Bratislava, 1 February 2024

**INPUT OF THE SLOVAK NATIONAL CENTRE FOR HUMAN RIGHTS ON ACADEMIC FREEDOM AND FREEDOM OF EXPRESSION IN EDUCATIONAL INSTITUTIONS**

*About the Slovak National Centre for Human Rights:*

*The Slovak National Centre for Human Rights (hereinafter the “Centre”) is a national human rights institution 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 NHRIs (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 (the 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 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 equal treatment principle;*

*2) gathers and, upon request, provides information on racism, xenophobia and antisemitism in the Slovak Republic;*

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

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

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

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

*7) performs independent inquiries related to discrimination;*

*8) prepares and publishes reports and recommendations on issues related to discrimination; and provides library services and other services in the field of human rights.*

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**The Centre submits the following input concerning the state of academic freedom and freedom of expression in educational institutions:**

1. **How is academic freedom defined and protected in the constitution or laws of your country, and what are possible limitations or restrictions? Please provide the original citation and source, as well as a summary of relevant judicial practice, if any:**

The fundamental framework of academic freedom is enshrined in Article 43 of the Act No. 460/1992 Coll., the Constitution of the Slovak Republic, which stipulates that “*The freedom of scientific research and art shall be guaranteed. The rights to the results of creative intellectual activity shall be protected by law*”.[[1]](#footnote-1) Academic freedom is further defined by Section 4 para 1 of Act No. 131/2002 Coll., the Act on Higher Education and on Amendments and Additions to Certain Acts (hereinafter as the “Act on Higher Education”),[[2]](#footnote-2) according to which “*the following academic freedoms and academic rights shall be guaranteed at the university:* *a) Freedom of scientific inquiry, research, development of artistic and other creative activities and publication of their results, b) Freedom of teaching, consisting in openness to different scientific views, scientific and research methods, and artistic directions, c) The right to learn while maintaining the freedom to choose studies within accredited study programmes, d) The right to express and publish their views freely, e) The right of members of the academic community to elect and be elected to the academic community bodies, f) The right to use academic insignia and emblems and to perform academic ceremonies.”[[3]](#footnote-3)* Accordingly, “*the exercise of academic freedoms and academic rights shall be consistent with the principles of democracy, humanity, and the legal order*”.[[4]](#footnote-4) The law further states that “*to ensure academic rights and academic freedoms in higher education institutions, the inviolability of the campus of higher education institutions shall be guaranteed, except in cases of threat to life, health, property or in cases of natural disaster. Law enforcement entry into the premises of the university is authorized by the Rector.*”[[5]](#footnote-5)

In December 2022, an Amendment to the Act on Higher Education was adopted by the parliament.[[6]](#footnote-6) According to the Explanatory Memorandum, the objective of the amendment was a systemic change in the management of public universities, with the intention of modernising it so as to make decision-making processes at both university and faculty level more flexible.[[7]](#footnote-7) The amendment included several changes concerning the manner of appointment of the Rector, the composition of the Governing Board of a higher education institution, the establishment of faculty bodies, the competencies of the Academic Senate of a higher education institution and the Governing Board of a public higher education institution by strengthening the position of the Governing Board.[[8]](#footnote-8) The Amendment was highly criticized by representatives of universities and other stakeholders and a protest was held in opposition to the amendment. There was also a petition For the Preservation of Academic Self-Government in Universities, signed by more than 20.000 people.[[9]](#footnote-9) The Rektor of the Comenius University in Bratislava in his statement on the amendment argued that “*a structure where the Governing Board has half of its members nominated by the Minister of Education and at the same time has the power to elect university officials, approve the university's budget, or have the final say in the disposition of assets cannot be called anything other than the politicization of academia.”[[10]](#footnote-10)* The Academic Senat of the Comenius University in Bratislava has took position and stated that *“the amendment not only worsens the conditions for improving the quality of education and scientific activity, but puts universities directly under the thumb of political appointees*.”[[11]](#footnote-11)

