

State of the Rule of Law in Europe in 2022

Reports from National Human Rights Institutions

Slovakia



Slovakia

Slovak National Centre for Human Rights

Impact of 2021 rule of law reporting

Follow-up by State authorities

There have been no follow-up actions or initiatives from the state authorities as regards the 2021 ENNHRI rule of law report. Besides media and civil society organizations reporting on the publication and findings of the European Commission's rule of law report on Slovakia, only selected state authorities have considered the findings of the report. Amongst these, for example, the Ministry of Justice of the Slovak Republic ("Ministry of Justice") informed about the results of the report of the European Commission's rule of law report on Slovakia in a press release. This, however, largely focussed on the positive aspects highlighted in the report, while devoting little attention to challenges identified.

In terms of general efforts to foster a rule of law culture, a specific working group on restoring trust in the rule of law began functioning in September 2021. The working group was created by the Security Council of the Slovak Republic, following worrying developments within the law enforcement system. The aim of the working group is to prepare draft amendments to improve the functioning of the courts, police and the prosecutors' office. The working group consists of representatives from relevant ministries, as well as representatives of the Prime Minister of the Slovak Republic, Slovak Information Service, National Security Authority, Specialized Criminal Court of the Slovak Republic, Council of Prosecutors of the Slovak Republic, Office of the Prosecutor General as well as the Judicial Council of the Slovak Republic. Nonetheless, in early January 2022, the Prime Minister informed of the suspension of the working group due to the prioritization of the fight against the COVID-19 pandemic. As claimed by the Prime Minister, the working group has so far prepared 17 measures and some of these have already been implemented, including the election of the President of the Police Force the Slovak Republic. However, the materials are not available for public.

In addition, the Ministry of Foreign and European Affairs of the Slovak Republic ("Ministry of Foreign and European Affairs") has organized in 2021 a first international high-level conference on the promotion of human rights and democracy in the world at the Ministry of Foreign Affairs. The conference offered the opportunity to present the newly adopted

“Concept of promoting human rights and democracy in the world”, by which Slovakia commits to provide third countries with guidance for the value-based driven policy, including commitments regarding the rule of law, democracy and human rights, in its external action. In direct connection with the newly adopted Concept, the Minister of Foreign and European Affairs have appointed Peter Burian as the first human rights ambassador, to be also part of the wider network of European Human Rights Ambassadors.

References

- Ministry of Justice of the Slovak Republic, ‘Hodnotiaca správa EK: aké budú ďalšie kroky k silnejšiemu právnemu štátu?’ Press release, 21 July 2021: <https://www.justice.gov.sk/Stranky/aktualitadetail.aspx?announcementID=3441>.
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- Rozhlas a televízia Slovenska, ‘Premiér: Činnosť pracovnej skupiny pre obnovu dôvery v právny štát je prerušená,’ 3 January 2022: <https://spravy.rtv.slovenska.sk/2022/01/premier-cinnost-pracovnej-skupiny-pre-obnovu-doveru-v-pravny-stat-je-prerusena/>
- Office of the Government of the Slovak Republic, ‘Premiér očakáva prvé konkrétne návrhy z pracovnej skupiny už tento týždeň,’ 20 September 2021: <https://www.vlada.gov.sk//premier-ocakava-prve-konkretne-navrh-y-z-pracovnej-skupiny-uz-tento-tyzden/>
- Office of the Government of the Slovak Republic, ‘Premiér: Pracovná skupina pripravila zatiaľ 17 konkrétnych návrhov,’ 28 September 2021: <https://www.vlada.gov.sk//premier-pracovna-skupina-pripravila-zatial-17-konkretnych-navrhov/>
- Ministry of Foreign and European Affairs of the Slovak Republic, ‘The first international high-level conference on the promotion of human rights and democracy in the world at the Foreign Ministry in Bratislava – By protecting human rights in the world, we also protect our rights’, 28 October 2021: https://mzv.sk/web/en/news/current_issues/-/asset_publisher/lrJ2tDuQdEKp/content/prva-medzinarodna-konferencia-na-vysokej-urovni-o-podpore-ludskych-prav-a-demokracie-vo-svete-na-pode-

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Impact on the Institution's work

Monitoring and reporting on the state of rule of law in Slovakia and its fundamental pillars have become part of the strategic areas in which the Centre is actively carrying out its activities within its mandate. These activities include engaging with different national, regional or international stakeholders as well as actively seeking opportunities for cooperation and building partnerships. For example, at the national level, the Centre started a closer cooperation with the Office of the Plenipotentiary for the Development of the Civil Society, which is currently conducting a national project on monitoring the participatory law and policy making of public administration. At the international level, the Centre designed a proposal for a small rule of law project and in 2021 and was awarded a grant by the Dutch Ministry of Foreign Affairs to conduct and carry out a project in cooperation with the Center for International Legal Cooperation and Transparency International Slovakia, with the aim to create an online tracking tool which would allow various stakeholders to permanently monitor the state of the rule of law on national level, as well as foster the exchange of good practices.

References

- Office of the Plenipotentiary of the Government of the Slovak Republic for the Development of the Civil Society, 'Národný projekt Participácia II': https://www.minv.sk/?ros_np_participacia_np_2.
- For more information about the ongoing projects, please see: <http://www.snsip.sk/en/projects/current-projects/>

Follow-up initiatives by the Institution

Besides the activities mentioned above, the Centre has also actively engaged in specific follow-up initiatives based on the 2021 rule of law report. The Centre has participated in a technical meeting with the representatives from the European Commission, discussing the specific issues as reported by the Centre in its 2021 rule of law report, as well as further elaborating on specific topics of concern. The Centre has also engaged in awareness raising initiatives, including its participation in numerous roundtables and discussions organized by national as well as international stakeholders. For example, in September 2021, it participated together with the selected representatives from civil society organizations and other relevant national actors, including representatives of the Swedish

Riksdag and the Swedish Embassy, at a roundtable organized by the Swedish Embassy in cooperation with the European Commission's Representation in Slovakia. Furthermore, in September 2021, it also participated in a discussion with the representatives of Venice Commission concerning the Ministry of Justice's request for opinion on questions regarding the organization of the legal profession in Slovakia and the role of the recently created Supreme Administrative Court in the disciplinary proceedings against barristers.

Within its other monitoring and reporting activities, the Centre has also focused on addressing the challenges in the area of functioning of the justice system and the safety of journalists and media freedom in its Individual submission of mid-term review of the fulfilment of recommendations from the third cycle of the Universal Periodic Review of the United Nations' Human Rights Council by the Slovak Republic, as well as presentation of the findings to the interested embassies and civil society organisations.

References

- Slovak National Centre for Human Rights, 'Zachovanie a ochrana právneho štátu ako jedna z kľúčových úloh národných orgánov na ochranu a podporu ľudských práv,': <http://www.snslp.sk/aktuality/zachovanie-a-ochrana-pravneho-statu-ako-jedna-z-klucovych-uloh-narodnych-organov-na-ochranu-a-podporu-ludskych-prav/>
- Slovak National Centre for Human Rights, 'O právnom štáte sme diskutovali s predsedom švédskeho parlamentu,': <http://www.snslp.sk/aktuality/o-pravnom-state-sme-diskutovali-na-okruhlom-stole-s-predsedom-svedskeho-parlamentu/>
- For more information, please see: European Commission for Democracy Through Law, Opinion No. 1048/2021 on two questions regarding the organization of the legal profession in the Slovak Republic and the role of the Supreme Administrative Court in the disciplinary proceedings against barristers, CLD-AD(2021)042, 18 October 2021: <https://www.venice.coe.int/webforms/events/?id=3176>.
- Slovak National Centre for Human Rights, 'Individual submission of the Slovak National Centre for Human Rights (UPR Mid-term Report): <http://www.snslp.sk/aktuality/sprava-o-predbeznom-plneni-odporucani-z-3-cyklu-univerzalneho-periodickeho-hodnotenia/> and <http://www.snslp.sk/wp-content/uploads/UPR-Mid-term-Report-3rd-cycle.pdf>

NHRI's Recommendations to National and European policy makers

The Centre recommends:

- To European policy makers to actively engage with state authorities to support the independent monitoring of the state of rule of law as carried out by the Centre.
- To state authorities, including the Office of the Government of the Slovak Republic, to increase transparency and the participatory process in the creation of proposals of measures for improvement in the rule of law area, including in the context of the work of specific working groups established to work on selected areas related to the rule of law, and ensure engagement with the relevant stakeholders, including the representatives of the NHRI and relevant civil society organizations.
- To state authorities, with respect to awareness raising activities concerning the European Rule of Law Mechanism, to also inform fully about the role of other institutions, including the NHRI and civil society organizations.

