Bratislava, 14 September 2023

**INPUT OF THE SLOVAK NATIONAL CENTRE FOR HUMAN RIGHTS CONCERNING DECRIMINALIZATION OF HOMELESSNESS AND POVERTY**

*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.*

The Centre submits the following information on decriminalization of homelessness and poverty:

1. According to the latest population and housing census, as of 1 January 2021, there were 71 076 people in situation of homelessness in Slovakia, with a predominance of men.[[1]](#footnote-1) The number of people in situation of homelessness has tripled compared to 2011.[[2]](#footnote-2) Of the total number of people in situation of homelessness, children under the age of 14 account for up to 15.5%, more than 80% are of working age, and less than 5% are of post-working age.[[3]](#footnote-3)
2. The current Slovak legislation does not criminalise homelessness, nor does it impose criminal or administrative sanctions on homeless people for activities associated with homelessness such as begging, eating, sleeping, or performing personal hygienic activities in public places. According to Section 179 (1) of the Act No. 300/2005 Coll., Criminal Code, as amended[[4]](#footnote-4) begging is criminal only under the criminal offence of human trafficking if it is forced by another person as a mean of exploitation.[[5]](#footnote-5) Despite the absence of an explicit prohibition of homelessness and activities connected therewith, the Act No. 372/1990 on offences, as amended contains offences qualifying as offences against public order that might likely be committed by homeless people. These constitute mainly the offence of “*causing a public nuisance”*[[6]](#footnote-6) and the offence of “*damage to or unauthorised occupation of a public space, a publicly accessible building or a public utility.”[[7]](#footnote-7), [[8]](#footnote-8)* In 2005, the Ministry of Interior of the Slovak Republic introduced a draft Amendment to the Act No. 372/1990 Coll. on offences,[[9]](#footnote-9) which proposed to include begging, harassment and sleeping in public spaces as examples of the offence of causing a public nuisance,[[10]](#footnote-10) which would be punishable with a fine.[[11]](#footnote-11) Following criticism and opposition of several non-profit organisations, the proposed amendment has not been adopted.[[12]](#footnote-12)
3. Under the Act on offences an offence against public order is also a violation of other obligations than those specified in this Act, if they are laid down by generally binding legal regulations, including generally binding municipal regulations and generally binding ordinances of local state administrative bodies, if such an act endangers or disturbs public order. A fine of up to EUR 33 may be imposed for such offences.[[13]](#footnote-13) In 1995, the Municipality of Bratislava – Staré Mesto adopted a generally binding regulation on the prohibition of begging and consumption of alcoholic beverages in public places.[[14]](#footnote-14) However, in 1997, the Constitutional Court of the Slovak Republic has ruled[[15]](#footnote-15) that the regulation is not in compliance with Article 2(3) of the Constitution of the Slovak Republic, according to which everyone can do what is not prohibited by law and no one can be forced to do something that the law does not impose, and is also inconsistent with Article 13(1) of the Constitution of the Slovak Republic, according to which obligations can be imposed only on the basis of the law, within its limits and while preserving fundamental rights and freedoms.[[16]](#footnote-16) The Constitutional Court reasoned that “*begging 'with the intention of arousing the sympathy of passers-by and obtaining from them money or other material means' (§ 1(3) of the regulation) cannot in itself be regarded as an act which will endanger or disturb public order. A beggar cannot therefore be prosecuted and punished on the mere assumption that he will get drunk and then cause disturbance for the money he has begged*.”[[17]](#footnote-17) Some cities have recently also introduced inhumane practices against homeless people by dividing benches with armrests to make it impossible to sleep on them.[[18]](#footnote-18)
4. In 2023, the Slovak Government has adopted the National Concept for Preventing and Ending Homelessness for the years 2023-2030,[[19]](#footnote-19) which is the first strategic document addressing homelessness. The National Concept points out several obstacles that homeless people have to face when it comes to complying with laws under the threat of fines. During the pandemic, homeless people had to cope with a number of unrealisable measures - from the obligation to isolate themselves in their homes, to the obligation to be tested based on the proof of ID. Several of the measures were not feasible for homeless people, which resulted in their violation and consequently, in imposition of ultimately unenforceable fines.[[20]](#footnote-20) An incident taking place in March 2021 caused an uproar, when a homeless person was fined EUR 100 by the police in Bratislava for violation of curfew rules that at the time banned travelling between districts.[[21]](#footnote-21)
5. Another barrier for homeless people according to the National Concept is bearing the fees for issuing ID cards. Under the Act No. 145/1995 Coll. on Administrative Fees, as amended, if a citizen loses or damages an ID card or if it gets stolen, the administrative fee for issuing a new ID card is EUR 16,50. If a citizen loses his ID card repeatedly, the fee together with the fine amounts to EUR 33.[[22]](#footnote-22)
6. The National Concept also highlights that homeless people are often coerced by perpetrators into the role of a "white horse" by force or manipulation.[[23]](#footnote-23) Under the Criminal Code, who lends his identity for the purpose of transferring a share to him in a legal person and he/she should have known and could have known that the person who transferred the share had the intention to obstruct the liquidation of the business, shall be punished by imprisonment for a term of up to five years.[[24]](#footnote-24) If homeless people become partners in limited liability companies, it is impossible to dissolve the business and remove them from the Commercial Register. These persons might get sentenced for embezzlement, non-payment of taxes, etc. They might remain completely without financial resources, because as shareholder in the companies they are not entitled to material need allowance.[[25]](#footnote-25)