The independence of academia from political power has recently been called into question when the Dean of the Faculty of Law of the Comenius University in Bratislava commented on the government's amending proposal to abolish the Special Prosecutor´s Office. The Dean stated that a criminal group may be operating at the Special Prosecutor´s Office. The students of the Faculty of Law wrote an open letter to the Dean regarding his comments, stating, among other things, that “*the statements of academics must be supported by professional arguments and based on verifiable data or evidence*.” [[12]](#footnote-12) A law school student who initiated the open letter, criticized the Dean´s comments in an interview. Subsequently, the Prime Minister published a harassing status on his Facebook page and labeled the student as “*a totally irrelevant law student without any knowledge of the law and life experience*.”[[13]](#footnote-13)

1. **Are academic staff, teachers, students all entitled to academic freedom? Does this differ by level of education? Please explain:**

The Act on Higher Education enshrines a general provision on academic freedoms and academic rights in its Section 4, according to which students have the freedom of scientific inquiry, research, development of artistic and other creative activities and publication of their results, the right to learn while maintaining the freedom to choose studies within accredited study programmes, the right to express and publish their views freely and the right of members of the academic community to elect and be elected to the academic community bodies. Section 70 of the Act on Higher Education stipulates specifically the rights of students and grants students the right to “*freely express opinions and comments on higher education*.”[[14]](#footnote-14)

1. **Please explain the autonomy and self-governance enjoyed by educational institutions at the different tiers of education. Please explain what autonomy and self-governance entail. Are there restrictions on police or military personnel entering educational institutions? If so, please share the rules.**

The Act on Higher Education indicates that “*a public university is a public and self-governing institution, that supports students and their participation in the exercise of the self-governing powers of universities*.”[[15]](#footnote-15) The law further states that “*the organisation and activities of a public higher education institution shall be decided by the authorities of the public higher education institution to the extent provided by law*.”[[16]](#footnote-16) The autonomy of universities enables academic staff and students to participate in the management and decision-making on matters relating to education, research and university governance. Under the Act on Higher Education “*political parties and political movements may not carry out political activities and establish their organisations in the premises of the university*.”[[17]](#footnote-17) The self-governing competence of a public university entails “*a) internal organisation, b) determining the number of applicants admitted to study, determining the conditions of admission to study and deciding on the admission procedure, c) the establishment and implementation of study programmes, d) the organisation of studies, e) deciding on matters relating to the academic rights and obligations of students, f) determining the focus and organising research, development or artistic and other creative activities, g) concluding, amending and terminating employment relationships and determining the number and structure of posts at the university, h) the awarding of the scientific and pedagogical title or the artistic and pedagogical title of "associate professor" and "professor", i) cooperation with other universities, other legal entities and natural persons, including foreign ones, j) election of members of the academic self-government bodies of a public higher education institution, k) the management of the public higher education institution and the disposal of its property, l) the determination of the amount of the students' contribution to the payment of part of the costs of studies and of the fees associated with studies*.”[[18]](#footnote-18) The inviolability of higher education institutions is guaranteed by the law and can be limited only in cases of threat to life, health, property, or in cases of natural disaster. Law enforcement agencies can enter the premises of the institution only upon permission of the Rector.[[19]](#footnote-19)

**6.** **How is funding, including for research, regulated? Is the process transparent, and are there any guarantees put in place to ensure respect for academic freedom?**

The main source of funding for public universities is the state budget subsidies. Public universities also use other sources to cover the expenses necessary for their activities: tuition fees, revenues from further education, income from the property of the public higher education institution, revenues from intellectual property, revenue from own financial funds, income from donations, other income from the core business of the public university, income from the business activities of the public university.[[20]](#footnote-20) The income of a public higher education institution may also include subsidies from the budgets of municipalities and higher territorial units. The Ministry of Education, Science, Research and Sport of the Slovak Republic (hereinafter as the “Ministry of Education”) provides subsidies to public higher education institutions for the implementation of accredited study programmes, for research, development or artistic activities, for the development of the higher education institution and for the social support of students.[[21]](#footnote-21) Another instrument for financing science and technology in Slovakia is the Slovak Research and Development Agency.[[22]](#footnote-22) The Agency is a departmental organisation of the Ministry of Education, established for the purpose of supporting research and development in Slovakia by providing funds from the state budget for the solution of projects. The annual accounts of a public higher education institution must be audited by an auditor at least once every four years. The Rector is responsible to the Minister of Education for the efficient and effective use of subsidies and their settlement with the State budget and for the management of the assets of the public higher education institution. The Ministry of Education shall control the economic management of the public higher education institution.[[23]](#footnote-23)

Higher education science and technology includes supported research activities of universities mainly in two areas: 1) basic research through the internal VEGA grant system, and 2) applied research in the field of education, pedagogy, creative and performing arts through the internal KEGA grant system.