Independence and effectiveness of the NHRI

The Centre remains a NHRI accredited with B-Status. After the efforts in 2018/2019 to amend the establishing act of the Centre and ensure legislative compliance with the United Nations Principles on the Status of National Institutions ('Paris Principles'), there have been no efforts or legislative work to amend the law and strengthen the mandate and independence of the Centre in compliance with the Paris Principles.

International accreditation status and SCA recommendations

The Slovak National Human Rights Centre was accredited with B-status in March 2014 (1).

On that occasion, the SCA noted that the NHRI has a clear mandate to promote and protect human rights, but with an emphasis on equality and discrimination. Acknowledging that the NHRI interprets its mandate broadly to encompass all rights, the SCA encouraged the Centre to advocate for legislative changes giving them the power to: submit opinions, recommendations, proposals and reports on any human rights matter to the Government; promote and ensure harmonisation of national legislation, regulations and practices with international human rights instruments to which Slovakia is a party; create awareness of human rights norms through teaching, research and addressing public opinion; encourage ratification or access to international human rights instruments; and effectively investigate complaints of human rights violations.

The SCA noted that the administrative board, the decision-making body of the SNCHR, is made up of members selected by nine separate appointing authorities, each of which can

define its own selection criteria. The SCA encouraged the Centre to advocate for the formalisation of a clear, transparent, and participatory selection and appointment process of decision-making body, in relevant laws, regulations or binding administrative guidelines.

The SCA took the view that the arrangements for the appointment of members did not ensure pluralism in the composition of the Administrative Board. It encouraged the Centre to ensure that its membership and staff is representative of the diverse segments of society.

Additionally, the SCA pointed out that the enabling legislation of the NHRI does not explicitly include provisions to protect the members from legal liability for the actions undertaken and decisions made in good faith in their official capacity.

Further, the SCA noted, that according to the enabling law, membership of the Administrative Board can be terminated by recall of the appointing authority. The SCA emphasized that dismissal should not be solely dependent on the discretion of appointing authorities. It encouraged the Centre to advocate for the formalisation of a dismissal process in which: dismissal is made in strict conformity with all procedural and substantive requirements prescribed by law; grounds for dismissal are clearly defined and appropriately confined only to actions adversely impacting the members' capacity to fulfil their mandate; and where appropriate, the legislation should specify the application of a particular ground must be supported by a decision of an independent body with appropriate jurisdiction.

The Slovak NHRI reports, on a positive note, that some issues raised by the SCA in 2014 have now been addressed. These include the fact that, at the time, one member of the Administrative Board, who also had voting rights on the Board, was a member of Parliament, which is now no longer the case. Similarly, concerns raised by the SCA regarding the adequacy of the Centre's funding have also been addressed, as the Centre has recently been financially strengthened: in particular, its budget was increased in 2021 and, for 2022, the Centre was allocated a subvention from the public budget in the amount of 944 287 Eur, including capital expenditures for modernization of the registry and IT systems.

References

- (1) https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/GANHRI/SCA_MARCH_2014_FINAL_REPORT_-_ENGLISH.pdf

Regulatory framework

The Centre has no constitutional basis as it was established by Act of the Slovak National Council No. 308/1993 Coll. on the Establishment of Slovak National Centre for Human Rights, as amended.

The NHRI has the mandate to contribute to access to justice for individuals, including through complaints handling, providing legal assistance to individuals and awareness-raising.

The Centre, within its mandate acting as the equality body in the Slovak Republic pursuant to Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and on Protection from Discrimination as amended (the Anti-Discrimination Act) can, however, represent individuals in civil litigation in anti-discrimination disputes.

The national regulatory framework applicable to the institution has not changed since the 2021 report.

The Centre believes its regulatory framework would need to be strengthened. Besides greater inclusion of the Centre in the participatory processes, the legislative and institutional framework should focus be amended to enhance the mandate of the Centre in submitting its opinions, comments and recommendations on both legislative and non-legislative initiatives to relevant state entities. In this regard, the legislative and institutional framework should also be strengthened to provide for greater obligations and commitments from the relevant state authorities to address the Centre's opinions and recommendations. A mechanism ensuring that state authorities consider the Centre's annual report on human rights and recommendations included should be established. In addition, the powers of the Centre to conduct independent investigations, concerning the area of non-discrimination and human rights violations should be enhanced. Independence shall be strengthened through changes in the appointment procedure of members of the Administrative Board and the election procedure of Executive Director should be more open. The legislation should also provide safeguards to financial independence.

References

- International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, 'Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)', March 2014:
<https://www.ohchr.org/Documents/Countries/NHRI/GANHRI/SCA%20MARCH%2014%20FINAL%20REPORT%20-%20ENGLISH.pdf>

- OSCE/ODIRH, 'Opinion on the amendments to the Act on establishment of the Slovak National Centre for Human Rights,' January 2019: <https://www.osce.org/files/f/documents/5/0/434804.pdf>
- Principles relating to the Status of National Institutions (The Paris Principles), adopted by the United Nations General Assembly resolution 48/134 of 20 December 1993

Enabling and safe space

The relevant state authorities have good awareness of the NHRIs' mandate, independence and role.

However, the NHRI does not have adequate access to information and to policy makers and is it not systematically involved in all stages of legislation and policy making with human rights implications. Indeed, the competence of the Centre to participate in all stages of legislation and policy making is limited. As concerns the participation in commenting proposed legislative or other policy documents, the Centre can only participate in the interdepartmental commentary procedure as part of general public, as it is not an obligatory commenting entity. In particular instances, it can be stated that there is a lack of willingness to engage in consultation from the side of state authorities in the process of law-making or policy-making. Nonetheless, there remain positive examples of good practices, involving the Centre in the creation of strategic documents, such as the cooperation between the Ministry of Foreign and European Affairs with the Centre in the drafting and creation of the first National Action Plan on Business and Human Rights or active engagement of the Centre by the Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities in preparation of action plans to the Strategy of Roma Equality, Inclusion and Participation by 2030. However, as was already highlighted by the Centre in its 2021 rule of law report, there is a need for more systematic involvement of the Centre in the legislative and non-legislative processes.

The addressees of the NHRI's recommendations are not legally obliged to provide a timely and reasoned reply and there are no state measures and no legislative grounds requiring public or private entities to respond to the NHRI's recommendations.

The continuous threats and targeting of human rights defenders, including NHRIs, result in threats to fundamental rights and the pillars of a functioning democratic society, including freedom of expression and access to reliable and impartial information, which is closely related to public participation. In Slovakia, there is no individual regime, provisions or immunities for the protection of members of the NHRI for criminal and civil liability for official actions and decisions undertaken in good faith. For more information specifically

on SLAPP actions, please see below the section on civic space and human rights defenders.

