



INDIVIDUAL SUBMISSION OF THE SLOVAK NATIONAL CENTRE FOR HUMAN RIGHTS (UPR MID-TERM REPORT)

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

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UPR MID-TERM REPORT BY THE SLOVAK NATIONAL CENTRE FOR HUMAN RIGHTS

THIRD CYCLE

Slovak National Centre for Human Rights (Centre) is a national human rights institution (NHRI) established in the Slovak Republic, accredited with status B by the Global Alliance of National Human Rights Institutions (GANHRI). As an NHRI, the Centre is a member of the European Network of National Human Rights Institutions (ENNHRI). The Centre was established by the Act of Slovak National Council No. 308/1993 Coll. on the Establishment of Slovak National Centre for Human Rights. Pursuant to the Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and on Protection from Discrimination, as amended (Anti-Discrimination Act), the Centre also acts as the only Slovak equality body. As an NHRI and equality body, the Centre performs a wide range of tasks in the field of protection and promotion of human rights and fundamental freedoms, including the principle of equal treatment. The Centre monitors and evaluates the observance of human rights and the equal treatment principle, including by monitoring compliance with international human rights treaties and recommendations of international human rights mechanisms.

The Centre actively participated at the third cycle of the Universal Periodic Review (UPR) by providing its Individual submission to the third review of the Slovak Republic under the Universal Periodic Review at the 32nd session of the United Nations' Human Rights Council (see Annex 1). Prior to the session, the Centre presented its statement and proposals for recommendation to representatives of states to the UN at pre-session meeting organised in Geneva 14 December 2018 by civil organisation UPR-Info. Furthermore, the Centre, in line with its individual submission, advocated for certain recommendations by official letters addressed to selected embassies of foreign states accredited to Slovakia.

The Centre hereby submits the United Nations' Human Rights Council its interim observations on the implementation of the selected recommendations addressed to Slovakia in the third cycle.¹

¹By 6 December 2021, when this report was submitted, the voluntary Mid-term report of the Slovak Republic has yet not been published at the UN website. However, it has already been approved by the Government of the Slovak Republic and the Minister of Foreign and European Affairs of the Slovak Republic was given the task to submit it to the UN Human Rights Council by 31 December 2021. See: Resolution of the Government of the Slovak Republic No. 636 of 3 November 2021, available in Slovak at: <https://rokovania.gov.sk/RVL/Resolution/19620/1>

UPR no./ recommending country ⁱ	Government response (Slovakia)	Slovak National Centre for Human Rights (Centre) comments
Strengthening the Centre (NHRI) in full compliance with the Paris Principles		
121.16/AU, DK, BG 121.17/IE 121.18/PT 121.19/SG 121.20/FI 121.21/UA 121.22/MN 121.23/NO 121.24/KR 121.25/TN 121.26/TG	Accepted	<p>Recommendations to ensure legislative compliance with the Paris Principles are not being fully implemented. Since the proposed amendment to the establishing act was rejected in the National Council of the Slovak Republic (Parliament) in 2019, 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.</p> <p>The Centre has, however, been financially strengthened. Its budget was increased in 2020, 2021 and 2022. For 2022, the Centre was allocated a dotation from the public budget in the amount of € 944 287. Consequently, the Centre has been able to strengthen its personal and technical capacities.</p>
Business and human rights		
121.82/CZ 121.83/DE 121.84/ES 121.85/PS	Accepted	<p>The Ministry of Foreign and European Affairs of the Slovak Republic (MFA) started preparing the national action plan on business and human rights (NAP) in 2019, however, it has not been finalised and approved yet.</p> <p>The Centre is concerned by the fact that the relevant ministries and public authorities have been hesitant to take up the responsibility for implementation of the NAP and to propose SMART measures. Majority of the measures currently proposed are taken from other policies already being implemented.</p>

		Despite the efforts of the MFA, most key stakeholders (ministries, public institutions, self-governing regions etc.) lack political will and understanding of their role in the implementation of the UN Guiding Principles on Business and Human Rights. The Centre believes that the main reason is the lack of technical capacities and understanding of impacts businesses have or might have on the enjoyment of human rights.
Anti-corruption framework and the functioning of the justice system		
121.79/CA	Partially accepted	While a comprehensive judicial reform was adopted in December 2020, several challenges remain.
121.80/AU 121.81/US 121.92/BS 121.93/US 121.94/RO 121.95/FR	Accepted	<p>The explicit possibility to dismiss members of the Judicial Council (JC) at any time before expiry of their tenure by their appointing authority is problematic. 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 judicial independence.ⁱⁱ Members of the JC 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.ⁱⁱⁱ Tenure of members of JC shall be secure and not subject to arbitrary termination. Only in case of serious misconduct or neglect of duty may a member be dismissed, under precise legislative grounds, procedure and competences.^{iv}</p> <p>The amendment of the criminal liability regime of judges, could threaten the independence of the judicial office holders. According to Article 148.4 of the Constitution, judges may not be held accountable for their legal opinion expressed during decision-making, unless the</p>

