**INPUT OF THE SLOVAK NATIONAL CENTRE FOR HUMAN RIGHTS TO THE REQUEST OF THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS CONCERNING ARTICLE 5 OF THE CONVENTION ON RIGHTS OF PERSONS WITH DISABILITIES**

*The Slovak National Centre for Human Rights (the Centre) is a national human rights institution established in the Slovak Republic, accredited with status B by the International Coordinating Committee of National Human Rights Institutions. As an NHRI, the Centre is a member of the European Network of NHRIs (ENNHRI). The Centre was established by the Act of the Slovak National Council No. 308/1993 Coll. on the Establishment of the Slovak National Centre for Human Rights. Pursuant to Act No. 365/2004 Coll. on Equal Treatment in Some Areas and on Protection from Discrimination, and on amendments and supplements of certain acts, as amended (the Anti-discrimination Act) the Centre acts also as the only Slovak equality body. As an NHRI and Equality Body, the Centre performs a wide range of tasks in the area of human rights and fundamental freedoms including the rights of the child and observance of the principle of equal treatment. The Centre among other powers:*

*1) monitors and evaluates the observance of human rights and the observance of the equal treatment principle;*

*2) conducts research and surveys to provide data in the area of human rights; gathers and distributes information in this area;*

*3) prepares educational activities and participating in information campaigns aimed at increasing tolerance of the society;*

*4) provides legal assistance to victims of discrimination and manifestations of intolerance;*

*5) issues expert opinions on matters of the observance of the equal treatment principle;*

*6) performs independent inquiries related to discrimination;*

*7) prepares and publishes reports and recommendations on issues related to discrimination;*

*8) provides library services and services in the area of human rights.*

**1. Has your country adopted legislation establishing disability as a prohibited ground of discrimination, including denial of reasonable accommodation as discrimination? Please provide details on any related legal reforms.**

Disability is listed among the prohibited grounds of discrimination in Article 2 para. 1 of the Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and Prohibition of Discrimination and amending and supplementing certain acts (the Antidiscrimination Act). Discrimination on this ground is protected in all areas covered by the Antidiscrimination Act, i.e. employment, education, access to goods and services including housing, health care and social security. Under Article 2a para. 11 discrimination on ground of disability shall also cover discrimination due to a previous health impediment or the discrimination of a person in the event that based on external signs of a person it would be possible to presume that the person has a disability. Under Article 7 para. 1 of the Antidiscrimination Act, in order to observe the principle of equal treatment employers shall take appropriate measures to enable a person with disability to have access to employment, to a work of certain type, to promotion or access to vocational training, except if the adoption of such measures would impose a disproportionate burden on the employer. Furthermore, under Article 7 para. 4 of the Antidiscrimination Act, refusal or omission of an employer to adopt appropriate measure in accordance with Article 7 para. 1 is considered as a breach of the principle of equal treatment based on disability.

*English version of the Antidiscrimination Act of the Slovak Republic translated by the Slovak National Centre for Human Rights is available at:* [*http://snslp.sk/CCMS/files/AntidiskriminacnyZakon\_ENG-1.1.2015.pdf*](http://snslp.sk/CCMS/files/AntidiskriminacnyZakon_ENG-1.1.2015.pdf)

Denial of reasonable accommodation is, however, not defined in the national legislation as discrimination ground in Slovakia as was also addressed by the UN CRPD Committee within the recent country monitoring.

*See: Committee on the Rights of Persons with Disabilities, Concluding observations on the initial report of Slovakia, 18 April 2016, CRPD/C/SVK/CO/1*

**2. Does your country apply an objective test to determine if an accommodation requested by a person with disability is undue of disproportionate? If so, please describe the tests and their different elements (500 words).**

Under Article 7 para. 2 of the Antidiscrimination Act in order to establish if adoption of a reasonable accommodation is or is not a disproportionate burden three main things shall be taken into account:

a) the benefit of adoption of the measure for a disabled person,

b) financial resources of the employer, including the possibility of obtaining funding or any other assistance for the adoption of the measure, and

c) the possibility of attaining the purpose of the measure by alternative means.