References

- Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities, Strategy for Roma Equality, Inclusion and Participation by 2030, available in Slovak: <https://www.minv.sk/?strategia-pre-rovnost-inkluziu-a-participaciu-romov-do-roku-2030>

Developments relevant for the independent and effective fulfilment of the NHRIs' mandate

The Centre continues its efforts to enhance its effectiveness and compliance with the Paris Principles and Recommendation 2021/1 of the Committee of Ministers of the Council of Europe on NHRIs. In 2021, for example, the Centre has adopted an internal methodology for monitoring and participating in legislative processes in order to enhance the effectiveness and formalize the participation in legislative processes and evaluate their success. Hence, despite the fact that the Centre does not have an explicit mandate, it is trying to strengthen its activities in this area internally.

In addition, the need to strengthen the independence, effectiveness and compliance with the Paris Principles is also part of the reporting activities of the Centre. For example, in 2021, the need to enhance the compliance of the Centre with the Paris Principles was explicitly addressed in its Individual submission on mid-term review of the fulfilment of recommendation from the third cycle of the Universal Periodic Review of the UN Human Rights Council by the Slovak Republic submitted in November 2021.

References

- Slovak National Centre for Human Rights, 'Individual submission of the Slovak National Centre for Human Rights (UPR mid-term): <http://www.snslp.sk/wp-content/uploads/UPR-Mid-term-Report-3rd-cycle.pdf>

NHRI's recommendations to national and regional authorities

The Centre recommends:

- To the Government of the Slovak Republic to establish the Centre as an obligatory commenting entity to legislative proposals through amendment of relevant legislation.
- To the Ministry of Justice of the Slovak Republic to enhance the efforts to increase full compliance of the Centre with the Paris Principles and to include the Centre in

discussions on the possible legislative amendments of the legal and institutional framework of the Centre, including Act of the Slovak National Council No. 308/1993 Coll. on the Establishment of the Slovak National Centre for Human Rights.

- To the Ministry of Justice of the Slovak Republic to enhance the independence and effectiveness of the Centre by placing more emphasis on the general obligation of relevant entities to cooperate with the Centre in all areas of its mandate, including an explicit mandate of the Centre to request response from the relevant state entities to the Centre's opinions and recommendations.

Human rights defenders and civil society space

The situation regarding the promotion and protection of civil society space and human rights defenders remains challenging. While the Centre has previously reported on the issue of halt on funding for projects for selected civil society organizations working on and advocating for the rights of minorities. The grant schemes and regulations remain inaccessible to organizations working on issues, including the protection of LGBTIQ+ or gender equality. In addition, the rhetoric employed by selected public figures remain alarming, with increasing use of hate speech directed against members of vulnerable groups as well as human rights defenders or civil society organizations working in this field.

Laws and practices negatively impacting on civil society space and/or on human rights defenders' activities

The disbursement of funding through public grant schemes continues to benefit only selected organizations, excluding organizations working on issues related to gender equality and LGBTIQ+ rights. Negative attitudes and perceptions of civil society organizations and human rights defenders working on these issues therefore also remained an issue in 2021.

The shrinking democratic space has been also highlighted by the rhetoric employed by the public authorities, who often engage in verbal attacks on human rights defenders and civil society organizations working with sensitive issues, such as gender equality or the rights of vulnerable groups.

In 2021, there have been repetitive attempts to amend the legislation concerning sexual and reproductive health of women, which impacted also the work and the environment in which civil societies and human rights defenders work. The Council of Europe Commissioner for Human Rights, Dunja Mijatović, addressed multiple letters to the Members of the National Council of the Slovak Republic, where she expressed concern

about these repeated attempts and their compliance with international human rights obligations. On that occasion, she also underlined that these repeated attempts create "an increasingly hostile environment" for Slovak human rights defenders working on the issues of gender equality and sexual and reproductive health and rights. The Centre followed with concern developments regarding such proposals and the related legislative process in the National Council of the Slovak Republic. In September 2021, it called upon the Members of the National Council of the Slovak Republic not to vote for such proposal and as a follow up, on 13 October issued and addressed the expert opinion on the amendments to the deputies of committees in the National Council of the Slovak Republic authorized to discuss the amendments, asking them not to support them in committee and plenary. In its opinion, the Center analyzes the controversial provisions of the draft law in terms of their compliance with human rights and the principle of equal treatment.

References

- Council of Europe, Commissioner for Human Rights Letter, 15 October 2021: <https://rm.coe.int/letter-to-the-slovak-national-council-by-dunja-mijatovic-council-of-eu/1680a43530>
- Slovak National Centre for Human Rights, 'Monitorujeme prebiehajúci legislatívny proces v NR SR k návrhu zákona o pomoci tehotným ženám': <http://www.snslp.sk/aktuality/monitorujeme-prebiehajuci-legislativny-proces-v-nr-sr-k-navrhu-zakona-o-pomoci-tehotnym-zenam/>

Access to and involvement of civil society actors in law and policy making

As regards the involvement of civil society actors in law and policy making, challenges remain in terms of participatory processes and consultation of wider public, including the representatives of relevant civil society organization, when adopting important reforms. While there have been no legislative changes restricting or regulating the access to and involvement of civil society actors, examples of lack of their involvement continue also in 2021. For example, despite the announcements of the Ministry of Finance of the Slovak Republic that the Recovery and Resilience Plan of the Slovak Republic will be discussed at several roundtables and implemented in close cooperation with civil society organizations, several civil society organizations criticized the lack of involvement of key partners and called on the Government to discuss further steps and participation of relevant civil society organizations. Moreover, it is a common practice that important laws or legislative amendments are submitted directly through the parliament (as proposals of members of the parliaments and not government proposals) where the space for the civil society to

participate is limited as compared to the legislative procedure regulating governmental proposals that need to pass through the interdepartmental commentary procedure.

References

- Platforma Hlas, 'Chceme vedieť, aké sú plány vlády pri zapojení verejnosti do realizácie Plánu obnovy,' available in Slovak at: <https://www.platformahlas.sk/chceme-vediet-ake-su-plany-vlady-pri-zapojeni-verejnosti-do-realizacie-planu-obnovy/>
- <https://www.platformahlas.sk/v-navrhu-zakona-k-planu-obnovy-chyba-zapojenie-klucovych-partnerov/>
- Ministry of Finance of the Slovak Republic, 'Plán obnovy pôjde aj na pripomienkové konanie', 14 January 2021, available in Slovak at: <https://www.mfsr.sk/sk/media/tlacove-spravy/plan-obnovy-pojde-aj-pripomienkove-konanie.html>
- Teraz.sk, 'Organizácie: Nejde nám o kritiku, ale o spoluprácu na plane obnovy,' 14 December 2021, available in Slovak at: <https://www.teraz.sk/slovensko/organizacie-vyzvali-premiera-aby-ich/597588-clanok.html>

Threats and attacks, including strategic litigation against public participation (SLAPPs)

The Centre has recently carried out a research focused particularly on civil society organizations and human rights defenders active in the field of environment protection. In 2021, it mapped the experience of threats and bullying or other restriction of rights of human rights defenders and civil society organizations in this field. The aim of the mapping was to obtain basic information on whether such cases occur, in what form and whether human rights defenders and civil society organizations turn to public authorities in order to stop such actions. The mapping included collection of data through a questionnaire with the aim to explore detailed characteristics of the experience of threats or bullying, e.g. threatening subjects, method of threat or bullying, strategies of solution and protection against such conduct. Within this activity, the Centre received information on 11 cases that respondents considered threat or bullying. The most common form of threat and restriction of rights was the different ways of harassment and slander of individuals or their families by the parties involved, but also threats and the use of various administrative acts as a form of harassment (complaints, criminal reports). Such action came from entities whose interests may be affected by the work of defenders. As reported, in most cases human rights defenders seek to defend themselves by legal means and

address various public authorities. However, according to the findings, opportunities to defend their rights are perceived rather negatively. According to the findings of this activity, the civil society organizations have confirmed that they have some experience with various forms of restrictions on the exercise of their rights under the Aarhus Convention. However, as the Centre has noted, no judicial or criminal statistics are collected on this phenomenon, and no academic research into the rights of human rights defenders in this field was carried out to date.

