

# **National Strategy for Human Rights Protection and Promotion in Slovakia**

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## **1. Introduction**

As a well-established democratic country, Slovakia is adopting the very first strategic human rights programme in its history in the tenth year of the accession to the European Union (the ‘EU’) and the twenty-fifth year of the Velvet Revolution.

In spite of undoubted achievements in building democracy and respecting the rule of law, there has been felt an increasing need to make a realistic assessment of the democratic processes in place and make a definite and a more conceptual progress in dealing with the human rights agenda as such as well as its transversal agendas.

The gap between a formally articulated and acknowledged design and the current process of adoption is nearly three years.

2011

The Slovak Government Council for Human Rights, National Minorities and Gender Equality (the ‘Council’) adopted on 27 June 2011 a plan to prepare a comprehensive strategic programme document for protecting and promoting human rights. On 16 November 2011 the Slovak government approved a document *Plan to prepare a national strategy for protecting and promoting human rights in Slovakia* and assigned the deputy prime minister for human rights and national minorities, through Government Resolution no. 717, to present this strategy at a government session by 30 September 2012.

2012

Government Resolution no. 479 of 19 September 2012 appointed a deputy prime minister and the foreign and European affairs minister of Slovakia as the minister in charge of drafting *the National Strategy for Human Rights Protection and Promotion in Slovakia* (the ‘Strategy’). Given the recommendation of the Council of 14 December 2012 and considering the actual potential for sound preparation and presentation of the document at a government session, the deadline of 31 March 2013 was postponed to 30 September 2013.

2013

Adopting Resolution no. 67 of 15 April 2013, the Council set up a working group for the coordination and preparation of the Strategy (the ‘Coordination Group’) and a steering committee for the preparation of the Strategy. The Coordination Group approved an expert team – a drafting team, who took direct part in drafting the text of the Strategy. The drafting team prepared the source documents for the five public sessions held in Banská Bystrica, Košice and Bratislava between 25 June and 3 July 2013.

Adopting Resolution no. 83 of 4 September 2013, the Council approved further action in preparing the Strategy and recommended that the chair of the Council ask the prime minister to postpone the deadline for the presentation of the material from 30 September 2013 to 30 June 2014. The Council committees and public authorities and agencies were assigned to collaborate in providing the source documents for the Strategy, setting up working groups to be comprised of public administration officers, non-government organisation (the ‘MVO’) representatives and experts on human rights, and organising expert meetings events.

2014

Adopting Resolution no. 101 of 9 April 2014, the Council approved the drafting team suggested by the Coordination Group. The task of the team was to draft the text of the

Strategy using the documents provided by the officers in charge of individual agendas and drawing on the series of expert meetings and events. The chair of the Council and a deputy prime minister and the foreign and European affairs minister was in charge of two of these events covering the topics of the *Institutional Architecture of Protecting Human Rights* and a *Dialog on Essence and Meaning of Human Rights*. The Coordination Group held sessions between 14 May 2013 and 26 March 2014, when the steering committee took over in managing the preparation of the Strategy.

The preparation of the Strategy has generated several valuable findings. First of all, this process has clearly proved the significance of active and actual collaboration between the government and the civil sectors, and the professional and the lay public. The degree of participation in creating a critical conceptual human rights document was unprecedented and has proved that it is one of the most effective ways of applying democratic principles in administering public affairs.

The many expert meetings, discussions and workshops have clearly disclosed some serious limitations impeding a reasonable dialogue. In particular, it was the general willingness of the stakeholders in the discussions to derive their ideas from knowing, understanding, accepting and respecting the value systems implemented in the legal rules of Slovakia and the international commitments of Slovakia as a member in international organisations, such as the United Nations (the UN), the Council of Europe (the RE), the EU and the OSCE. Discussions have shown that there would be no rapid and marked progress in asserting human rights without investments in the elementary, technical, informational and attitudinal preparedness of all stakeholders. The meetings and events as well as feedback on social networks were characterised by both cultivated dialogue and attempts to polarise and fiercely delimit the agenda of a top social interest.

Conclusions were heard that the level of support and protection of human rights in Slovakia and the way they were managed urgently called for a comprehensive in-depth analysis, which had been missing. Consequently, the findings and suggestions presented in this document are the first tentative framework to be worked out in more detail on a continuous basis. Gender equality was among the subjects discussed. In this document and for practice gender equality is understood as the equality between men and women. Zero tolerance for violence against children was also discussed. In this document and for practice violence excludes the parental use of adequate methods in raising their children provided such methods pose no risk to the child's health, dignity, and mental, physical and emotional development.