VEGA grant system: The Scientific Grant Agency of the Ministry of Education, Research, Development and Youth of the Slovak Republic and the Slovak Academy of Sciences (VEGA) is an internal grant system for the Department of Education and the Slovak Academy of Sciences, which ensures a mutually coordinated procedure for the selection and evaluation of basic research projects solved at the departments of universities and scientific institutes of the Slovak Academy of Sciences. It proposes to the Minister of Education, Research, Development and Youth and the President of the Slovak Academy of Sciences the amount of the subsidy to be provided for the solution of selected new and ongoing scientific projects from institutional funds.[[24]](#footnote-24)

KEGA grant system: Cultural and Educational Grant Agency of the Ministry of Education and Science of the Slovak Republic (KEGA) is an internal grant system which is aimed at funding projects of applied research in the fields of education, teaching and creative and performing arts, which are initiated by investigators from public universities or the Ministry of Education, Science, Research and Sport of the Slovak Republic.[[25]](#footnote-25)

10. **Please explain the extent to which teachers and professors at different education levels can chose school manuals and other books/resources for teaching, and the reasons for any restriction in this regard. Have any specific books/materials been banned, including from school libraries, and alternatively is some material mandatory? If so, why?**

According to Section 13 para. 2 of the Act No. 245/2008 Coll. on upbringing and education (School Act) “*educational publications approved by the Ministry of Education and other educational publications and educational software that are not approved by the Ministry of Education and are consistent with the principles and objectives of education shall be used for education in schools.*”[[26]](#footnote-26) Act No. 138/2019 Coll. on pedagogical employees and professional employees provides that “*pedagogical employee and a professional employee have the right to choose and apply pedagogical methods, forms, didactic means of education and training and to choose professional methods.”* [[27]](#footnote-27) The law further states that “*pedagogical staff members and professional staff members are obliged to behave in accordance with the Code of Ethics for Teaching and Professional Staff*.”[[28]](#footnote-28)

Sexual education can be taught as a separate subject or during various other subjects such as ethics or biology, however, it is not a mandatory subject in Slovakia. Sexual education is often seen as controversial by conservative people, who often argue that it can create a space to indoctrinate children with “LGBT propaganda”. In 2022, conservative MPs have submitted a draft amendment to the School Act,[[29]](#footnote-29) inspired by the Hungarian “Pedophilia Act”, which aimed to ensure that teaching subjects, textbooks, teaching texts and workbooks do not make ideologies promoting gender reassignment, homosexuality or deviation from the gender identity determined at birth available to children in school. According to the Explanatory Memorandum, the amendment was intended to ensure that children are not exposed to content that is harmful to their proper physical, mental and moral development and that the right of parents to educate and teach their children in accordance with their religious, philosophical and pedagogical convictions is preserved.[[30]](#footnote-30) The amendment has not been adopted.