As regards legal harassment and SLAPPs, there are various legal instruments potentially used and abused in Slovakia to bring cases against human rights defenders, including NHRIs. In the area of civil liability, the most common instrument relied on is Section 13 of Act of the Federal Assembly of the Czech and Slovak Federal Republic No. 40/1994 Coll. Civil Code, as amended (“Civil Code”) ensuring the protection of reputation of a natural person and Section 19b(3) of the Civil Code, ensuring the protection of reputation of legal persons. As regards criminal liability, in general, the Criminal Code sets out several provisions often used to initiate criminal proceedings against human rights defenders. These include, for example, false accusation under Section 345, endangering confidential and classified information under Section 353, slander under Section 373, or violation of the confidentiality of spoken conversation and other personal expressions. When it comes to civil proceedings, these are usually directed against the media publishers while journalists or human rights defenders rather face criminal proceedings.

For more information, please see the section on media freedom, pluralism and safety of journalists.

NHRI’s role in promoting and protecting civil society space and human rights defenders

Besides the Centre’s regular monitoring and reporting activities, including the annual rule of law report and the targeted research mentioned above on environmental defenders, the Centre continues to submit its individual reports also to the UN human rights mechanisms, including the Individual submissions on the fulfilment of recommendations from the review cycles of the Universal Periodic Review of the UN Human Rights Council. In November 2021, the Centre submitted its Individual submission on mid-term review of the fulfilment of recommendation from the third cycle of the Universal Periodic Review of the UN Human Rights Council by the Slovak Republic. In its individual submission, the Centre also focused on addressing and evaluating the fulfilment of recommendations concerning the promotion and protection of enabling civic space, especially regarding the shrinking space

for civil society organizations working on issues of vulnerable groups, including LGBTQ+ or organizations working on sexual and reproductive rights.

References

- Slovak National Centre for Human Rights, 'Individual submission of the Slovak National Centre for Human Rights (UPR mid-term), available at: <http://www.snslp.sk/wp-content/uploads/UPR-Mid-term-Report-3rd-cycle.pdf>

NHRI's recommendations to national and regional authorities

The Centre recommends:

- To focus on complementing legislative measures aimed at increasing the support and safety of journalists and human rights defenders, as well as civil society organizations with the adoption of additional measures focusing on raising awareness and knowledge on the work of human rights defenders, as well as better monitoring cases of threats.
- To Ministry of Labour, Social Affairs and Family of the Slovak Republic and other national authorities administering grant schemes for civil societies to ensure that funding for civil society organizations available from grant schemes administered nationally are equally available to all civil society organizations irrespective whether they work on sensitive issues.
- To the Government of the Slovak Republic to implement the relevant international and regional human rights standards on the protection of human rights defenders.

Checks and balances

Despite the number of reforms introduced, challenges remain in the area of checks and balances. In particular, it must be highlighted that the alarming signal of numerous amendments to the Constitution do not contribute to the stability of the legal order and question the system of checks and balances, increasing the power of legislative and executive.

Procedure to dismiss members of the Judicial Council

The Centre has previously reported on the reform of the judiciary and amendments to the Constitution of the Slovak Republic adopted in December 2020 posing challenges to the functioning of the justice system as well as the system of checks and balances. One of the challenges include the explicit possibility to dismiss members of the Judicial Council of the Slovak Republic at any time before the expiry of their tenure by their appointing authority

(Article 141a(2) of the Constitution of the Slovak Republic (“Constitution”). The provision does not require the dismissal to be founded on specific criteria prescribed by law, on the contrary, it may be motivated by a lack of trust. Such mechanism is not in conformity with the European standards concerning the judicial independence. Members of the Judicial Council should be granted sufficient guarantees for their independence and impartiality in relation to the legislature and the executive, including the way they can be dismissed. Tenure of members of Judicial Council shall be secure and not subject to arbitrary termination. Only in case of serious misconduct or neglect of duty may a member be dismissed, while the law should provide precise grounds, procedure and competences.

Accelerated legislative processes

Accelerated legislative procedures continued to threaten the system of checks and balances in 2021. A number of legislative proposals have undergone accelerated legislative procedures in response to the COVID-19 pandemic, as part of measures directly related to the COVID-19 pandemic, but also irrespective of the pandemic emergency. Although already in use before the pandemic, experts argue the practice is becoming more common and is often being misused. Such procedures bypass the opportunity for public debate and scrutiny over important matters, and have exposed the possibility to use accelerated legislative procedure even to change the Constitution. According to the statistics of the National Council of the Slovak Republic (“Parliament”), in 2021, the Parliament has enacted 167 acts, out of which 27 were enacted in an accelerated legislative procedure. In March 2021, the President vetoed a law on motorway vignettes as it did not meet the conditions for an accelerated legislative procedure.

Some Members of Parliament also recognized the use of accelerated legislative procedures as problematic, including for the lack of coordination between ministries. Additionally, a new amendment is currently being prepared under the Rules of Procedure of the National Council that would change the rules for accelerated legislative procedures. The proposed changes would lead to a more extended legislative process, but also to the easing of the conditions under which an accelerated legislative procedure can be initiated. As of 18 January 2022, no draft of the proposed legislation is yet available.

Implementation of judgments of supranational courts

As regards the implementation of judgments of supranational courts, namely the European Court of Human Rights, according to the Committee of Ministers of the Council of Europe, the judgment of 1 September 2020 in the case of *R.R. and R.D. v. Slovakia* remains under enhanced supervision by the Committee of Ministers. The case concerned a violation of Articles 3 and 14 due to police ill-treatment and excessive use of force in a police

operation carried out on a street in a Roma community, and the subsequent lack of proper investigation into the alleged discrimination in the planning of such operation. In June 2021, the Slovak Government published an “Apology of the Government of the Slovak Republic for the manner of intervention of the police forces in the case of Moldava nad Bodvou in 2013”.

References

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Trust amongst citizens and between citizens and the public administration

The level of trust of citizens in the state authorities remains constantly low, even after the planned and introduced reforms in many relevant areas. For example, according to the Flash Eurobarometer survey of September 2021, 66 % of Slovak respondents think that things are going in the wrong direction in their country. This is above the EU average of 48 %. Slovak respondents were also slightly more concerned about the impact of the COVID-19 pandemic on the financial situation of their household than the EU average. With regards to the way the Slovak government has handled the COVID-19 vaccination strategy, Slovak respondents showed the lowest rates of satisfaction in the EU (24 % compared to the 50 % EU average). Satisfaction rates with the EU's handling of the COVID-19 vaccination strategy were also lowest among the EU countries (40 % compared to the 49 % EU average).

At the beginning of the pandemic in Slovakia, the Institute for Sociology and Institute for Research in Social Communication of the Slovak Academy of Sciences, MNForce Public Opinion Agency and Seesame Communication Agency, began to conduct online-based surveys. Their purpose was to document the changing views of the population on a variety of important topics, including trust in public institutions. According to their findings, the trust in public institutions has significantly decreased since the pandemic began. From the 4 institutions mentioned in the survey, the government has the lowest trust. It has witnessed the largest decrease with 45,2% of people having trust in it in the first survey from April 2020, to only 10% in December 2021. Trust in other public institutions, including the President, Healthcare and Science institutions, waned as well.