The attachments to this material, and the outputs of working groups and expert discussions bear witness to the current stage of Slovakia in terms of the level of adoption and implementation of human rights commitments and policies. Also, they are a valuable source of information and ideas. They provide a pool of information and the basis for drafting the very Strategy. The Strategy's attachments are the essential frameworks for drafting future public policies on promoting and raising awareness of human rights, gender equality, the prevention of racism and any other form of intolerance, and the protection of the rights of vulnerable communities. They also provide the educational basis for individual human rights agendas and the guidelines for taking further action and creating public policies.

Slovakia has made many achievements in building and implementing legislative and institutional mechanisms of supporting and protecting human rights. Given our ambitions, we

need to be aware of that there is a potential that may be leveraged to have a dynamic impetus on additional strengthening of human rights and the stabilisation of the democratic environment in our country, also in the broader regional and global environment. The triad of democracy, the rule of law and human rights is entities which depend on each other. Their synergies are a precondition for building and maintaining a peaceful and pluralist democracy and a society of social justice, inclusion, cohesion and prosperity. Being a responsible component of the developed democracies In Europe, Slovakia wants to present itself, during its presidency in the Council of the EU in 2016, as a country that is part of the hard core of this European association also as far as human rights policies are concerned.

Human rights are an agenda that should be a key priority in the policy statement of any Slovak government and as such also an evident part of the government's core reform programmes.

The aftermath of the economic crisis also puts at risk the values of human rights and tolerance, which are being shunted to a back seat. This tendency may result in a serious crisis of values and ethics. One of the factors which have led to this situation is that our society perceives human rights as a superstructure agenda to be developed in times of economic stability and growth rather than a universal value and integral part of any policy. Consequently, the purpose of the Strategy is to strengthen the position of the protection and promotion of human rights so that their fundamental principles and values would become a natural and an inherent component of public awareness as well as a principle underlying any public policy.

The time frame of the Strategy corresponds to the EU programming period 2014–2020, including the effective use of structural funds in designing action plans. The first phase of the Strategy implementation is planned to end in 2020, with a follow-up comprehensive evaluation and continual updating in the long term. Moreover, the Strategy establishes its own bi-annual monitoring and evaluation mechanism of continual updating.

## **2. Basic Human Rights Frameworks in Slovakia**

The protection and promotion of human rights is a universal appeal to and a goal of individuals, groups, countries, international organisations, non-government organisations and other stakeholders.

In civilised countries the basic rights and freedoms are laid down in legal rules of the supreme legal force as well as international treaties. The purpose of having human rights regulated in legislation is to ensure that they are respected by not only private entities but also governments and public bodies.

The core of formal justice is the criterion of equality. Equality and liberty are the fundamental pillars of a democratic country; equality enjoys a certain preference to the other principles of legal order. Also, the equality principle is of a constitutional nature as are other general legal principles. The equality principle binds international and other organisations and their member countries. The most general definition of what the equality principle is may be the requirement of equal conduct or treatment in situations that are essentially identical and present no reason for differentiated conduct or treatment.

How countries apply human rights in everyday life is subject to assessment by the international community. The international systems of human rights protection reflect shared values and solidarity that takes account of the special characteristics of the political and economic environment, culture and ideas in individual countries or their associations. These systems are usually brought to life on the premises of international organisations, which provides these systems with a universal or regional character.

In 1948 the General Assembly of the United Nations adopted the General Declaration of Human Rights, which gave the fundamental impetus for implementing human rights and freedoms in the post-war Europe. The Declaration is recognised as the general list of human rights. Human rights can be categorised using the generation principle. The first generation of human rights covers civil and political rights and freedoms, is characterised by emphasis on protecting individuals against the state and is connected with the idea of preventing the state from interfering with the integrity of the individual. In the legal order of Slovakia this category covers primarily the fundamental rights and freedoms provided in articles 14 to 32 of the Constitution of the Slovak Republic (the right to life; the inviolability of the person and their privacy; personal liberty; the prohibition of torture and cruel, inhuman or humiliating treatment or punishment; and other rights and freedoms). The second generation of fundamental rights and freedoms covers economic, social and cultural rights, which require that the state take action rather than not interfere, in order to provide for material and spiritual development of individuals. This category covers the rights laid down in articles 35 to 43 of the Constitution of the Slovak Republic (the right to work, the right to strike, the right to the protection of health, the right to education and other rights). Solidarity is the underlying idea for the third generation of rights. This category covers the right to peace, the right to development, the rights of the members of national minorities and ethnic groups or the right to good environment. The global modernisation of society and technological development generate pressure for a further shift in the perception of human rights, so the fourth generation of human rights has been considered over the recent decades. This fourth generation primarily concerns technologies, such as the Internet and social networks, and biotechnologies, such as stem cell research.