		<p>decision-making itself constitutes a crime. Together with the newly introduced crime of abuse of law, this implies that judges may be prosecuted for an arbitrary decision causing damage to or bestowing a favour on another person. A rather vague amendments have been challenged in terms of the possibility of rendering judges open to criminal prosecution and posing risk of abuse or the fear of prosecution.^v</p> <p>Finally, the new amendment of the Constitution explicitly excludes the possibility of the Constitutional Court to assess the compliance of constitutional acts with the Constitution. Considering that constitutional acts may be adopted by three-fifths of the Members of Parliament, the amendment was perceived to affect the principle of checks and balances. According to the Centre, preventive analysis of a proposal to amend the Constitution, including the possible effects of such amendments on the enjoyment of human rights and fundamental freedoms should necessarily precede the introduction of such an explicit restriction to the Constitutional Court. Considering the low degree of rigidity of the Constitution and the high number of amendments, the reduction of the control mechanism, not offset by strengthening of other stabilization mechanisms, appears challenging with a potential negative impact on human rights.</p> <p>For further information in these areas see annexes 4 and 5.</p>
Freedom of media and safety of journalists		
121.98/GB 121.99/AT 121.100/DE 121.101/PL	Accepted	The Centre is concerned by the rise in violence against journalist in Slovakia. As reported by 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 in Slovakia. The alerts

121.102/CH 121.103/SE 121.104/SI 121.105/IS		<p>concerned, e.g. an investigative journalist reporting to the police that he found a pistol bullet in his mailbox or a surveillance of a newspaper editor, who reported suspicious behaviour (being monitored and photographed). Criminal investigations are undergoing in both cases.</p> <p>In terms of media freedom, criminal proceedings against a newspaper opinion writer were initiated in 2020. Police investigators concluded that the author’s article called for the suppression of religious people’s freedom of expression and charged him with defamation on the account of religious belief. The Prosecutor General dismissed the charges against the journalist and found that the procedure of the Special Prosecutor’s Office was incorrect. 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 Ján Kuciak. The 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. 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.</p>
Gender equality		
121.29/UY 121.30/VN 121.31/ ET 121.32/MM 121.33/TG 121.34/MD	Accepted	Despite certain, although slow, progress in the state of gender equality the Centre is concerned by the attitude of the Government, especially the Ministry of Labour, Social Affairs and Family of the Slovak Republic (MoL), which has been worsening. A new conservative Minister appointed after the elections decided to change the approach of MoL to promotion and protection of gender equality. The term “gender equality” was replaced by “equality between men and women”.

		<p>The MoL further decided not to award grants to feminist organisations working on sexual and reproductive rights (including access to safe abortion) or LGBTIQ+ rights, despite their applications received the highest evaluation by experts. Instead, the MoL awarded funds to conservative (pro-life) organisations connected to the new management. In November 2020, the MoL amended laws on existing grant scheme restricting eligibility of potential applicants and beneficiaries. Under the new scheme, only organisations promoting marriage and values of family are eligible to apply, excluding organisations working on issues related to gender equality and LGBTIQ+ rights.</p> <p>Moreover, the MoL also stopped funding for the projects selected for funding within the EEA Norway grant scheme promoting gender equality and work-life balance. The funds were on hold from April 2020 and were only released in summer 2021 after pressure from the civil society and changes to the overseeing authority.</p>
Racial and ethnic discrimination		
Elimination of racism, xenophobia, anti-Semitism and other forms of intolerance, including hate speech and hate crime		
121.37/RO 121.38/LY 121.39/KG 121.40/TH 121.41/BJ 121.42/AR 121.49/AZ 121.50/MY 121.51/PK	Accepted	Hate speech and hate crimes have been on the rise during the past years in Slovakia, especially during the COVID-19 pandemic. Particularly worrying is that hate speech is appearing also at the highest level of the public administration, often as a common rhetoric employed in political communication. While the legislative framework prohibits and punishes criminal offences of extremism and criminal offences committed with a specific motive, the distinguishing line of what constitutes a crime and what should be classified as a misdemeanour remains blurred, posing challenges in practice.