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NHRIs as part of the system of checks and balances

Alerting on concerns posed by amendments to the Constitution of the Slovak Republic

The Centre has highlighted the challenges posed by the newly adopted amendments to the Constitution in its 2021 rule of law report. Among other initiatives, the Centre focused on analyzing the selected problematic issues and in 2021 published a Legal Analysis of the Constitutional Amendments, with the aim to analyze the particularities of the Constitutional Act No. 422/2020 Coll., namely its hypothetical impacts on the enjoyment of human rights and fundamental freedoms. In particular, the analysis focused the new amendment (Article 124(5) of the Constitution), which explicitly excludes the possibility of the Constitutional Court of the Slovak Republic to assess the compliance of constitutional acts with the Constitution. Considering that constitutional acts may be enacted by the approval of three-fifths of the Members of Parliament, the removal of the reviewability of constitutional acts by the Constitutional Court was perceived as a threat to the principle of checks and balances on the part of other powers in the State. According to the findings of the Centre, preventive analysis of the proposal to amend the Constitution in terms of the possible effects of these changes on the exercise of human rights and fundamental freedoms should necessarily precede the introduction of such an explicit limitation of the competences of the Constitutional Court. Taking into consideration the low degree of rigidity of the Constitution and the high number of amendments, the reduction of the

control mechanism, which is not offset by the strengthening of stabilization mechanisms, appears challenging with a potential negative impact on human rights standards. The power of control and competence of the Constitutional Court in relation to assessing the compliance of constitutional acts with the Constitution was an important guarantee of protection of constitutionality. In the Centre's view, compensating the Constitutional Court's deprived powers by other review mechanisms would be more adequate.

Alerting on concerns posed by accelerated legislative procedures

The Centre has previously highlighted the issue of using accelerated legislative procedures in its 2021 rule of law report. Addressing this issue, the Centre monitored and analyzed new sources of law introduced in 2020 in its Report on the Observance of Human Rights Including the Principle of Equal Treatment in the Slovak Republic for the Year 2020, published in April 2021. According to the findings of the Centre, during 2020, the Slovak legal system expanded by a total of 453 new sources of law published in the Collection of Laws, including 2 constitutional acts, as well as 124 acts. Out of these 124 acts, almost half of the acts were introduced in accelerated legislative proceedings.

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NHRI's recommendations to national and regional authorities

The Centre recommends:

- To the Ministry of Justice of the Slovak Republic and other relevant authorities to conduct preventive analysis of the proposals to amend the Constitution of the Slovak Republic in terms of the possible effects of these changes on the exercise of human rights and fundamental freedoms before the introduction of provisions restricting the powers of selected authorities affecting the system of checks and balances.
- To the Government of the Slovak Republic and the National Council of the Slovak Republic to improve the participatory process, including enhancement and greater attention paid to consultations of wider pool and more systematic inclusion of relevant stakeholders, including the NHRI, in the creation and drafting of legislation and policy documents.

- To the National Council of the Slovak Republic to refrain from constant, rapid and arbitrary amendments of the Constitution of the Slovak Republic, which might create instability of the legal order and pose challenges in the system of checks and balances.

Functioning of the justice system

The Ministry of Justice continued its efforts to advance on a number of specific reforms focusing on enhancing the functioning of the justice system. Such reforms included, among others, numerous and repetitive amendments of the Slovak Criminal Code and Criminal Procedure Code, introducing new crimes, such as dangerous electronic harassment, or the amendment of the conditions and length of pre-trial detention; the unification of disciplinary proceedings for a number of professions and the adoption of the Disciplinary Rules of Procedure; the significant strengthening of the rights and support for the victims of crime, or the numerous proposals for a new judicial court map. However, challenges remain in a number of areas, related not only to the design and implementation of such reforms and proposals, but also the potential effect of such reforms on the enjoyment of the fundamental rights and freedoms of individuals. This was for example, the case for the restriction of the competence of the Constitutional Court of the Slovak Republic to review to compliance of constitutional acts with the Constitution of the Slovak Republic, which was part of the amendments to the Constitution adopted in December 2020, already mentioned in last year's report, and on which the Centre recently published a brief legal opinion (see below, in the section on Checks and balances) . In addition, as shown by number of monitoring mechanisms, for example, the Eurobarometer, the level of trust of public in the justice system continuously remains alarmingly low.

Supreme Administrative Court

In 2020, Constitutional Act No. 422/2020 Coll. amending the Constitution of the Slovak Republic created the Supreme Administrative Court of the Slovak Republic ("SAC") as part of the larger reforms of the judiciary in Slovakia. In May 2021, the President of Slovakia appointed the head of the SAC. The SAC began functioning on 1 August 2021 and its aim is to protect people from the possible arbitrariness of state authorities. According to Article 142 of the Constitution, the SAC has a general jurisdiction in the field of administrative justice to review important decisions of state authorities and institutions, as well as the power to decide on the constitutionality and legality of elections to local self-governing bodies, and the dissolution or suspension of a political party or movement. In addition, it also acts as a disciplinary court for judges, prosecutors and in cases stipulated by law, for other professions as well, including for example, notaries.

As concerns the disciplinary proceedings, in November 2021, the Parliament approved the proposal of the Ministry of Justice for the new disciplinary rules of procedure for the SAC, which aims to regulate and unify the procedural rules of disciplinary proceedings in cases of judges, prosecutors, notaries and court bailiffs before the SAC. According to the new rules, the composition of the Disciplinary Boards guarantees the necessary transparency of the disciplinary proceedings and significantly strengthens the representativeness and legitimacy of the members of the Disciplinary Board. The Disciplinary Board consists of the President of the Disciplinary Board, two Judges and two Associate Judges, which are randomly selected from the database according to the membership of the person in the profession.

The rights of Victims of Crime

In July 2021, the legislative amendment of Act No. 274/2017 Coll. on Victims of Crimes, as amended, came into effect, significantly strengthening the rights of victims of crime in a number of areas, including simplifying their access to compensation already at the beginning of the criminal prosecution and not after its lawful end. In addition, the new amendment extends the circle of victims of violent crimes to include also surviving relatives who lived with the deceased in the same household at the time of death if the violent crime caused death and to the victims of crime of torture of a close and entrusted person, the crime of enforced disappearance which caused non-pecuniary damage.

Judicial Court Map

The Centre has previously reported about the proposal to reform the court map as introduced by the Ministry of Justice. In 2021, the Minister of Justice continued her efforts to reform the judicial court map and submitted further options for such a new court map. The Judicial Court Map is the first reform supported by the Recovery and Resilience Plan in the field of justice. According to the Ministry of Justice, the new reform aims at creation of specialization of judges, faster and better court decisions and better working conditions for judges and court staff. However, neither of those versions received much support, whether it was within the political discourse or wider public, but most importantly it was highly criticized by the relevant judicial associations or other legal professions. Nonetheless, in January 2022, the Government of the Slovak Republic enacted the proposed reform of the court map.

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Role of the NHRI in contributing to the effective functioning of the justice system

In June 2021, the Minister of Justice requested an opinion from the Venice Commission on two questions concerning the role of SAC in disciplinary proceedings against lawyers and concerning the organization of the legal profession in Slovakia. While the Centre highlights the efforts of the Ministry of Justice to seek guidance and consult parts of proposals for potential future reform process, namely their compatibility with the principles of rule of law and democracy, it must also be stated, as also highlighted by the representatives of the Venice Commission in their Opinion, that without presenting a specific legislative proposal for such a reform, it made it difficult for the Commission to receive appropriate feedback from national stakeholders and did not allow the Commission to assess such proposed reform in the broader context. The Centre took active part in the meeting and consultation with the experts from the Venice Commission organized in September 2021.