## ***2.1 Legislation Framework***

The Constitution of the Slovak Republic and the constitutional act introducing the Charter of Fundamental Rights and Freedoms are the fundamental human rights legislation of the legal order of Slovakia. This system of human rights legislation is complemented with international treaties to which Slovakia is a party.

The Slovak Constitution provides for freedom and equality in dignity and rights for everyone and guarantees the fundamental rights and freedoms in Slovakia for everyone irrespective of their sex, race, skin colour, language, faith, religion, political or other opinions, national or social origin, nationality, ethnicity, wealth, gender or other status. Article 12(1) of the Constitution of the Slovak Republic declares that people are free and equal in their dignity and rights. The Article 12(1) first sentence of the Constitution of the Slovak Republic expresses the constitutional principle of equality in the most general terms and guarantees equality as it is understood by natural justice. Next sentence of the said paragraph declares that the fundamental rights and freedoms are inherent, inalienable, imprescriptible and irrevocable. Other provisions of the Constitution of the Slovak Republic guarantees in general terms the protection of human rights, specified as a positive law statement, which formulates specific legal rules for all legal persons, and public bodies in particular, and provides for, among other things, the protection of personal freedom (article 17), the freedom of movement and residence (article 23), the freedom of ideas, conscience, religion and faith (article 24), the freedom of speech and the right to information (article 26), the prohibition of forced labour or service (article 18), the right to own property (article 20) and other rights or freedoms.

The Antidiscrimination Act is the basic legislation for non-discrimination, providing for equal treatment and laying down the means of legal protection against equal treatment violation. The act enumerates discrimination reasons, defines forms of discrimination and prohibits discrimination in statutory defined areas. The act provides for people discriminated against to seek protection of their rights before court. The Antidiscrimination Act has been passed in order to regulate by law and put into practice a principle for conduct that prohibits disadvantaging and privileging people by characteristics related to their identity and integrity. This act transposed the EU's legal acts into the legal order of Slovakia. The material applicability of the Antidiscrimination Act is limited to certain spheres of social relations, unlike the equality principle under article 12(1) of the Constitution of the Slovak Republic as it is construed by the Constitutional Court of the Slovak Republic.

Article 12(2) of the Constitution of the Slovak Republic and section 2(1) of the Antidiscrimination Act specify certain characteristics which are not allowed to be taken as grounds for putting people at advantage or disadvantage. Even with the no discrimination requirement, formal equality is no longer seen as sufficient for ensuring real equality between people, so where the Constitution of the Slovak Republic refers to equality between people and the prohibition of doing harm, disadvantaging or privileging, these prohibitions do not apply to instances in which real equality is at stake. Article 12 of the Constitution of the Slovak Republic is a focal point of equality protection, which is also regulated elsewhere in the Constitution, laws and statutory instruments, and European law and international law.

In June 2013 the Slovak government approved a legislative intent to recodify the rules of civil procedure. The purpose is to create a better capacity for effective operation of courts, improve the enforceability of law, ensure judicial proceedings take shorter time, eliminate delays in

judicial proceedings, and create room for better judicial decisions, with all these to win more trust in the judiciary and courts from the general public. This legislative intent identifies the weaknesses in the current legislation and puts forward the tools to address these weaknesses.

In instances of violated human rights, remedy may be sought before independent and impartial courts of the Slovak Republic as well as the Constitutional Court of the Slovak Republic. Equality is protected by the Constitutional Court primarily in the procedure to deal with constitutional complaints under article 127 of the Constitution of the Slovak Republic and the procedure to deal with compliance of legal rules under article 125 of the Constitution. The no discrimination requirement is also laid down in more Slovak legislation in addition to the Constitution and the Antidiscrimination Act. After the adoption of the Antidiscrimination Act, which regulates the no discrimination requirement in general terms, the laws regulating the specific spheres of legal relations to which the no discrimination requirement applies were amended. Consequently, the no discrimination requirement is also to be found in the Healthcare Act, the Schools Act, the Labour Code, the Social Services Act, the Money Grants to Compensate for Serious Disability Act, the Consumer Protection Act, and other legislation.

