

TARGETED STAKEHOLDER CONSULTATION 2021 RULE OF LAW REPORT

UN HUMAN RIGHTS REGIONAL OFFICE FOR EUROPE (OHCHR)

This document presents the UN Human Rights Office's contribution to the targeted stakeholder consultation held by the European Commission in 2021 in the context of the second annual rule of law report.

It is a compilation of information related to Slovakia, included in reports and documents of United Nations Treaty Bodies, Special Procedures and the Universal Periodic Review of the UN Human Rights Council, presented in a summarized manner. It also refers to statements and reports of the UN High Commissioner for Human Rights and her Office. The cited material covers the period 2018-2020.

It mentions both positive developments and challenges to the rule of law in Slovakia, as well as recommendations issued by the UN Mechanisms on how these challenges can be addressed and how the rule of law can be further strengthened.

In light of the methodology proposed by the European Commission the submission is divided in four pillars: national justice systems, anti-corruption frameworks, media pluralism and freedom and other institutional issues related to the checks and balances essential to an effective system of democratic governance.

SLOVAKIA REVIEW

Justice System

➤ *Independence*

At its 2019 Universal Periodic Review, Slovakia supported one relevant recommendation, namely to “implement and rigorously enforce ethical standards and reforms to the judicial selection and appointment process in order to safeguard the justice system and judicial accountability.” ([A/HRC/41/13/Add.1](#), para 3, recommendation 121.93).

➤ *Quality of justice*

In its 2019 concluding observations, the UN Committee on Economic, Social and Cultural Rights noted with concern information about the high incidence of violence against women, including sexual harassment, stalking and domestic violence, in Slovakia, and recommended the country to improve women's access to justice for all forms of violence against women ([E/C.12/SVK/CO/3](#), para 28,29).

In its 2019 concluding observations, the UN Committee on Enforced Disappearances was concerned about instances in which persons deprived of their liberty were not afforded all the fundamental legal safeguards from the outset of their deprivation of liberty, in particular access to a lawyer and to communicate the deprivation of liberty to their family or any other

person of their choice, including as per section 34 of the Code of Criminal Procedure. While welcoming the information provided by Slovakia on its efforts to ensure that all deprivations of liberty are properly recorded, the Committee recommended the country to adopt measures necessary to ensure in practice that all persons deprived of liberty are afforded, from the outset of their deprivation of liberty, all the fundamental legal safeguards, notably access to a lawyer. The Committee also found that the State party should review section 34 of its Code of Criminal Procedure to ensure that it is fully compliant with the Convention ([CED/C/SVK/CO/1](#), para 16,17).

In its 2019 concluding observations, the UN Committee on Enforced Disappearances noted that Slovakia did not provide specific and regular training on the Convention for the Protection of All Persons from Enforced Disappearance and the crime of enforced disappearance, including due to lack of expertise. The Committee welcomed Slovakia's expressed interest in receiving training support and recommended Slovakia ensure that all law enforcement and security personnel, including *inter alia* judges, prosecutors and other officials responsible for the administration of justice, receive specific and regular training on the provisions of the Convention. It also encouraged Slovakia to provide training to judges on the offence of enforced disappearance, in particular to ensure its proper application and the appropriate consideration of section 420a (1) of the Criminal Code ([CED/C/SVK/CO/1](#), para 22,23).

In its 2019 concluding observations, the UN Committee on Economic, Social and Cultural Rights regretted that, although the Covenant takes precedence over domestic laws, examples of cases in which the Covenant had been applied by domestic courts were so far limited. The Committee recommended that Slovakia increase judges', lawyers' and prosecutors' knowledge of the Covenant in order to ensure that its provisions are taken into account in domestic court decisions, and more generally to raise awareness of the Covenant and of the justiciability of economic, social and cultural rights among members of the judicial branch and the general public. The Committee further expressed concern at the lack of effective judicial recourse for victims, including among groups that commonly face discrimination, such as Roma, migrants and asylum seekers and persons with disabilities, and regretted the lack of legal recognition of intersectionality. It recommended that Slovakia continue training of the judiciary on legal standards relating to non-discrimination and extend such training to other legal professionals and government officials. The Committee also recommended Slovakia remove barriers to effective judicial remedy for victims of discrimination under the Anti-Discrimination Act of 2004, including by undertaking awareness-raising activities of discriminated groups about their rights and available complaint mechanisms ([E/C.12/SVK/CO/3](#), paras 4, 5, 12, 13).