In July 2021, the Centre organized a working meeting with experts and relevant stakeholders on the issue of the new crime of dangerous electronic harassment. As the Centre actively organizes a number of educational activities for children as well as adults on the issue of cyberbullying and security of social networks, the Centre wanted to gather insights from relevant stakeholder and discuss about the risks in the online environment, taking measures to eliminate these risks and the importance of behaving responsibly. The Centre welcomed the introduction of such a new criminal offence and the opportunity to discuss with professionals on this very sensitive issue.

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NHRI's recommendations to national and regional authorities

The Centre recommends:

- To the Ministry of Justice of the Slovak Republic and other relevant stakeholders to continue their efforts in seeking guidance from relevant regional advisory bodies on the compliance of proposed amendments and reforms with the European standards.
- To the Ministry of Justice of the Slovak Republic to ensure that the proposed reforms for legislative and non-legislative measures are drafted and created in a transparent way with effective participatory processes, including consultations of relevant national stakeholders, such as NHRI, civil society organizations, academics and independent experts, as well as are preceded by an impact assessment.
- To the Ministry of Justice of the Slovak Republic to ensure that the comments of the relevant national stakeholders on the proposed reforms are fully and transparently addressed.

Media freedom, pluralism and safety of journalists

The rise in hostility and violence against journalist remains concerning, especially in connection with the COVID-19 pandemic as well as the anti-corruption framework. For example, in July 2021, journalists were attacked and insulted during a demonstration against new COVID-19 rules in front of the Parliament in Bratislava.

Freedom of media and safety of journalists

According to the 2021 World Press Freedom Index published by Reporters Without Borders evaluating the freedom of media, Slovakia ranks 35 out of 180 in the world ranking, decreasing its position as compared to 2020.

As regards criminal investigations against journalists, according to the Council of Europe's Platform to promote the protection of journalism and safety of journalists, there have been several alerts relating to the safety of journalists and freedom of media in Slovakia also in 2021. In September 2021, two journalists were charged with revealing the identity of a former intelligence agent, who acted as a secret witness in the investigation into the murder of investigative journalist Ján Kuciak and his fiancée. In September 2021, the Bratislava Prosecutor's Office ordered the police to press charges, which came just weeks before the expiration of statutory time limit on the original criminal complaint filed by the secret witness in 2018, which was initially rejected by the police. The journalists were charged with revealing confidential information pursuant to Section 353 of Act No. 300/2005 Coll. Criminal Code, as amended ("Criminal Code"). The charges were met with widespread public outrage. After the Prosecutor General instructed to review the charges' legality and grounds, the Regional Prosecutor's Office in Bratislava overturned the decision, dismissing the charges.

The Ministry of Culture of the Slovak Republic ("Ministry of Culture") has previously reported to be 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. As of December 2021, no legislative proposals have been presented yet. Nonetheless, the Ministry of Culture has introduced a package of media laws, which, among others, are intended to increase the transparency of media financing and the transparency of the ownership. All media will have to register in the public sector partners and publish all donors who donate more than 1200 Eur during the year.

The Media Legislative Package contains various laws, including Media Act, Authors Act and Publication Act. The Media Act introduces various rights and duties for audiovisual media. Among other amendments, it requires media to disclose their owners, introduces new advertisement rules and offers better protection for underage viewers. As of January

2022, the Act was passed to the second reading in the Parliament. The Authors Act intends to help authors, by for instance introducing a bestseller clause, support research and restrict technological giants. The Act was enacted by the Parliament on 16 February 2022.

Freedom of Information Act

The Ministry of Justice has proposed amendments to the Freedom of Information Act, with the stated intention to bring more transparency to the public sector. The Act is divided into two parts. The first one is based on requests included in the Political Manifesto, such as expanding the obligations arising from the Freedom of Information Act on state-owned companies and their subsidiary companies. The second part is based on Directive 2019/1024 ("EU Open Data Directive"). The Act is considered a very sensitive topic and many expressed concerns about this amendment. Civil society organizations including Via Iuris, Transparency International Slovakia and the Fair-Play Alliance criticised the Act for being too narrow, arguing that a more comprehensive reform is needed to address all the issues people face when trying to access public interest information. Civil society actors put forward 22 suggestions to achieve this aim, looking at the most problematic procedures and practices of authorities when dealing with requests for information.

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Role of the NHRI in promoting and safeguarding an enabling environment for media and freedom of expression

Within its monitoring and reporting activities, the Centre focused in great detail on existing challenges and the implementation of related recommendations in the area of freedom of media and safety of journalists in its Individual submission on mid-term review of the fulfilment of recommendation from the third cycle of the Universal Periodic Review of the UN Human Rights Council by the Slovak Republic submitted in November 2021. The submission highlighted the alarming threats that remain regarding the safety of journalists, as well as the overuse of criminal procedures and measures regarding the reporting of journalists.

In November 2021, the Centre organized a roundtable with representatives of the media and experts as well as staff members of the Centre on the issue of improving the public debate on human rights violations and discrimination. According to the outcomes of the discussion, the sensitization of certain facts and news on media often leads to the stigmatization of vulnerable groups and thus contributes to further polarization of society. On the contrary, their overuse contributes to a decline in public trust in institutions and mechanisms designed to protect rights.

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NHRI's recommendations to national and regional authorities

The Centre recommends:

- To the Ministry of Culture of the Slovak Republic to complete, without undue delay, the work on the preparation and enactment of a constitutional act on increasing the safety of journalists, as well as enlarge the participatory process of the creation of the constitutional act.
- To all public figures to refrain from legislative harassment practices such as using strategic lawsuits against public participation or cases of defamation of journalists.
- To law enforcement authorities to refrain from practices using criminal procedures with the aim to detract journalists from reporting and promptly, impartially, independently and effectively investigate all crimes against journalists and to state authorities to take an active role in prevention of attacks against journalists.

Corruption

As also highlighted by the previous rule of law report, the country is making progress in combating corruption. The establishment of a Whistle blower Protection Office, the Office for the management of seized property, or the proposed Amendment of the Criminal Code are examples of this. However, there are still remaining issues as well as recommendations from international and regional monitoring or advisory bodies which need to be implemented. This was clear from the Compliance report of the fifth evaluation round by GRECO which drew attention to the fact that the country satisfactorily implemented only 2 out of 21 of its recommendations. Many problems remain to address corruption risks of top executive officials or law enforcement agencies. The data from the Transparency International 2021 Corruption Perceptions Index have shown an increase in score, however it is still low compared to the EU average.

Anti-corruption framework

Slovakia scored 52/100 in the latest Transparency International 2021 Corruption Perceptions Index, increasing its position compared with the last year's ranking (49/100). It was ranked 56th globally (60th in 2020). According to the data of the Transparency International Global Corruption Barometer EU 2021, 19% of Slovaks believe that corruption increased in the previous 12 months. This is the same percentage as Luxembourg and the third lowest number in the EU. On the other hand, 81% of Slovaks think corruption in their government is a big problem (EU average is 62%). However, 61% of people believe their government is doing well in tackling corruption (EU Average 43%).

Statistics on corruption

The number of corruption offenses increased in 2020, compared to 2019. According to the statistics provided by the Office of the Special Prosecution, in 2020, 189 persons were prosecuted for corruption offences or suspected thereof, which is an increase of 50 compared to 2019. 124 persons were indicted, compared to 83 in 2019; 34 persons concluded plea bargain agreements in 2020, compared to 44 in 2019, and 118 persons were convicted. Multiple charges were brought against people in cases of corruption in public finances management, corruption of high-ranking civil servants and corruption in the judiciary.

