



INPUT OF THE SLOVAK NATIONAL CENTRE FOR HUMAN RIGHTS TO THE CALL FOR SUBMISSION TO THE REPORT ON LEGAL EMPOWERMENT BY UN SPECIAL RAPPORTEUR ON THE INDEPENDENCE OF JUDGES AND LAWYERS

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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Contact: Mgr. Edina Némethová, Lawyer, nemethova@snslp.sk



The Centre submits the following input to the Call for Submission to the report on legal empowerment by UN Special Rapporteur on the independence of judges and lawyers:

1. In accordance with Article 46 of the Slovak Constitution, “*any person may, in accordance with the procedure laid down by law, enforce their rights in an independent and impartial court and, in cases determined by law, before a different authority of the Slovak Republic.*”¹ The Code of Civil Procedure lays down the procedure to be followed by the court and the parties in civil court proceedings in order to ensure the fair and effective protection of threatened or violated rights and legitimate interests in accordance with the principle of legal certainty.² As for the perceived independence of courts and judges among the general public, the 2022 Eurobarometer survey shows that 22% of respondents think the independence of the Slovak justice system is very bad and 46% rates it as fairly bad.³

2. As it has been previously reported by the Centre in the State of the rule of law in the European Union Report,⁴ the Government of the Slovak Republic had initiated several proposals for amendments of legislation and reform plans to strengthen the functioning of the justice system in the Slovak Republic in 2020. These constituted mainly (i) the amendment of the Criminal Code of the Slovak Republic (including introducing a new criminal offence of abuse of law to prosecute judges for unlawful decisions)⁵, (ii) amendments to the Constitution of the Slovak Republic⁶ (partial loss of functional immunity of judges, new proposal improving the structure and the appointment procedure for members of the Judicial Council of the Slovak Republic, abolition of the consent of the Constitutional Court of the Slovak Republic as a condition for the detention of a judge or a Prosecutor General), (iii) the introduction of a compulsory retirement age for judges of general court (67 years) and judges of the Constitutional Court of the Slovak Republic (72 years) and (iv) the creation of the Supreme Administrative Court.⁷

¹ Article 46 of the Slovak Constitution. Available in Slovak at: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1992/460/20230126>

² Article 2 para 1 of the Code of Civil Procedure. Available in Slovak at: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2015/160/20221201>

³ European Commission. Flash Eurobarometer 503, Perceived independence of the national justice systems in the EU among the general public, 2022, p. 5. Available at: <https://europa.eu/eurobarometer/surveys/detail/2752>

⁴ State of the rule of law in the European Union Report from National Human Rights Institutions, 2021. Available at: <https://www.snslp.sk/wp-content/uploads/EU-RoL-Report-2021.pdf>

⁵ Article 326a of the Slovak Criminal Code. Available in Slovak at: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2005/300/20230501#>

⁶ Constitutional Act from 9 December 2020 amending the Constitution of the Slovak Republic No. 460/1992 Coll. as amended. Available in Slovak at: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2020/422/20210101.html>

⁷ State of the rule of law in the European Union Report from National Human Rights Institutions, 2021, p. 299. Available at: <https://www.snslp.sk/wp-content/uploads/EU-RoL-Report-2021.pdf>



3. Constitutional Act from 9 December 2020 amending the Constitution of the Slovak Republic No. 460/1992 Coll. as amended (hereinafter as the “Constitutional Act”) has introduced a change in the composition of the Judicial Council, under which the National Council of the Slovak Republic, the President of the Slovak Republic and the Government of the Slovak Republic can only nominate non-judges as members of the Judicial Council in order to ensure a balance in decision-making processes, and to contribute to increasing the public control of the judiciary.⁸ The election of members of the Judicial Council by judges is based on a regional principle, according to which one member of the Judicial Council of the Slovak Republic is elected by the judges of the Supreme Court of the Slovak Republic and the Supreme Administrative Court of the Slovak Republic from among themselves, and the other eight members of the Judicial Council of the Slovak Republic are elected by judges of eight general courts, thus ensuring the proportional representation of the regions.⁹

4. The Constitutional Act has created the Supreme Administrative Court of the Slovak Republic with an equivalent position with the Supreme Court of the Slovak Republic. In addition to the general jurisdiction of the Supreme Administrative Court of the Slovak Republic in the field of administrative justice, it also acts as a disciplinary court for judges of general courts, prosecutors and, to the extent provided by law, for other professions.¹⁰ Up to the establishment of the Supreme Administrative Court, the creation of disciplinary senates exercising disciplinary jurisdiction over judges was in the competence of the Judicial Council.