1. Act No. 460/1992 Coll. Constitution of the Slovak Republic, available in Slovak at <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1992/460/> [↑](#footnote-ref-1)
2. Act No. 131/2002 Coll. on Higher Education Institutions and on Amendments of certain act, available in Slovak at <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2002/131/20230101> [↑](#footnote-ref-2)
3. Ibid. Section 4 para. 1 [↑](#footnote-ref-3)
4. Ibid. Section 4 para. 2 [↑](#footnote-ref-4)
5. Ibid. Section 4 para. 3 [↑](#footnote-ref-5)
6. Government Bill amending Act No. 131/2002 Coll. on Higher Education Institutions and on Amendments and Additions to Certain Acts, as amended, and amending and supplementing certain Acts, available in Slovak at <https://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&ZakZborID=13&CisObdobia=8&CPT=822> [↑](#footnote-ref-6)
7. Explanatory Memorandum to the Amendment of the Act on Higher Education, available in Slovak at <https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=505389> [↑](#footnote-ref-7)
8. Ibid. [↑](#footnote-ref-8)
9. Denník N: 22 December 2021, available in Slovak at <https://dennikn.sk/minuta/2658561/> [↑](#footnote-ref-9)
10. Comenius University Bratislava: The Future of Academic Self-Government in Slovakia or Ceterum autem censeo, available in Slovak at <https://uniba.sk/detail-aktuality/back_to_page/spravodajsky-portal/article/buducnost-akademickej-samospravy-na-slovensku-alebo-ceterum-autem-censeo/> [↑](#footnote-ref-10)
11. UK News Portal: Opinion of the Academic Senat of UK and the Management of UK on the draft amendment to the Higher Education Act, available at <https://uniba.sk/spravodajsky-portal/detail-aktuality/back_to_page/univerzita-komenskeho/article/stanovisko-as-uk-a-vedenia-uk-k-navrhu-novely-zakona-o-vysokych-skolach/> [↑](#footnote-ref-11)
12. Open letter from students to the Dean of the PraF UK, available in Slovak at: <https://www.flaw.uniba.sk/fileadmin/praf/Aktuality/2023/1_Otvoreny___list_s__tudentov_dekanovi_PraF_UK.pdf> [↑](#footnote-ref-12)
13. The Prime Minister´s Facebook status, available in Slovak at <https://www.facebook.com/robertficosk/posts/pfbid02S1UVgpd1oYe5GiPrMkJgBGEx2vqBnBTvn8PK4EjNLrpsZRDN6ATnnAFQLwpxvdTAl?locale=sk_SK> [↑](#footnote-ref-13)
14. Ibid. Section 70 para. 1 i) [↑](#footnote-ref-14)
15. Ibid. Section 5 para. 1 and Section 1 para. 5 [↑](#footnote-ref-15)
16. Ibid. Section 5 para. 2 [↑](#footnote-ref-16)
17. Ibid. Section 4 para. 4 [↑](#footnote-ref-17)
18. Ibid. Section 6 para. 1 [↑](#footnote-ref-18)
19. Ibid. Section 4 para. 3 [↑](#footnote-ref-19)
20. European Commission, Eurydice: Higher Education Funding, available in Slovak at <https://eurydice.eacea.ec.europa.eu/sk/national-education-systems/slovakia/financovanie-vysokoskolskeho-vzdelavania> [↑](#footnote-ref-20)
21. Ibid. [↑](#footnote-ref-21)
22. Research and Development Agency, available at: <https://www.apvv.sk/> [↑](#footnote-ref-22)
23. European Commission, Eurydice: Higher Education Funding, available in Slovak at <https://eurydice.eacea.ec.europa.eu/sk/national-education-systems/slovakia/financovanie-vysokoskolskeho-vzdelavania> [↑](#footnote-ref-23)
24. Ministry of Education, Science, Research and Sport of the Slovak Republic: Scientific Grant Agency of the Ministry of Education, Science, Research and Sport of the Slovak Republic (VEGA), available in Slovak at: <https://www.minedu.sk/vedecka-grantova-agentura-msvvam-sr-a-sav-vega/> [↑](#footnote-ref-24)
25. Ministry of Education, Science, Research and Sport of the Slovak Republic: Cultural and Educational Grant Agency of the Ministry of Education, Science, Research and Sport of the Slovak Republic (KEGA), available in Slovak at: <https://www.minedu.sk/kulturna-a-edukacna-grantova-agentura-msvvam-sr-kega> [↑](#footnote-ref-25)
26. Act No. 245/2008 Coll. on upbringing and education, available in Slovak at <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2008/245/20231223> [↑](#footnote-ref-26)
27. Section 3, para 1 f) of the Act No. 138/2019 Coll. on pedagogical employees and professional employees, available in Slovak at <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2019/138/> [↑](#footnote-ref-27)
28. Ibid., Section 4 para 1 e) [↑](#footnote-ref-28)
29. Draft amendment to Act No. 245/2008 Coll. on upbrinding and Education (School Act), and on the amendment and supplementation of certain Acts, as amended, Parliamentary Press 1249, available in Slovak at <https://www.nrsr.sk/web/Default.aspx?sid=zakony/cpt&ZakZborID=13&CisObdobia=8&ID=1249> [↑](#footnote-ref-29)
30. Explanatory Memorandum to the amendment to Act No. 245/2008 Coll. on upbrinding and Education (School Act), and on the amendment and supplementation of certain Acts, as amended, Parliamentary Press 1249, available in Slovak at <https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=518442> [↑](#footnote-ref-30)