121.52/HN 121.53/PK 121.54/JO 121.55/CN 121.56/BE 121.57/JO 121.58/VN 121.59/TG 121.60/FR 121.61/PS 121.62/PK		<p>As for the collection of data and statistics, it has been noted that not all the statistics forwarded to monitoring bodies contain classifications by the types of offence committed, as they are not disaggregated by specific discriminatory motives^{vi}. Additionally, a challenge remains in linking the statistics of the Specialized Criminal Court to those of the Police, causing difficulties in tracking cases from the opening of a police investigation until the final decision of judicial bodies.</p>
Discrimination of Roma children in education		
121.128/CZ 121.129/HU 121.130/SI 121.131/GR 121.132/FR	Accepted	<p>Inclusive education of Roma children worsened in 2020 as a result of the COVID-19 pandemic since access to education of pupils from socially disadvantaged background was significantly limited, mainly due to the lack of access to internet and ICT equipment. Some schools ensured participation of the pupils concerned by using alternative methods, such as workbooks. However, many marginalized Roma pupils did not participate in school education, which could be caused also by the lack of supporting home environment (e.g. parents not overseeing them or assigning pupils with household tasks) or by the whole community being quarantined.</p> <p>There is no to moderate improvement in respect to discrimination of Roma pupils in education. In the school year 2018/2019, the State School Inspection (SSI) carried out 8 inspections focused on inclusive education covering 2061 pupils, out of which 342 belonged to Roma communities. According to the findings, sharing common values and visions regarding inclusion among school staff members and children is problematic. Despite teachers having a great experience of teaching</p>

		<p>pupils from socially disadvantaged background, this was rarely manifested in actual teaching and working with pupils. Pupils from marginalized Roma communities were receiving minimal support from teaching personnel and felt excluded from the collective.^{vii}</p> <p>In 2018/2019, the Centre monitored cases of segregation of Roma pupils identified by SSI in elementary schools in Lipany, Liptovská Teplička, Svinia, Hrabušice and Šarišské Michaľany. Examples of segregation included:</p> <ol style="list-style-type: none"> i. segregating children into separate classes (e.g. classes A – C were attended by pupils from the majority and D –E by Roma); ii. scheduling lunchbreaks for different time (e.g. Roma had lunch scheduled for earlier than the majority); iii. allocating the cloakrooms (e. g. pupils from majority used cloakrooms located at the main entrance and Roma at the side entrance). <p>The Centre considers worrisome the placement of Roma pupils to special schools (primarily educating children with disabilities). Mild mental disabilities occur in the population of Roma pupils from marginalized communities up to almost five times higher (19,3 %) than in the total population of primary school pupils (4 %).^{viii} The underlying cause is that many Roma pupils in time of evaluation of their preparedness for elementary education do not speak Slovak well and some of their skills are underdeveloped, mainly because they do not attend nursery schools. To tackle this issue, in 2021, Slovakia introduced mandatory attendance of nursery schools with respect to the last year of pre-primary education (children at the age of 5 years). However, the educational system is not prepared for implementation of this measure, as capacities of nursery schools are insufficient.</p>
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Discrimination against Roma		
<p>121.165/MD 121.166/CU 121.167/IN 121.169/CH 121.170/RU 121.171/RU 121.172/MX 121.174/VE 121.177/BR 121.178/ES 121.179/DE</p>	<p>Accepted</p>	<p>Despite certain efforts of the state, discrimination of Roma remains alarming.</p> <p>In healthcare, segregation of Roma women at obstetrics and gynecology wards in hospitals in eastern Slovakia is a clear violation of the principle of equal treatment. There is an ongoing litigation led by a civil society organization the Centre for Civil and Human Rights contesting the practice in the Hospital of Prešov, where Roma women were accommodated to so called “Roma rooms” and thus separated from non-Roma women. The NGO brought the case before the Court in 2013 and the Centre drew up a supporting opinion. The litigation follows up a monitoring^{ix}, which revealed that Roma women were accommodated to the “Roma rooms” even when such rooms were full. In this case, more beds were placed in the room and some Roma women even claimed having to share the bed.</p> <p>The COVID-19 pandemic further exacerbated marginalization of Roma communities. One of the most stemming issue was the complete lockdown of Roma settlements, including Žehra, Krompachy or Bystrany in 2020, which raised concerns about discrimination. By applying the complete lockdown of settlements, the authorities disregarded the official guideline based on which the community should be put in quarantine only if 10 % or more of its members were infected. The Centre repeatedly contested the inadequacy and lack of sufficient justification^{ix} of the measures regulating the isolation of Roma. The contested measures and decrees of regional public health authorities had several major shortcomings, including the absence of substantiation, the related non-reviewability by the court and the lack</p>

