

## INFANTE Dolores

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**From:** [REDACTED]  
**Sent:** 27 February 2019 17:44  
**To:** Reprisals OHCHR  
**Subject:** SLOVAKIA - good practices submission - the SG annual report „Cooperation with the united nations, its representatives and mechanisms in the field of human rights“  
**Attachments:** 190221\_Q\_reply.pdf

Dear Sir or Madam,

following the request of the OHCHR to provide information on good practices with regards the SG annual report „Cooperation with the united nations, its representatives and mechanisms in the field of human rights“ please find attached the contribution of the Slovak Republic.

I kindly ask you to acknowledge the receipt of this email.

Yours Sincerely,

[REDACTED]  
[REDACTED]



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SLOVAKS THROUGH THE CENTURY

1918 1968 1993 2018

GOOD IDEA SLOVAKIA

**A. What is the legal and policy framework at the national level to ensure the right to participation at the international level, including unhindered access to and communication with international bodies, in particular the UN?**

In respect of right of participation itself, it is necessary to point out that its basics can be found in more general rights – in the freedom of speech and access to information, right to personal freedom, protection of personality, right to secrecy of communication, ban of censorship, right to seek remedy at both levels, national and international. All of these rights are provided for either in the Constitution of the Slovak Republic<sup>1</sup> or in the international treaties binding the Slovak Republic.

Being a country with monistic approach entails that international treaties concerning human rights become an inherent part of the Slovak legal system and they are directly applicable. Under the article 7 (5) of the Constitution, human rights treaties are superior to national legal acts. Therefore all international obligations ensuring the right to participation or its form embodied in more general rights at the international level are already part of the Slovak legislation and directly applicable (e.g. right to submit communication to ECHR, UN bodies, etc.).

The Constitution in the article 46 also guarantees right to raise claims and seek protection of rights (e.g. by judicial means). *Per analogiam* the article 46 of the Constitution should cover access to international review mechanisms as by law regulated procedures for seeking redress in cases of violation of rights regardless of other guarantees included in international treaties.

Except the already mentioned rights, the Constitution in the article 12 (4) directly stipulates “*no one shall be harmed on their rights in connection with exercising their fundamental rights and freedoms*”, meaning that no reprisals or any other interferences to fundamental rights are allowed when connected with exercising of these rights (e.g. no reprisals are allowed for exercising of freedom of speech or access to information).

Furthermore, the national anti-discrimination legislation stipulates that “*Compliance with the principle of equal treatment consists of prohibition of discrimination on the grounds of .....other position or for reporting a criminal offence or other anti-social activities*”.<sup>2</sup> Such prohibition of discrimination covers also any discrimination, reprisals or restrictions inflicted on a person based on its status as a notifier, complainant<sup>3</sup> etc.

In respect of reprisals, any unlawful reprisals (acts or omissions) that are unfavourable for a person and are connected to a) claiming rights and legal protection from discrimination on his/hers own behalf or on behalf of someone else, b) being a witness or making a witness statement in proceedings connected to violation of principle of equal treatment or c) a complaint alleging violation of principle of equal treatment<sup>4</sup>, are considered as a form of discrimination. These provisions are applicable towards those who seek protection at the international level as well.

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<sup>1</sup> Act no. 460/1992 Coll. Constitution of the Slovak republic

<sup>2</sup> Sec. 2 (1) of Act no. 365/2004 Coll. On Equal Treatment and protection from discrimination (anti-discrimination act)

<sup>3</sup> Whistle blowers' protection in employment relationships is also guaranteed by Act no. 307/2017 Coll. on measures relating to the notification of anti-social activities. The National Council of the Slovak Republic passed on 30th of January 2019 a new act on protection of whistle blowers establishing an independent authority responsible for protection of whistle blowers' rights.

<sup>4</sup> Sec. 2a (8) of Act no. 365/2004 Coll. On Equal Treatment and protection from discrimination (anti-discrimination act)

Even though the Slovak national legislation does not explicitly provide for the right to participation at the international level and protection of those who cooperate with the UN, in its basics, these rights are regulated and guaranteed in the form of the abovementioned rights (incl. guarantees to seek remedy at the international level and protection by anti-discrimination legislation).

**B. What measure have been taken by your Government at the national level to ensure national investigations and accountability on allegations of intimidation and reprisals?**

Following the line of constitutional protection of fundamental rights, there are several legal options available for seeking protection and redress. Firstly, protection and guarantees can be sought through civil law actions in less serious cases. Judicial protection can be sought in respect of personal rights (e.g. action for protection of personality), discrimination (in these cases, the allegedly discriminated person is considered as weaker party and court is obliged to examine all evidence and seek evidence on its own motion) or in cases of employment dispute (e.g. unlawful termination of employment as a form of reprisal<sup>5</sup>). Protection is also provided to whistle blowers, especially from any reprisals from employer.