1. Statistical Office of the Slovak Republic: “*Population and housing census:* *People in the situation of homelessness”*, available in Slovak at <https://www.scitanie.sk/storage/app/media/dokumenty/ludia_bez_domova_SODB_2021.pdf> [↑](#footnote-ref-1)
2. Statistical Office of the Slovak Republic: “The number of people in the situation of homelessness has tripled compared to 2011!”, 18 May 2023, available in Slovak at <https://www.scitanie.sk/medialne-aktuality/pocet-ludi-bez-domova-sa-oproti-roku-2011-trojnasobne-zvysil> [↑](#footnote-ref-2)
3. Statistical Office of the Slovak Republic: “More than 15% of people in the situation of homelessness are of pre-working age!”, 18 May 2023, available in Slovak at <https://www.scitanie.sk/medialne-aktuality/viac-ako-15-percent-ludi-bez-domova-je-v-predproduktivnom-veku> [↑](#footnote-ref-3)
4. Act No. 300/2005 Coll., Criminal Code is available in Slovak at <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2005/300/20230501> [↑](#footnote-ref-4)
5. Section 179 (1) of the Act No. 300/2005 Coll., Criminal Code: “*(1) Whoever with the application of fraudulent conduct, deception, the restriction of personal freedom, kidnapping, violence, threats of violence, threats of other grievous harm or other forms of coercion, by accepting or providing monetary fulfilment or other benefits in order to gain a person’s consent on whom another person is dependent, or the abuse of their position or vulnerability or otherwise vulnerable position, entices, transports, harbours, transmits or accepts another person, even with their consent, for the purpose of prostitution or other forms of sexual exploitation, including pornography, forced labour and services including* ***beggary****, slavery or practices similar to slavery, servitude, forced marriage, misuse for commit ting criminal activities, removal of organs, tissues or cells or other forms of exploitation shall be punished by a prison sentence of four to ten years.”* [↑](#footnote-ref-5)
6. Section 47(1)(c) of the Act on Offences [↑](#footnote-ref-6)
7. Section 47(1)(g) of the Act on Offences [↑](#footnote-ref-7)
8. For the offence of *causing a public nuisance* a fine of up to EUR 100 and for the offence of *damage to or unauthorised occupation of a public space, a publicly accessible building or a public utility* a fine of up to 300 EUR might be imposed. [↑](#footnote-ref-8)
9. Act No. 372/1990 on offences as amended is available in Slovak at <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1990/372/> [↑](#footnote-ref-9)
10. FEANTSA, Housing Rights Watch, White & Case: Report on national laws that penalise or criminalise the behaviour of people who are homeless, p. 5, available online at <https://shorturl.at/hnyW4> [↑](#footnote-ref-10)
11. SME: “Against the flow: MoI wants to unfairly punish the homeless”, 1 August 2005, available in Slovak at <https://domov.sme.sk/c/2322747/proti-prudu-mv-chce-nepravom-trestat-bezdomovcov.html> [↑](#footnote-ref-11)
12. FEANTSA, Housing Rights Watch, White & Case: Report on national laws that penalise or criminalise the behaviour of people who are homeless, p. 5, available online at <https://shorturl.at/hnyW4> [↑](#footnote-ref-12)
13. Section 48 of the Act on Offences [↑](#footnote-ref-13)
14. Generally binding regulation No. 3/1995 on the prohibition of begging and consumption of alcoholic beverages in public places [↑](#footnote-ref-14)
15. Constitutional Court of the Slovak Republic, Case No. II ÚS 45/96 of 4 February 1997, available in Slovak at <https://shorturl.at/qBFJV> [↑](#footnote-ref-15)
16. Ibid. [↑](#footnote-ref-16)
17. Ibid. [↑](#footnote-ref-17)
18. Denník N: “Benches were installed to displace the homeless. They are not for lying on, but for sitting on, explains Bratislava”, 31 July 2015, available in Slovak at <https://dennikn.sk/201542/zmiznu-ulic-bezdomovci-ked-zoberieme-lavicky/> [↑](#footnote-ref-18)
19. Ministry of Labour, Social Affairs and Family of the Slovak Republic: “*National Concept for Preventing and Ending Homelessness*”, available in Slovak at <https://shorturl.at/tR168> [↑](#footnote-ref-19)
20. Ibid., p. 67. [↑](#footnote-ref-20)
21. The Slovak Spectator: “Police fine homeless person because he broke curfew rules, they claim”, 17 March 2021, available at <https://spectator.sme.sk/c/22619080/police-fine-homeless-person-because-he-broke-curfew-rules-they-claim.html> [↑](#footnote-ref-21)
22. Ministry of Labour, Social Affairs and Family of the Slovak Republic: “*National Concept for Preventing and Ending Homelessness*”, p. 68, available in Slovak at <https://shorturl.at/tR168> [↑](#footnote-ref-22)
23. Ministry of Labour, Social Affairs and Family of the Slovak Republic: “*National Concept for Preventing and Ending Homelessness*”, p. 68, available in Slovak at <https://shorturl.at/tR168> [↑](#footnote-ref-23)
24. Section 251b (3) of the Act No. 300/2005 Coll., Criminal Code [↑](#footnote-ref-24)
25. Ministry of Labour, Social Affairs and Family of the Slovak Republic: “*National Concept for Preventing and Ending Homelessness”*, p. 68, available in Slovak at <https://shorturl.at/tR168> [↑](#footnote-ref-25)