5. Under the Slovak Constitution, the Senate of the Constitutional Court decides on individual complaints of natural and legal persons objecting to violation of their fundamental rights and freedoms guaranteed by international treaties. The Constitutional Act introduced a new provision, which allows the plaintiff to file a motion together with an individual complaint that the Senate of the Constitutional Court initiate proceedings to establish that the generally binding law, part thereof or individual provision thereof, which is the subject of the complaint, conflicts with the

⁸ State of the rule of law in the European Union Report from National Human Rights Institutions, 2021, p. 300. Available at: <https://www.snslp.sk/wp-content/uploads/EU-RoL-Report-2021.pdf>

⁹ Ibid.

¹⁰ Ibid.



Constitution, a constitutional act, an international treaty, or a law. If the Senate of the Constitutional Court concludes that the motion is well founded, it shall suspend the proceedings on the complaint and initiate proceedings on conformity of the law concerned.¹¹ This amendment will be effective from 1 January 2025.

6. The first reform supported by the Recovery and Resilience Plan in the field of justice was the new Judicial Court Map.¹² One of the fundamental objectives of the new judicial map was the specialisation of judges for criminal, civil, family and commercial cases in the general courts and for the administrative agenda in separate administrative judiciary.¹³ The specialisation of judges shall ensure faster conclusion of more complex cases, which take a disproportionate amount of time to process. This is perceived by citizens and entrepreneurs as low enforceability of the law.¹⁴ The aim of the reform was to enhance the credibility, performance and quality of the judiciary, while ensuring better working and decision-making conditions for judges and court staff.¹⁵ In 2022, the Parliament has passed the law on the new judicial court map.¹⁶ According to the Minister of Justice, by 1 June 2023, all courts will be ready to function properly.¹⁷

¹¹ Article 127 (5) of the Constitution of the Slovak republic

¹² Analytical Center of the Ministry of Justice of the Slovak Republic. Judicial map in the legislation effective 30.04.2022. Available at: <https://web.ac-mssr.sk/sudna-mapa-od-april-2022/>

¹³ Ministry of Justice of the Slovak Republic, Judicial Map Reform, November 2020, p. 4. Available in Slovak at: https://web.ac-mssr.sk/wp-content/uploads/2020/sudna_mapa/Reforma_sudnej_mapy_na_citanie.pdf

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ The Slovak Spectator. MPs approve new court map after months of delays, 27.4.2022. Available at: <https://spectator.sme.sk/c/22895827/court-map-approved.html>

¹⁷ Ministry of Justice of the Slovak republic. Judicial map: progress on preparations for the launch of the judicial reform, 6.3.2023. Available in Slovak at: <https://www.justice.gov.sk/tlacovespravy/sudna-mapa-pokrok-v-stave-priprav-spustenia-justicnej-reformy/>



Shortcomings of existing judicial systems (systemic discrimination)

1. According to the World Justice Project Rule of Law Index, in 2022, Slovakia ranked 63 across 140 countries in the category Civil Justice¹⁸ and 34 in the category Criminal Justice.¹⁹ The Centre has pointed out in its Observations in relation to the fourth periodic report of Slovakia to the Committee against Torture²⁰ that institutional racism is embedded in the criminal justice system of Slovakia.²¹ Most of the cases²² at national level containing ill-treatment and excessive use of force by law enforcement authorities against persons from marginalized Roma communities have so far resulted either in dismissal²³ or an outcome in favour of the law enforcement authorities²⁴, whereas none of them resulted in a conviction or disciplinary sanction against the authorities involved. Several cases have been brought before the European Court of Human Rights (hereinafter as the “ECtHR”) after unsuccessful domestic investigations or litigations, which found serious violations of the European Convention on Human Rights.²⁵

2. Regarding involuntary sterilizations of Roma women in Slovakia, the Council of Europe Commissioner for Human Rights expressed her concerns over the lack of remedies and effective forms of redress, including for those victims whose cases were not litigated in front of the

¹⁸ World Justice Project, Slovak Republic. Available at: <https://worldjusticeproject.org/rule-of-law-index/country/2022/Slovak%20Republic/Civil%20Justice/> “Factor 7 of the WJP Rule of Law Index measures whether ordinary people can resolve their grievances peacefully and effectively through the civil justice system. It measures whether civil justice systems are accessible and affordable as well as free of discrimination, corruption, and improper influence by public officials. It examines whether court proceedings are conducted without unreasonable delays and whether decisions are enforced effectively. It also measures the accessibility, impartiality, and effectiveness of alternative dispute resolution mechanisms.”

¹⁹ World Justice Project, Slovak Republic. Available at: <https://worldjusticeproject.org/rule-of-law-index/country/2022/Slovak%20Republic/Criminal%20Justice/>

²⁰ Observations Of the Slovak National Centre for Human Rights in Relation to the Fourth Periodic Report of Slovakia to the Committee Against Torture. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FNHS%2F52106&Lang=en

²¹ See for example: Fair Trials, ‘Uncovering anti-Roma discrimination in criminal justice systems in Europe’, 2020, available at <https://www.fairtrials.org/articles/publications/uncovering-anti-roma-discrimination-in-criminal-justice-systems-in-europe/>; European Roma Rights Center, ‘Brutal and bigoted: policing Roma in the EU’, 2022, available at: http://www.errc.org/uploads/upload_en/file/5397_file1_brutal-and-bigoted-policing-roma-in-the-eu.pdf; European Roma Rights Center & Fair Trials, ‘Justice denied: Roma in the criminal justice system’, 2021, available at: <http://www.errc.org/reports--submissions/justice-denied-roma-in-the-criminal-justice-system>.