Inviolability of person from serious interferences is covered also by criminal law. Under sec. 360 of the Penal Code<sup>6</sup> intimidation i.e. dangerous threats are a criminal offence punishable by law. The offence of dangerous threats is defined as follows *"Whoever threatens another person with death, grievous bodily harm or another grievous harm, in a manner that arouses a justified concern, shall be punished by a prison sentence of up to one year."*<sup>7</sup>

Specifically are qualified dangerous threats committed *"with the intention to obstruct or hinder the application of another person's fundamental rights and freedoms"*<sup>8</sup> with prison sentence from 6 months to 3 years. Right to participation as mentioned above is enshrined in fundamental rights and freedoms covered also by the Constitution. Therefore any dangerous threats made towards a person in connection with claiming rights or application of fundamental rights (e.g. cooperation with the UN as execution of freedom of speech) can be prosecuted under sec. 360 (2) of the Penal Code.

Criminal offence of stalking can be considered as falling within the ambit of intimidation. Under sec. 360a of the Penal Code it is characterized as *"follow[ing] of another person over an extended period of time in a way giving possible rise to a reasonable fear for the life or health of that person or the life or health of a person close to that person or giving rise to the substantial impairment of the quality of life of that person"*<sup>9</sup> by certain conduct, e.g. threats, seeking personal proximity, contacting person through electronic service, misusing of personal details, etc.

Another form of intimidation, slander is also punishable as a criminal offence.<sup>10</sup> Any illegal use of personal data obtained in connection with the execution of one's function (e.g. collection of personal

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<sup>5</sup> Act no. 311/2001 Coll. Labour Code strictly defines under what circumstances an employer can terminate employment and in cases of disputes, an employee is considered as weaker party and provided greater guarantees in judicial system.

<sup>6</sup> Act no. 300/2005 Coll. Penal Code

<sup>7</sup> Sec. 360 (1) of Act no. 300/2005 Coll. Penal Code

<sup>8</sup> Sec. 260 of Act no. 300/2005 Coll. Penal Code

<sup>9</sup> Sec. 306a (1) of Act no. 300/2005 Coll. Penal Code

<sup>10</sup> Sec. 373 (1) of Act no. 300/2005 Coll. Penal Code *"Whoever communicates false information about another person, which is capable of considerably damaging the respect of fellow citizens for such a person, their career and business, their family relations, or that causes them other grievous harm, shall be punished by a prison sentence of up to two years."*

data in order to use them as a leverage) is qualified as a criminal offence under the Penal Code as well.<sup>11</sup>

In cases, when intimidation is connected with special characteristics protected by anti-discrimination legislation, such act can be considered and be punishable as *hate crime*.<sup>12</sup> Hate crimes are exclusively handled by the Office of the Special Prosecutor and tried by the Specialised Criminal Court. Within the police, crimes of extremism (including hate crimes and hate speech) are investigated by specialists of the National unit combatting terrorism and extremism within the National Criminal Agency.

In respect of victims claiming their rights, as of 1 January 2018, new legislation in respect of protection of victims of crime entered into force<sup>13</sup> introducing definitions of secondary and repeated victimisation into Slovak legislation. Victims' of crime legislation provides protection from both types of victimisation (e.g. by imposing obligations on state officers to act in certain way, strengthening measures that can be adopted to minimise the risk of repeated victimisation). Also the category of particularly vulnerable victims entitled to specialised professional assistance was established. To this group, among others, belong victims of hate crime and victims where the risk of repeated victimisation is higher.

**C. How has your Government provided assistance to members of civil society for their cooperation with the UN? Have any measure been taken to improve the security and safety of those who cooperate with regional and international organizations?**

The Government of the Slovak Republic provides assistance in several forms. One of them is based on financial support of non-governmental organisations. This support is usually project-based and covers e.g. human resources, free legal aid, researches, educative and cultural activities. The Government also supports projects aimed at raising awareness about human rights, especially in connection with characteristics protected by the anti-discrimination legislation (raising awareness about rights of national minorities, LGBTI, persons with disabilities). Several ministries have their own grant schemes with established priorities, e.g. the Ministry of Justice of the Slovak republic has 2 grant schemes – (i) for support and protection of human rights and (ii) for providing of help to victims of crimes. Among the supported NGOs are also the ones submitting shadow reports in monitoring system of the UN, they are eligible grant applicants and supported in more or less throughout all grant schemes.

Moreover, the Government supports the Slovak National Centre for Human Rights as NHRI, which monitors and publishes independent reviews on observance of human rights. Currently, an amendment of legislation concerning NHRI is underway in order to bring it into full accordance with the Paris Principles.

In order to assure support to civil society and its functioning, in 2011, the institute of the Plenipotentiary for the Development of the Civil Society was established. The Plenipotentiary is responsible for analysis of problems connected to an effective functioning of civil society and serves as a bridge between the Government and the civil society. In February 2012, the Strategy of Civil Society Development in Slovakia was approved by the Government, which is followed by specialised action plans adopted for certain periods of time (e.g. Action plan for years 2017 – 2018) and providing goals to be met and measures to be taken in order to support civil society.

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<sup>11</sup> Sec. 374 of Act no. 300/2005 Coll. Penal Code

<sup>12</sup> E.g. criminal offences of: defamation of nation, race and conviction under sec. 423 of Act no. 300/2005 Coll. Penal Code, incitement to national, racial and ethnic hatred under sec. 424 of Act no. 300/2005 Coll. Penal Code.

<sup>13</sup> Act no. 274/2017 Coll. On Victims of Crime