Whistle blowers Protection Act

As mentioned in the last report, the Act No. 54/2019 Coll. On the Protection of Persons Reporting on Anti-social Activities, enabled the creation of the Whistle blower Protection Office. The National Council elected the Office's first head in February 2021. The office has been fully functioning since 1 September 2021. Among other roles, it provides assistance and legal advice to people who report actions, which are negatively affecting society. On the 100-day anniversary of the Office, the Office's head communicated that to that day, 111 people had asked for assistance; the office had received 45 reports, more than a half of which had been linked to serious breaches of various laws; at that moment it was dealing with 22 cases and had already protected 4 persons from being fired or suffering unfair sanctions from the employer.

Office for the management of seized property

A new law, Act No. 312/2020 Coll. on the Enforcement of the Decision on Freezing of Assets and Management of Frozen Assets, established a new Office for the Management of Seized Property. The Office has been in operation since 1 August 2021. It is viewed as an important asset in the fight against corruption since it manages properties seized during criminal and tax fraud proceedings or during the process of proving the origins of assets

and during impositions of international sanctions. In December 2021, the head of the Office informed that the Office was already managing multiple seized assets. These included 35 cars, 18 houses, 23 flats, 79 premises and 25 weapons.

Amendment of the Criminal Code

The new amendment to the Criminal Code proposed by the Ministry of Justice in December 2021 expands the scope of corruption offences as currently formulated in the Criminal Code, so that such provisions could in practice become applicable to any corruption cases. Among other amendments, it will increase the limit of material damage from 266 Eur to 500 Eur, as this number has not changed since 2005. A new category of material damage, damage of extraordinary large scale, with a threshold amounting at least to 1 000 000 Eur, will be introduced. Moreover, provisions to punish corruption in the framework of elections will be tightened, both by expanding their scope and increasing the sanctions. The Ministry of Justice proposed the new law to come into force on 1 June 2022. In addition, the proposal for the amendment of the Criminal Code was under the Interdepartmental Commentary procedure until 21 December 2021 and the results of the procedure are being evaluated

Compliance report of the fifth evaluation round by the Group of States against Corruption (GRECO)

GRECO, in the new Compliance report examined the compliance of the Slovak Republic with its recommendations issued in the 2019 Evaluation Report. The country failed to implement 16 out of 21 recommendations, while 3 were considered partly and 2 satisfactorily implemented. GRECO welcomed that a revised National Anti-Corruption Programme was being prepared, which according to Slovak authorities should address many of its recommendations. However, because the Programme was still in preparation, most of the recommendation concerning top executive functions were not met. This included setting rules to govern contacts between lobbyists and top executive officials; adoption of a code of conduct for top executive officials in order to provide clear guidance regarding conflicts of interests; subjecting state secretaries to integrity checks or establishing stricter rules, such as guidance and the obligation of reporting them, on gifts for top executive officials; as well as strengthening the system of asset declaration for persons with top executive functions. GRECO found that more progress was made in the area of law enforcement agencies. GRECO highlighted the adopted Action Plan for the Fight against Corruption in the Police Force which aims to eliminate corruption risks within set timeframes. Therefore, for instance, it considered that the recommendation to establish and determine concrete measure for an anti-corruption strategy within the Police Force was met. The revision of the Code of Conduct for Police Members was also being

prepared, which was considered a positive development; however, GRECO could not conclude whether it would meet the recommendations. Multiple recommendations remain unimplemented as regards corruption risks within the Police Force. These include the strengthening of the security check system, adopting rules to limit risks of conflicts of interests when police officers leave to work in other sectors or strengthening the control system of assets of police officers.

The area of anti-corruption framework remains one of the areas in which the Centre is monitoring and reporting on the challenges as well as improvements within the European Rule of Law Mechanism, as well as it remains part of its activities and engagement with other international and national stakeholders.

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NHRI's recommendations to national and regional authorities

The Centre recommends:

- To the Government of the Slovak Republic to take active steps to implement recommendations from international and regional organizations and bodies, including GRECO and engage relevant stakeholder, including the NHRI and civil society organizations in the process.
- To public figures to present good practices and results achieved when informing the public with the aim to increase the trust of public in state authorities and creating a culture of zero-tolerance towards corruption.

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

In 2021, COVID-19 pandemic continued to have disproportionate negative impact on the vulnerable sectors of society, including Roma. The rather high number of resolutions that included restrictions on freedom of movement, which at times amended the rules in a timeline of only a few days, created confusion and uncertainty of rules and restrictions in the general public, causing also challenges of enforcing them in practice.

Emergency regimes and related measures

In 2021, there were several extended periods in the duration of the state of emergency related to COVID-19 pandemic. The first period of state of emergency lasted from 1 October 2020, until 14 May 2021, being prolonged several times. The second state of

emergency was declared by the Government of the Slovak Republic Resolution No. 428/2021 Coll., starting from 25 November 2021 for a period of 90 days, and was in force until 23 February 2022.

As in the previous year, the Government enacted a number of restrictions on freedom of movement and residence and freedom of peaceful assembly. The restrictions to freedom of movement were often connected to a curfew (e.g. from 5:00 a.m.- 01.00 a.m. or from 20-00 p.m.- 05.00 a.m.), with a number of exceptions (e.g. way to and from work, shopping for food and essentials, pharmacy, COVID-19 testing, doctor's visit or individual sporting/nature walks). The rather high number of resolutions that included restrictions on freedom of movement (e.g. a total of 14 in the period of 1 January – 14 May 2021), which at times amended the rules in a timeline of only a few days, created confusion and uncertainty of actual rules and restrictions in the general public, causing also challenges in their practical enforcement. This also concerned rules and regulations affecting the functioning of shops, cultural centers, ski and recreation amenities or long distance public transport. Regarding the latter, in December 2021, the Government ordered that only vaccinated, recovered or tested passenger were allowed to use long-distance buses and express trains. However, the responsibility over the matter was unclear, ensuing in disputes between the Ministry of Transport and Construction of the Slovak Republic and the Public Health Authority of the Slovak Republic. This resulted in people's uncertainty over rules whether they would be able to get to work, home or school.

Freedom of assembly continued to be restricted at times also in 2021 as part of regulations aimed to curb the spread of the COVID-19 pandemic. Lasting from 13 October 2020 until 14 May 2021 and again from 25 November 2021 until 12 January 2022, peaceful assembly of more than 6 persons, excluding persons living in the same household, was prohibited.

In 2021, the Constitutional Court of the Slovak Republic also reviewed some of the measures adopted in connection with the COVID-19 pandemic. According to the finding of the Constitutional Court published on 31 December 2021, the use of state quarantine (outside of household, e.g. in a medical or other designated facility) is deemed unconstitutional as an inadmissible interference with personal liberty. The Constitutional Court decided on the motion of the Public Defender of Rights on violation of fundamental rights and freedoms during a pandemic. Secondly, the Court also decided on the powers of the Ministry of Health of the Slovak Republic and hygienists to enact pandemic measures.

The Constitutional Court stated that any restriction of fundamental rights must be clearly defined in law. In case of a broadly conceived power of the Ministry of Health and state and regional health authorities to take various anti-pandemic measures, this condition was

not met. The Court did not decide on other regulations, such as obligations to wear a face mask in public or on the requirement to provide a proof of vaccination, recovery or testing when entering various facilities. In December 2021, the Government however committed the Ministry of Health and Ministry of Justice to prepare a legal analysis of the possibility to introduce compulsory vaccination against COVID-19. The Constitutional Court also accepted a proposal of a group of 30 Members of Parliament to make a decision over the constitutionality of the provision of the legislative amendment (Act No. 304/2021) to the Act No. 355/2007 Coll. on the protection, promotion and development of public health and on the amendment of certain laws, as amended. The contested provision introduced a possibility to deny entry of people without the certificate of vaccination, recovery or negative test against COVID-19 into premises where people gather or to mass events

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

The COVID-19 pandemic continued to have a disproportionate negative impact on the vulnerable sectors of the population in 2021. Despite certain efforts of the state, discrimination of Roma remains alarming and the COVID-19 pandemic further exacerbated the marginalization of Roma communities. With regards to the right to education, the Centre highlighted that the COVID-19 pandemic has brought new challenges not only in terms of access to education but also greatly exacerbated existing inequalities, especially for pupils from vulnerable populations.