²² For example, enforcement interventions in April 2013 in Vrbnica, June 2013 in Moldava nad Bodvou, February 2015 in Rudňany, May 2017 in Zborov, July 2019 in Milhost’ or April 2020 in Krompachy.

²³ See for example: Police brutality in Milhost’, July 2019. Bernard Rorke: ‘No case to answer: Slovak authorities dismiss another two police brutality cases against Roma’, 2021, available at: <http://www.errc.org/news/no-case-to-answer-slovak-authorities-dismiss-another-two-police-brutality-cases-against-roma>.

²⁴ See for example: Judgement of the District Court of Košice II of 4 December 2019 and the Judgment of the Regional Court of Košice of 11 December 2020, Case No. 4To/54/2020.

²⁵ See for example: Judgement of the ECtHR in case *R.R. and R.D. v. Slovakia*, Ap. No. 20649/18 of 1 September 2020, available at: <https://hudoc.echr.coe.int/eng?i=001-204154>, Judgement of the ECtHR in case *M. B. and Others v. Slovakia (No. 2)*, Ap. No. 63962/19 of 7 February 2023, available at: <https://hudoc.echr.coe.int/eng?i=001-223108>.



ECtHR.²⁶ Upon the legislative intent of the law on financial compensation for women sterilized in violation of the law, introduced by the Ministry of Justice in March 2023,²⁷ the Centre recommended “*to consult Roma women and their organizations, including Roma women human rights defenders in all measures taken to address and remedy involuntary sterilizations. Conduct outreach information campaigns for potential victims of past involuntary sterilizations, including in the languages of national minorities, and support victims to prevent potential abuse by third parties providing legal and financial services.*”²⁸

²⁶ Council of Europe Commissioner for Human Rights: 'Letter to the Prime Minister of the Slovak Republic and the Minister of Justice of the Slovak Republic', CommHR/DM/sf 026-2021, 12 July 2021, available at: <https://rm.coe.int/letter-to-mr-eduard-heger-prime-minister-of-the-slovak-republic-and-ms/1680a332a3>

²⁷ Ministry of Justice of the Slovak Republic: 'LP/2023/64 Legislative intent of the law on one-time financial compensation for women sterilized in violation of the law', available in Slovak at: <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2023/64>.

²⁸ Observations Of the Slovak National Centre for Human Rights in Relation to the Fourth Periodic Report of Slovakia to the Committee Against Torture. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FNHS%2F52106&Lang=en



Rule of Law Tracker

1. The rule of law monitoring tool is an outcome of the project “Fostering innovative approaches to rule of law monitoring in Slovakia” which was successfully implemented by the Centre in cooperation with the Center for International Legal Cooperation (CILC). The project was supported by the financial contribution of the Ministry of Foreign Affairs of the Netherlands.²⁹ The Centre, in cooperation with its expert partner from CILC drafted and developed a rule of law conceptual framework and new specific methodology³⁰.

2. The rule of law conceptual framework and the rule of law tracker monitor the state of the rule of law via tracking the performance of Slovakia in six selected areas, namely protection of human rights and freedoms, functioning of the justice system, anti-corruption framework, media pluralism and media freedom, open government and government bounded by law, and enabling space for civil society and human rights defenders.³¹ The main objection of the project was to develop a user-friendly tool for enhancing the monitoring of the state of the rule of law and to provide relevant and comprehensive information for all interested stakeholders, including members of civil society, businesses or wider public. Its functions highlight areas where significant progress has been achieved, on the contrary to areas in which no progress has been achieved, or in which the standards deteriorated. In addition to its preventive and informative functions, it aims to encourage and initiate a public debate on the need for further legislative and policy proposals or reforms in the areas of identified searing flaws.

²⁹ For more information about the project, please see, Slovak National Centre for Human Rights, ‘Projects’, available at: <https://www.snslp.sk/en/projects/>.

³⁰ For more information about the methodology, please see Slovak National Centre for Human Rights, ‘Projects’, available at: <https://www.snslp.sk/en/projects/>.

³¹ The first prototype of the created monitoring tool is available at the website of the Centre at: <https://www.snslp.sk/en/rule-of-law-tracker/>. Besides the rule of law tracker, the other outputs of the project, such as the rule of law conceptual framework and methodology of the tracker, or a short video presenting the tracker are also available to all interested stakeholders. Slovak National Centre for Human Rights, ‘Projects’, available at: <https://www.snslp.sk/en/projects/>.