		of predetermined conditions for the duration of the restriction of personal liberty of the inhabitants concerned.
Rights of LGBTIQ+ persons		
121.69/AU 121.70/CL 121.72/NL 121.73/FR 121.75/SE 121.74/MX 121.77/NO	Accepted	<p>There are no activities to reinitiate the drafting process of the National action plan on LGBTIQ+ rights due to the lack of political will to adopt it.</p> <p>Since the constitutional definition of marriage as a union of a man and a woman enacted in 2014, there are no initiatives to legalize registered partnership or other forms of civil unions for same-sex couples.</p> <p>The state fails to introduce comprehensive measures and policies to protect the rights of LGBTIQ+ persons and same-sex couples. The conservative discourse together with the lack of political will to improve protection and promotion of the rights of LGBTIQ+ persons go beyond preservation of status quo but back up legislative proposals aimed to further stigmatize LGBTIQ+ persons and restrict their rights. In October 2021, five proposals were submitted to the Parliament aiming to:</p> <ul style="list-style-type: none"> 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;

		<p>iv) remove the possibility to change a name and surname of a person upon gender transitioning;</p> <p>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.</p> <p>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 organisations promoting and protecting their rights.</p>
Rights of persons with disabilities		
Inclusive education		
<p>121.125/IS 121.126/AF 121.127/PL 121.133/CY</p>	<p>Accepted</p>	<p>In respect to inclusive education, the Centre identifies two major issues.</p> <p>Firstly, the lack of teaching assistants is alarming. More than 40 % of teachers, pedagogic and other school employees consider the lack of teaching assistants and other expert personnel to be the greatest barrier to inclusive education. In the school year 2018/2019, there were 4268 teaching assistants.* All schools, from nurseries to secondary schools (including special schools) are struggling to employ teaching assistants. The overall shortage is complemented by the lack of financial resources of schools. In many cases, the lack of teaching assistants leads to non-acceptance of a child with disabilities into a particular school, contrary to the principle of equal treatment. In some cases, these pupils are educated individually, outside of school environment.</p> <p>Currently, the teaching assistance is not claimable and there are no clearly defined criteria for allotment of teaching assistance to pupils with special needs attending regular schools.</p> <p>Secondly, most schools and school facilities (including playgrounds, canteens and leisure facilities) are not accessible to pupils with</p>

		<p>disabilities. In 2019, the Centre consulted 273 elementary and secondary schools monitoring accessibility of physical environment. Almost 70 % of schools stated that their premises and facilities did not meet the requirements for accessibility. More than 56 % of them have not done any construction or technical modifications to improve the overall accessibility. Schools that took some action, opted for reconstructing the entrance to the school building (12.5 %), reconstructing or building sidewalks and parking lots for persons with disabilities (11.8 %) or adjusting exterior and playgrounds (10.7 %). In majority of cases, the funding came from school founders (municipalities) or the EU.</p> <p>Schools unable to remove physical barriers opted for implementation of alternative measures, including employing a teaching assistant, relocation of classes, adjustment of timetables or providing individual education.</p>
Denial of reasonable accommodation as a form of discrimination		
121.156/ER	Accepted	<p>Apart from two unsuccessful proposals to amend the Antidiscrimination Act accordingly submitted in the Parliament in 2019, there are no ongoing legislative initiatives to introduce denial of reasonable accommodation as a form of discrimination in line with the Convention on the Rights of Persons with Disabilities.</p>

List of Annexes

1. Individual Submission of the Slovak National Centre for Human Rights: Third Review of the Slovak Republic under the Universal Periodic Review of the United Nation's Human Rights Council, Slovak National Centre for Human Rights, available at: http://www.snslp.sk/wp-content/uploads/Submission-of-SNCHR_UPR_3rd-Cycle_Slovakia.pdf
2. Report on the Observance of Human Rights including the Principle of Equal Treatment in the Slovak Republic for the Year 2020, Slovak National Centre for Human Rights, available at: <http://www.snslp.sk/wp-content/uploads/Human-Rights-Report-2020.pdf>
3. Individual Submission of the Slovak National Centre for Human Rights: Alternative Report on the Implementation of the European Social Charter – Articles 3, 11, 12, 13, 14, 23 and 30, Slovak National Centre for Human Rights, available at: <http://www.snslp.sk/nasa-cinnost/monitoring-a-reporting/tematicke-spravy-a-ine-stanoviska/>
4. State of the Rule of Law in Europe: Reports from National Human Rights Institutions (2020), Country report Slovakia (p. 360-367), European Network of National Human Rights Institutions, available at: <http://www.snslp.sk/wp-content/uploads/ENNHRI-State-of-the-Rule-of-Law-in-Europe-June-2020.pdf>
5. State of the Rule of Law in Europe: Reports from National Human Rights Institutions (2021), Country report Slovakia (p. 292-315), European Network of National Human Rights Institutions, available at: <http://www.snslp.sk/wp-content/uploads/EU-RoL-Report-2021.pdf>