Article 7 para. 3 of the Antidiscrimination act further defines that the measure (accommodation requested) shall not be considered as causing a disproportionate burden if its adoption by the employer is mandatory under separate legal provisions (i.e. under the Labour Code or the Act No. 5/2004 Coll. on Employment Services and amending and supplementing certain acts as amended).

We are not aware of other official objective tests to determine if an accommodation request by a person with disability is undue or disproportionate. The application of the abovementioned legislative test in individual cases is subject to judicial review; however, the jurisprudence in this area is so far quite limited.

*English version of the Antidiscrimination Act of the Slovak Republic is available at:* [*http://snslp.sk/CCMS/files/AntidiskriminacnyZakon\_ENG-1.1.2015.pdf*](http://snslp.sk/CCMS/files/AntidiskriminacnyZakon_ENG-1.1.2015.pdf)

**3. Does your country apply affirmative action for combating structural discrimination against persons with disabilities? If so, please describe how are these measures being applied and enforced (500 words).**

Under the Antidiscrimination Act (Article 8a) both state administrative bodies and other legal persons may adopt affirmative action aimed at eliminating disadvantages imposed on the grounds of racial or ethnic origin, belonging to national minority or ethnic group, gender or sex, age and **disability**, which aim to ensure equal opportunities in practice. Such measures are measures:

a) aimed at elimination social or economic disadvantages, by which members of disadvantaged groups are disproportionately affected;

b) consisting in encouraging the interest of members of disadvantaged groups in employment, education, culture, heath care and services;

c) aimed to create equal access to employment, education, healthcare and housing, especially through targeted training programs for members of disadvantaged groups or by raising awareness on these programs or opportunities to apply for jobs or jobs in the education system.

The preconditions for adoption of affirmative measures cover existence of obvious inequality, aim of decreasing or eliminating this inequality and proportionality and necessity in order to achieve the aim. The measure may be adopted only in the areas covered by the Antidiscrimination Act and shall terminate once the inequality, which lead to their adoption, is eliminated. The bodies that adopt affirmative action are obliged to terminate the measure after achieving the established aim. They are also obliged to continuously monitor, assess and publish the adopted measures and submit reports to the Slovak National Centre for Human Rights.

The practice shows that the obliged subjects do not automatically fulfil their obligation to report the adopted measures to the Slovak National Centre for Human Rights. The Centre approaches public bodies annually when preparing the annual report on the observance of human rights including the principle of equal treatment in the Slovak Republic and inquires whether they have adopted affirmative action. The results are published in the separate chapter of the reports. Moreover, In 2015, the Slovak National Centre for Human Rights realised a research aiming to assess the awareness level of territorial self-governments on the possibility to adopt positive actions which is granted to them under the Antidiscrimination Act. The Centre approached all subjects of territorial self-governments with an electronic questionnaire and received 1198 answers. Data gathered by the questionnaire were processed, statistically evaluated and interpreted. In the first half of 2016, the Centre further approached those subjects which indicated that they had adopted positive actions and based on the information from this second phase the Centre plans to organise focus groups.

*See: annual reports of the Slovak National Centre for Human Rights on the observance of human rights including the principle of equal treatment in the Slovak Republic (English version) for the years 2012-2014 at* [*http://snslp.sk/?locale=en#page=2426*](http://snslp.sk/?locale=en#page=2426)

**4. Does your country have laws, policies and strategies for combating discrimination against women and children with disabilities? Please, describe how these policies are reflected in legislation and policy frameworks (500 words).**

One of the tasks under the current Action Plan for Gender Equality for the Years 2014-2019 is to strengthen the principle of equality and non-discrimination in the area of labour and social policy with a particular impact on the disadvantaged groups of women such as Roma women, migrant women and women with disabilities (Task 1.4). This task refers to, *inter alia*, the use of affirmative actions under the Antidiscrimination Act. Task 1.4 is the only one explicitly referring to women with disabilities. Furthermore, the National Strategy for Gender Equality in the Slovak Republic for the Years 2014-2019 lists the very same aim under the part on strengthening economic independence of women by eliminating gender disparities in the labour market (see Objective 1, operational objective 1.4.).