In its 2018 concluding observations, the UN Committee for the Elimination of Racial Discrimination urged Slovakia to *inter alia* provide training, on a regular basis, to civil servants, judges, magistrates and law enforcement officers, with a view to ensuring the effective application of the Convention on the Elimination of All Forms of Racial Discrimination and of its legislation on racial discrimination, and to ensure that, in carrying out their duties, they respect and defend all human rights while also taking steps to eliminate racially discriminatory acts or practices ([CERD/C/SVK/CO/11-12](#), para 9,10).

At its 2019 Universal Periodic Review, Slovakia supported one relevant recommendation namely to "improve the functioning of the judicial system by implementing a "Swift Justice"

programme and an automated case management system to track the progress of cases so as to reduce the current backlog.” ([A/HRC/41/13/Add.1](#), para 3, recommendation 121.92).

➤ ***Efficiency of the justice system***

In its 2018 concluding observations, the UN Committee for the Elimination of Racial Discrimination remained concerned that court proceedings in cases of racial discrimination continued to be excessively lengthy, thus impacting negatively on effective access to justice for victims. The Committee urged Slovakia to inter alia adopt appropriate and effective measures to address the problem of lengthy court proceedings for victims of racial discrimination and take all the steps necessary to guarantee that all victims of racial discrimination have access to effective legal remedies and compensation ([CERD/C/SVK/CO/11-12](#), para 9,10).

Anti-corruption framework

➤ ***Prevention***

In its 2019 concluding observations, the UN Committee on Economic, Social and Cultural Rights noted Slovakia’s efforts to tackle corruption, including the adoption of Act No. 315/2016 Coll. on the Register of Public Sector Partners, the protection of whistle-blowers and the conviction of some high-ranking officers. However, the Committee remained concerned by the continued levels of corruption in Slovakia and regretted that information on investigations, prosecutions and convictions reflecting the cross-cutting impact of corruption on human rights was so far limited. The Committee recommended Slovakia to further increase investigations, prosecutions and convictions for corruption, including in cases of gross corruption by high-level officials, and take robust measures to prevent future incidences of corruption ([E/C.12/SVK/CO/3](#), para 8,9).

At its 2019 UPR, Slovakia supported several related recommendations, namely to ‘take all necessary steps to strengthen anti-corruption laws, ensure independence of the judiciary and protect the rights and safety of journalists’, to ‘reform the police and prosecution services by improving transparency and oversight to combat corruption, increase accountability and improve public trust in the judicial system’, and ‘to continue improving the functioning of the justice system, including the prosecutor’s office, and the fight against the corruption and the slowness of judicial procedures.’ ([A/HRC/41/13/Add.1](#), para 3, Recommendations 121.80, 121.81 and 121.95)

Media pluralism

➤ ***Framework for journalists’ protection***

In 2018, the UN Special Rapporteurs on extrajudicial, summary or arbitrary executions and on the promotion and protection of the right to freedom of opinion and expression entered in a dialogue with Slovakia following the murder of the investigative journalist, Mr Jan Kuciak and his partner, Ms. Martina Kusnirova. They expressed concern that despite previously reporting

threats received to the Prosecutor, no protection measures appeared to have been taken, as well as at the serious impact such killings would have not only on individual journalists and their families but also on the general public's right to information and a democratic society. While they welcomed the Government's immediate response calling for an investigation into the killings, they underlined the importance of a prompt, thorough and impartial investigation in order to bring those accountable to justice and to prevent impunity for crimes against journalists. Further, given the impact the killing may have on other reporting, they urged the Government to take all possible steps to protect and support journalists working to uncover tax fraud and other matters of public interest ([UA SVK 1/2018](#), available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>, see also press release at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22753&LangID=E>

At its 2019 Universal Periodic Review, Slovakia supported eight related recommendations following the double killing, such as to take all measures to protect and support journalists working to uncover corruption and other matters of the highest public interest ([A/HRC/41/13/Add.1](#), para 3).

