,000 children, including mainly from poor localities, many of them inhabited by Roma, did not participate in distance learning at all during the first wave of the pandemic. Further analysis of the Institute of Education Policy also stressed that there was a lack of systemic measures for accessing children from the socially deprived environment to attend distance learning. 44% of children (aged 6 to 11 years) live in overcrowded households with limited possibilities for learning.

### *Good practices in the area of access to education*

Drawing experience from the first wave, the Ministry of Education, Science, Research and Sport of the Slovak Republic developed methodical guidelines on the content and organisation of education in primary schools and in primary school for pupils with special educational needs. The methodical guidelines encouraged employing creative methods in order to compensate for educational drawbacks regarding inaccessibility to distance learning for certain vulnerable groups of pupils. For instance, printed teaching materials or assignments and worksheet for younger children and students from disadvantaged groups without access to adequate information and communication technologies or the internet were distributed by post or teachers themselves, educational and health mediators, local administration employees, police officers and volunteers. In addition, public television provided regular broadcasts of educational television programs mainly for primary school children. Additional care was paid also to the vulnerabilities of certain groups, including Roma with regard to the provision for basic needs, such as food. The Public

Health Authority issued ordinance allowing school canteens to continue to provide food in the form of food packages for children in vulnerable situations, including Roma.

### *Impact of COVID-19 measures on particular groups – quarantine of Roma communities*

After cases of coronavirus infections have been confirmed in several Roma settlements in the Slovak Republic, several of these settlements have been locked down. While protecting health from the uncontrollable spread of COVID-19 is a legitimate aim, the widespread quarantine in the form of a general ban on contact with the rest of the population could unduly restrict the personal freedom of the inhabitants of the settlements concerned and go beyond possible restrictions on freedom of movement. The marginalised Roma communities represent a specific group in terms of prevention and protection of the population against the spread of COVID-19, due to the higher risk of this group to get the virus (due to insufficient hygiene conditions and access to water, health status, access to health services, higher population density).

For example, in the first wave of the COVID-19 pandemic, quarantine involved municipalities of for example, Bystrany, Žehra and the town of Krompachy. In the second wave, for example, the town of Bánovce nad Bebravou and the village of Ratnovce. According to the findings of the European Union Agency for Fundamental Rights from June 2020, in the second wave of the pandemic, the Slovak Republic was the only country in which entire Roma communities continued to be quarantined. The quarantine measures have had a rather negative impact on the situation of people living in segregated settlements, including worsening the access to health care for people in segregated Roma communities in quarantine, or the access to medicines.

### *The fight against fake news*

The spread of fake news related to the pandemic of the coronavirus was one of the challenges that the Police Force had to tackle. For this purpose, the Police Force explained the misinformation on their social network page “Hoaxes and frauds – Police of the Slovak Republic” on Facebook. According to the Press release of the Ministry of Interior of the Slovak Republic in October 2020, the Police of the Slovak Republic constantly receives tips from the general public on misinformation through private messages on their special Facebook site. Such messages are evaluated separately with the main factor being the number of shares of the fraudulent post. The subsequent statuses draw attention to mass-shared misinformation and include analysis explaining why the misinformation are not based on truth. As reported in October 2020, the Police Force published and explained more than 110 misinformation issues since the outbreak of the pandemic. Currently, with more than 98 000 followers, the social network site created by the Police Force of the Slovak Republic is the most followed site among the sites dedicated to fight

misinformation in the Slovak Republic. The Police of the Slovak Republic cooperates with the Ministry of Health of the Slovak Republic to refute the medical hoaxes shared in relation to the pandemic.

### *Actions of the Centre*

The Centre, within its mandate as an NHRI and equality body, has been closely monitoring the adopted measures in relation to the COVID-19 pandemic and evaluating their impact on the protection of fundamental rights and freedoms. For example, in the area of access to education, the Centre has, in cooperation with other NGOs active in the field, expressed their position in relation to measures adopted and in force during the second wave of the pandemic in the field of education. In particular, the Centre has called on the relevant state authorities, including the Prime Minister of the Slovak Republic, in November 2020 to reintroduce the in-person classes at the secondary level of primary schools and secondary schools. The Centre has further issued an official statement and press release on 9 December 2020 on the situation in the field of education in primary and secondary schools in which it drew attention to the non-compliance of the adopted measures, including the decisions of the Ministry of Education, Science, Research and Sport of the Slovak Republic, with the principle of equal treatment as laid down by Act No. 365/2004 Coll. on equal treatment in certain areas and protection against discrimination, amending and supplementing other acts (Anti-discrimination act).