*See: the National Strategy for Gender Equality in the Slovak Republic for the Years 2014-2019 at* [*http://www.gender.gov.sk/en/files/2015/06/Strategy\_EN.pdf*](http://www.gender.gov.sk/en/files/2015/06/Strategy_EN.pdf)

Lack of disability-inclusive gender equality policy and the lack of gender-sensitive policy on disability rights in the Slovak Republic were pointed out by UN CRPD Committee within the recent country monitoring.

*See: Committee on the Rights of Persons with Disabilities, Concluding observations on the initial report of Slovakia, 18 April 2016, CRPD/C/SVK/CO/1, points 21-22*

Concerning children with disabilities, the National Action Plan for Children for the Years 2013-2017 refers to children with disabilities in part 5- Health care, disability and social services. The subordinate objectives address integration of children with disabilities in the life of society (point 5.1) and support for the prevention of congenital disabilities in children (point 5.2). Moreover, part 6- Education, upbringing, leisure and cultural activities list among its objectives protection and development of cultural rights of children from disadvantaged backgrounds, elimination of informational, mental and physical barriers impeding access by these children to culture by e.g. provision of artistic, cultural and educational activities for these children and using grant system under the Ministry of Culture of the Slovak Republic to promote access to culture for children at risk of poverty and social exclusion to create conditions for development of their creativity and artistic talents in order to prevent discrimination and support their social integration. Children with disabilities fall under the definition of children from disadvantaged backgrounds and children at risk of poverty and social exclusion.

*See: National Action Plan for Children for the Years 2013-2017 at* [*https://www.employment.gov.sk/files/slovensky/ministerstvo/konzultacne-organy/rada-vlady-sr-ludske-prava-narodnostne-mensiny-rodovu-rovnost/vybor-deti-mladez/napd-eng.pdf*](https://www.employment.gov.sk/files/slovensky/ministerstvo/konzultacne-organy/rada-vlady-sr-ludske-prava-narodnostne-mensiny-rodovu-rovnost/vybor-deti-mladez/napd-eng.pdf) *and Committee on the Rights of Persons with Disabilities, Concluding observations on the initial report of Slovakia, 18 April 2016, CRPD/C/SVK/CO/1, points 23-24*

**5. Is your country monitoring and collecting disaggregated data on discrimination against persons with disabilities, including gender, age and impairment disaggregation?**

The Statistical Office of Slovakia does not particularly monitor data on disabled persons disaggregated according to gender, age, education or individual type of disability (physical, sight, hearing, mental, internal) or the reason for the occurrence of this disability, data on the level of independence, economic activities or facts on whether these persons live in a home environment or an institutional care facility. However, there are several research activities either undertook by the Statistical Office of Slovakia or other stakeholders in Slovakia aimed at data collection. These have been described in the Initial report of the Slovak Republic to the Committee on the Rights of Persons with Disabilities which was reviewed by the Committee in April 2016.

*See: Initial report of the Slovak Republic to the Committee on the Rights of Persons with Disabilities, received on 26 June 2012, CRPD/C/SVK/1, available in English at http://tbinternet.ohchr.org/\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fSVK%2f1&Lang=en*

The absence of systematic data collection disaggregated by disability, sex and age across all sectors was pointed out by UN CRPD Committee within the recent country monitoring. According to the UN CRPD Committee there is also a lack of coordinated research about the lives of persons with disabilities and their families.

*See: Committee on the Rights of Persons with Disabilities, Concluding observations on the initial report of Slovakia, 18 April 2016, CRPD/C/SVK/CO/1, points 83-84*

The Slovak National Centre for Human Rights does not have internal statistics and disaggregated data on discrimination against persons with disabilities, including gender, age and impairment disaggregation. Within its research activities, the Slovak National Centre for Human Rights has been currently preparing a research concerning persons with disabilities, their social inclusion, participation in cultural life, life standards etc., which should be launched in 2016.