Other institutional issues related to checks and balances

➤ *Independent authorities*

In their respective concluding observations in 2018 and 2019, the UN Committee for the Elimination of Racial Discrimination (CERD), the UN Committee on Enforced Disappearances (CED) and the UN Committee on Economic, Social and Cultural Rights (CESCR) all expressed regret or concern that the Slovak National Centre for Human Rights did not yet fully comply with the Paris principles and remained a B-status NHRI. While the CED noted with appreciation that the budget of the National Centre had recently increased by 40 per cent and that its personnel was also increased with seven additional employees, it regretted that the legislative reform to improve the normative framework of the National Centre proposed by the Government did not receive the necessary support in the National Council of the Slovak Republic. The CESCR was further concerned by reports of inadequate funding to the Centre, and its lack of full independence and transparent appointment processes. It recommended that Slovakia: (a) expand efforts to increase funding to the Slovak National Centre for Human Rights; (b) improve the independence of the Centre in accordance with the Paris Principles; (c) take all necessary steps to ensure fully transparent recruitment processes for all staff members; (d) Ensure that all institutions overseeing the promotion and protection of human rights, including the Centre, the Public Defender of Rights, the Commissioner for persons with disabilities and the Commissioner for children, work together under a comprehensive framework ([CERD/C/SVK/CO/11-12](#), para 7, 8; [CED/C/SVK/CO/1](#), para 10,11; [E/C.12/SVK/CO/3](#), para 6, 7).

Slovakia supported ten related recommendations at its 2019 UPR, notably to complete the legislative procedures required to ensure full compliance of its NHRI with the Paris Principles without further delay as well as to ensure the independence of the institution of the Commissioner for Children ([A/HRC/41/13/Add.1](#), para 3).

In its 2018 concluding observations, the CERD also reiterated its previous recommendation that Slovakia take all necessary measures to accelerate the establishment of an independent monitoring mechanism to investigate crimes involving police officers, considering numerous reports of excessive use of force and ill-treatment by law enforcement officers against ethnic minorities, in particular Roma, and that the majority of these reports were either not duly investigated, or when investigations had been initiated they had been suspended, and most complaints against law enforcement officers had been dismissed ([CERD/C/SVK/CO/11-12](#), para 15,16).

➤ ***Accessibility and judicial review of administrative decisions***

In their concluding observations in 2018 and 2019, the UN Committee for the Elimination of Racial Discrimination and the UN Committee on Economic, Social and Cultural Rights expressed concern about forced sterilization of Roma women and the absence of adequate access to remedy for victims. The CERD noted Slovakia's information about measures adopted to prevent forced sterilization and to provide compensation to victims but was concerned that access to justice, reparation and compensation remained difficult for Roma women who had been subjected to forced sterilization. It urged Slovakia to inter alia ensure that Roma women who were victims of sterilization without their informed consent had access to effective remedies and adequate compensation, that perpetrators be brought to justice, and that legislation and regulations on informed consent in situations of sterilization be enforced effectively. The CESCR Committee further recommended Slovakia should ensure full, independent and transparent investigation into occurrences of forced sterilization of Roma women, including the complicity of any State officials, applying disciplinary and criminal sanctions where warranted ([CERD/C/SVK/CO/11-12](#), para 23, 24; [E/C.12/SVK/CO/3](#), para 44, 45).

In its 2019 concluding observations, the Committee on Enforced Disappearances noted with concern that the definition of "close person" contained in section 116 of the Civil Code, provided by Slovakia to make reference to the persons who could have a legitimate interest in having access to information under the terms of article 18 of the Convention for the Protection of All Persons from Enforced Disappearance, is restrictive and that the requirement for persons, other than direct relatives, to be considered "close" may be difficult to demonstrate. While noting with interest the affirmation by Slovakia that, in practice, persons deprived of liberty can communicate with close persons and that their choice is not questioned by the relevant authorities, the Committee recommended Slovakia to take the measures necessary to ensure that any person with a legitimate interest can have prompt and easy access to, at least, the information stipulated in article 18 (1) of the Convention. In addition, the Committee encouraged Slovakia to review its definition of "close person" so as to bring it into line with article 18 (1) of the Convention ([CED/C/SVK/CO/1](#), paras 20,21).