In addition, children continued to be affected by several suspensions of in-person education in 2021, as part of the restrictions to curb the spread of the pandemic. In particular, despite positive measures from the state, including provision of education materials, webinars or guidance for distance learning, the physical closure of schools continued to impact the access to education of students from low socio-economic background, including Roma students. Organization for Economic Cooperation and Development ("OECD") also reported that the COVID-19 crisis may have exacerbated significant equity concerns in Slovakia. As the impact of the socio-economic background in Slovakia on student performance is the highest in the OECD (particularly negatively affecting Roma pupils), Roma pupils may lack behind further due to the pandemic.

With regards to the right to health, some healthcare procedures, including surgeries, continued to be postponed also in 2021, especially during the third pandemic wave in Autumn 2021. As reported by the media and healthcare providers, the postponement of some procedures was due to the increasing number of COVID-19 patients in hospitals,

combined with the lack of personnel, including nurses and anesthesiologists that were moved to care for COVID-19 patients.

Although not as pervasive as in 2020, Slovakia remained the only country in the EU in the second wave of the pandemic, in which entire Roma communities continued to be quarantined, such as in the town of Sačurov. The Centre as well as the Public Defender of Rights repeatedly contested the inadequacy and lack of sufficient justification of the measures regulating the isolation of Roma communities.

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Efforts by state authorities to mitigate challenges

According to the OECD, the impact of the COVID-19 pandemic crisis on the Slovak economy has been severe. After the rebound of the economic activity in the second half of 2020, the recovery pace has slowed. In the third quarter of 2021, the country's GDP remained about 1.5% below its pre-pandemic level. OECD further reported that the authorities took quick and effective measures to protect vulnerable households and provided extra spending to reinforce the capacity of the healthcare sector, job retention schemes and support to self-employed workers to save jobs and limit household income declines. The COVID-19 crisis was however particularly hard for small firms, which may further aggravate the difference between small domestic firms and highly productive large, mostly foreign-owned firms.

The Government continued to provide several financial recovery schemes, including to employers or self-employed persons that had to close or limit their operation due to the pandemic-related health regulations. Other support measures included insurance deferrals for employers and self-employed persons and support schemes for tourism industry.

In December 2021, the Government also approved a proposal of the Ministry of Health to provide a bonus remuneration (of 350 Euro or 300 Euro after taxation) to all healthcare professionals. However, not all people working in medical facilities (such as ambulance drivers and medical support staff) are included.

The Recovery Plan of the Slovak Republic (hereinafter referred to as "NRRP") also includes opportunities to improve the situation in certain aspects of the rule of law in Slovakia. It follows up the ongoing priorities of the Government with respect to the reform of the justice system and fight against corruption, supporting them with funding from the Recovery Fund. As part of post-COVID 19 recovery, the NRRP includes the reform of a justice system as well as fight against corruption and money laundering, security and protection of population. The reform of judicial map is defined as one of the key reforms under NRRP together with improving the effectiveness of fight against corruption and money laundering (reform of the National Criminal Agency). Most of the reforms proposed in NRRP are to be implemented already by the end of the year 2021 or first half of 2022 under the Component 15 and 16.

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Actions taken by the NHRI to promote and protect rule of law and human rights in the crisis context

The Centre, within its mandate as an NHRI and equality body, continued to closely monitor the adopted measures in relation to the COVID-19 pandemic and evaluate their impact on the protection of human rights. For instance, the Centre monitored to what extent have health care facilities and doctors limited their services to urgent care only. The Centre also organized an online public consultation with organizations providing services to persons experiencing homelessness and low-threshold community centers.

In June 2021, the Centre submitted its Alternative Report on the Implementation of the European Social Charter reflecting on the 11th national report of the Slovak Republic on the implementation of the European Social Charter, as well as the 2017 Conclusions of the European Committee for Social Rights Relating to Articles from Thematic Group – Health, Social Security and Social Protection concerning the Slovak Republic. The submission reports on various measures with regards to first two waves of the COVID-19 pandemic, including on right to health of older persons, and access to pensions.

In September 2021, the Centre met with the Advisory Committee on the Framework Convention for the Protection of National Minorities during their delegation visit to Slovakia in the context of the country's fifth reporting cycle. In its intervention, the Centre recalled the persisting problems, especially in the area of discrimination and unequal treatment of persons belonging to national minorities in the exercise of their rights, especially economic, social and cultural rights. The Centre also presented its conclusions and recommendations, as published in the 2020 Human Rights Report, which largely assess the impact of the COVID-19 pandemic on vulnerable groups, including members of national minorities. The Centre also monitored and analyzed hate speech and extremist crimes, including cases of hate speech against healthcare workers during the COVID-19 pandemic. The Center monitored cases of hate speech, protests and verbal or physical attacks against nurses, doctors, epidemiologists or public persons supporting different COVID-19 pandemic measures, such as vaccination.

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

As in 2020, due to the state measures in force to curb the spread of the COVID-19 pandemic, at times the Centre remained closed for personal visits/complaints. Other options for filing in a complaint (e.g. telephone, email) continued to be provided at all times during 2021.

NHRI's recommendations to national and regional authorities

The Centre recommends:

- To the Government of the Slovak Republic and relevant state authorities, when adopting measures to fight against COVID-19 to ensure their accessibility and clarity to general public.
- To the Government of the Slovak Republic to create compensatory instruments that minimize the economic impacts of restrictions on fundamental rights and freedoms adopted in connection with the COVID-19 pandemic on vulnerable groups and increase support from the already existing instruments.
- To the Ministry of Education, Science, Research and Sports of the Slovak Republic, without undue delay, in cooperation with the Centre and interested stakeholders and representatives of vulnerable groups, to prepare a study on the negative impacts of measures in response to COVID-19 on children and to draw up a plan to mitigate negative long-term effects, including on mental health of children.

Other relevant developments or issues having an impact on the national rule of law environment

The state authorities fail to actively take steps to protect the rights of certain vulnerable groups, in particular to protect the rights of LGBTIQ+ persons. In addition to the lack of political will, throughout 2021, there have been legislative proposals aimed to further stigmatize LGBTIQ+ persons and restrict their rights. In October 2021, five proposals were submitted to the Parliament aiming to: i) introduce constitutional definition of gender identity as a permanent characteristic defined by sex of a person at birth and constitutional definition of parenthood as parents being a father-man and a mother-woman; ii) prohibit informing about non-heterosexual sexuality, gender transitioning and gender dysphoria at schools; iii) introduce State obligation to protect gender identity of a child defined by sex at birth, prohibit advertisement or any other promotion of gender dysphoria or homosexuality and informing about homosexuality or gender dysphoria within educational process; remove the possibility to change a name and surname of a person upon gender transitioning; v) prohibit displaying a rainbow flag at the office of the Public Defender of Rights by defining in law which flags and symbols can be displayed. While the first four proposals did not pass in the first reading and the last one was withdrawn, the proposals themselves create a hostile environment for LGBTIQ+ communities and organizations promoting and protecting their rights. As reported by the media, the hostile environments include also the negative trend in rise in hate speech against these communities and civil

society organizations working in the area of promoting and protecting the rights of these communities.