Subsequently, within its mandate, the Centre issued an expert opinion on 16 December 2020 on the evaluation of measures adopted in the area of access to education and their impact on the protection of fundamental rights and freedoms. In its opinion the Centre evaluated and assessed the conditions for renewal of teaching at schools as laid down by the Resolution of the Government of the Slovak Republic No. 760 and subsequent legal acts and their compliance with the Constitution of the Slovak Republic and Constitutional Act on State Security. After the assessment of their legal compliance, the Centre has evaluated that due to the impossibility of „justifying“ the different treatment of pupils and teachers of grades 5 to 9 of primary and secondary schools in comparison with pupils and teachers of grades 1 to 4 of primary schools, the relevant legal acts of the Government of the Slovak Republic, as well as the Minister of Education, Science, Research and Sport of the Slovak Republic, and Public Health Office of the Slovak Republic, violate the principle of equal treatment and non-discrimination as stipulated in Article 12 of the Constitution of the Slovak Republic in connection with the fundamental right to education pursuant to Article 42(1) of the Constitution and the right of employees to fair and satisfactory working conditions and to protection against discrimination under Article 36(1)(b) of the Constitution .

The Centre continues to regularly monitor and evaluate the possible impacts of adopted measures in relation to the COVID-19 disease on fundamental rights and freedoms in the Slovak Republic.

### *References*

- Government Resolution No.77/2021 on the proposal to extend measures regarding the state of emergency pursuant to Article 5 paragraph 2 of Constitutional Act No. 227/2002 Coll. on State Security in Times of War and State of Emergency as amended, declared by Government Resolution No. 578 of 30 September 2020 and for the adoption of measures under Article 5 paragraph 4 of Constitutional Act No. 227/2002 Coll. on State Security in Times of War and State of Emergency, as amended, 5 February 2021, available in Slovak language at: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2021/49/>
- Government Resolution No. 123/2021 on the proposal to adopted measures pursuant to Article 5 paragraph 4 of Constitutional Act No. 227/2002 Coll. on State Security in Times of War and State of Emergency as amended, 28 February 2021, available in Slovak language at: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2021/94/20210303>.
- OECD, 'School Education During COVID-19: Were teachers and students ready? Slovak Republic - Country Note,' 2020, available at: <http://www.oecd.org/education/Slovak-Republic-coronavirus-education-country-note.pdf>.
- Ministry of Education, Science, Research and Sport of the Slovak Republic on the content and organization of education in primary schools and in primary school for pupils with special educational needs, October 2020, available in Slovak language at: [https://www.ucimenadialku.sk/usmernenia/otvorenie-skolskeho-roka-2020-2021/Metodicke\\_usmernenie\\_ZS\\_SZS\\_26-10-2020\\_NEW.pdf](https://www.ucimenadialku.sk/usmernenia/otvorenie-skolskeho-roka-2020-2021/Metodicke_usmernenie_ZS_SZS_26-10-2020_NEW.pdf).
- European Union Fundamental Rights Agency, 'Implications of COVID-19 pandemic on Roma and Travellers communities, Country: Slovakia', 15 June 2020, available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/sk\\_report\\_-\\_covid-19\\_impact\\_on\\_roma\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/sk_report_-_covid-19_impact_on_roma_en.pdf).
- Človek v ohrození (2020), Spájame sa na pomoc zraniteľným skupinám, available at: <https://clovekvhrozeni.sk/spajame-sa-pre-ochranu-ohrozenych-komunit/>

- Slovak National Centre for Human Rights, 'Verejná výzva na znovu zavedenie prezenčnej formy vzdelávania na druhom stupni základných škôl a stredných školách', 26 November 2020, available in Slovak language at: <http://snslp.sk/wp-content/uploads/Vyzva-predsedovi-k-zavedeniu-prezencnej-formy-vzdelavania.pdf>
- Slovak National Centre for Human Rights, 'Vyjadrenie Slovenského národného strediska pre ľudské práva k aktuálnemu stavu v oblasti vzdelávania na základných a stredných školách', Press release, 9 December 2020, available in Slovak language at: <http://snslp.sk/wp-content/uploads/TS-aktualny-stav-vzdelavania.pdf>
- Slovak National Centre for Human Rights, expert opinion, 16 December 2020, available in Slovak language at: <http://snslp.sk/wp-content/uploads/2020-2-Odborne-stanovisko-diskriminacne-podmienky-pri-obnoveni-skolskeho-vyucovania.pdf>

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

Due to the rapidly changing measures in force in relation to the COVID-19 pandemic, it was not possible to file a complaint personally in the premises of the Centre during some periods of 2020. However, other available options for filing a complaint had remained in place, for example via phone or email.

Even though the strict measures adopted in relation to the COVID-19 pandemic had impacted the number of planned activities, the Centre has been working through and organising video conferences as a substitute for the cancelled working groups or meetings. The Centre continues to adapt to the challenging circumstances, while teleworking to ensure the continuity of work. It continues to carry out its mandate and deliver its services to the public. Despite the measure restricting the freedom of movement currently in force, the Centre still receives individual complaints via available options and carries out its regular monitoring and reporting activities, issuing expert opinions on topics relevant to the mandate of the Centre.