Endnotes

ⁱ For the full list of recommendations received by the Slovak Republic in the third cycle see: Human Rights Council, Report of the Working Group on the Universal Periodic Review, Slovakia, 2019, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/108/78/PDF/G1910878.pdf?OpenElement> and in Slovak, together with the statement of the Slovak Republic at: <http://www.snslp.sk/wp-content/uploads/Odporucania-SR-z-3-cyklus-UPH.pdf>

ⁱⁱ See for example: Consultative Council of European Judges (CCJE), Opinion of the CCJEU Bureau following a request by the CCJE members in respect of Slovakia as regards the reform of the judiciary in Slovakia, available at: https://www.sudnarada.gov.sk/data/files/1284_opinion_slovakia_-2020.pdf or European Association of Judges Resolution adopted on September 2nd 2021 concerning legislative changes in Slovakia, available at: https://www.iaj-uim.org/iuw/wp-content/uploads/2021/09/Slovakia-Resolution_Sept-2021.pdf

ⁱⁱⁱ European Commission, Rule of Law Report 2021, Chapter on Slovakia, SWD(2021)727 final, 2021, p. 4, available at:

https://ec.europa.eu/info/sites/default/files/2021_rolr_country_chapter_slovakia_en.pdf and Consultative Council of European Judges (CCJE), Opinion no. 10 (2007) on the Council for the Judiciary at the service of society, para 8.; Judgment of the CJEU of 20 April 2021, *Repubblika*, Case C-896/19, para. 66

^{iv} European Association of Judges Resolution adopted on 2 September 2021 concerning legislative changes in Slovakia, available at: https://www.iaj-uim.org/iuw/wp-content/uploads/2021/09/Slovakia-Resolution_Sept-2021.pdf

^v Findings of the Rule of Law Report 2021, Chapter on Slovakia, https://ec.europa.eu/info/sites/default/files/2021_rolr_country_chapter_slovakia_en.pdf, pp. 4-5; European Association of Judges Resolution adopted on 2 September 2021 concerning legislative changes in Slovakia, p. 3, available at: https://www.iaj-uim.org/iuw/wp-content/uploads/2021/09/Slovakia-Resolution_Sept-2021.pdf. See also Consultative Council of European Judges (CCJE), Opinion of the CCJE Bureau following a request by the CCJE member in respect of Slovakia as regards the reform of the judiciary in Slovakia, p. 4, available at: https://www.sudnarada.gov.sk/data/files/1284_opinion_slovakia_-2020.pdf

^{vi} European Commission against Racism and Intolerance, ECRI Report on the Slovak Republic (sixth monitoring cycle), October 2020, available at: <https://rm.coe.int/ecri-6th-report-on-the-slovak-republic/1680a0a088>.

^{vii} State School Inspection: Report on the Support of Inclusive Education of Pupils in the Slovak Republic in the School Year 2018/2019, p.1.

^{viii} Ministry of Finance of the Slovak Republic, Value for Money Committee, Revision of expenditure for groups at risk of poverty or social exclusion, Final Report, published in March 2020, p. 89, available in Slovak at:

<https://www.mfsr.sk/files/archiv/65/ReviziavydavkovnaohrozeneskupinyZSverziaFINAL3.pdf>

^{ix} Centre for Reproductive Rights and Poradňa pre občianske a ľudské práva (Centre for Civil and Human Rights): *Vakeras zorales/ Speaking out – Roma women’s experiences in reproductive health care in Slovakia*, 2017. Available at: <https://www.poradna-prava.sk/en/documents/vakeras-zorales-speaking-out-roma-womens-experiences-in-reproductive-health-care-in-slovakia/>

^x TO DA ROZUM: “The Lack of Teaching Assistants: Survey” (2019), available in Slovak at: <https://analyza.todarozum.sk/docs/346831004ej0a/>