The experience and knowledge gained by the Constitutional Court of the Slovak Republic in proceedings to deal with constitutional complaints under article 127 of the Constitution may be summed up as follows: statistically, the most frequent cases are those complaining about the violation of the fundamental right of individuals and legal entities to judicial protection and having a case heard without undue delay. These cases are also those in which the court most often holds that the complainant's fundamental right was violated. The largest number of judgements are those which concern undue delay in proceedings, followed by those concerning other rights which together make up the fundamental right to judicial and other legal protection. Consequently, the statistics show that judicial and other legal protection, plus the related issues of due and effective operation of the judiciary and the enforceability of law, is the most prominent problem in human rights protection.

However, the seriousness of human rights violation should not be seen solely through the lens of statistics and quantitative indicators. Providing effective conditions for the protection of vulnerable population is also a pressing issue. Objections for discrimination account for 11.77%, objections for not having a case heard without undue delay account for 37.42%, objections for the failure to be provided judicial protection account for 33.30%, and those for the violation of the fundamental right to keep property for 16.15%. In spite of that the number of cases in which the Constitutional Court of the Slovak Republic held that the no discrimination requirement had failed to be observed is relatively low. This may be due to that the violation of the no discrimination requirement is objected in conjunction with the violation of a fundamental right or freedom. It may be established in the proceedings before the Constitutional Court of the Slovak Republic that a primary right or freedom is violated but the case does not allow making a conclusion that such violation also constitutes a situation that a person is discriminated against for any of the qualified discrimination reasons. The discrimination cases heard by the Constitutional Court of the Slovak Republic suggest that discrimination is an issue primarily in employment relations, such discrimination because of age or sex, and the protection against discrimination because of ethnicity, discrimination against Romany people in particular.

## *2.2 Institutional Frameworks*

The institutional framework of the human rights agenda in Slovakia have seen major changes over last two years. In 2012 the Ministry of the Foreign and European Affairs of the Slovak Republic (the MZVaEZ) was granted significantly stronger powers in human rights. The coordination and management of the Council, an advisory body to the Slovak government for human rights, were included in the portfolio of the deputy prime minister and the foreign and European affairs minister, who is now in charge of coordinating and managing national human rights policies whereas departmental ministers are in charge of implementing these policies.

The institutional framework for the protection of fundamental rights and freedoms in Slovakia is comprised of the bodies established through the Constitution of the Slovak Republic; the Constitution declares these bodies are independent. It is the Constitutional Court of the Slovak Republic (article 124 et seqq. of the Constitution of the Slovak Republic), courts (article 141 et seqq. of the Constitution), which are a body of general protection of rights, and ombudsman (article 151 of the Constitution), who is a specialised body for the protection of fundamental rights of natural persons and legal entities in proceedings before bodies of public administration or those of public authority. Public prosecutor's office (article 149 of the Constitution) as a general body for the protection of fundamental rights is another constitutional body that is to protect rights. The bodies established in statutes include the Police, the Slovak National Centre for Human Rights (the SNSLP) and the institutions set up by government, such as plenipotentiaries or advisory bodies.

The VOP institute has been active since 2002. As an independent body the institute is involved in protecting the fundamental rights and freedoms of natural persons and legal entities in procedures or decision-making of public administration bodies or in the event of their failure to act if their conduct, decisions or failure to act are in conflict with the legal order or the principles of a democratically run country or the rule of law. The VOP submits annual report to the National Council of the Slovak Republic (the NR SR) and may also submit extraordinary reports.

Cases where discrimination for any reason is complained about may be brought to the attention of the SNSLP. Every year the SNSLP prepares and publishes the Report on Observance of Human Rights in the Slovak Republic for the previous year. However, the functioning of the SNSLP urgently needs to be made more efficient. As the body in charge of the law establishing the SNSLP, the Ministry of Justice of the Slovak Republic has been preparing amendment to this law.

Continuous dialogue with civil society is integral part of the national human rights policy, which is also evidenced in the participative and inclusive process of preparing this strategy.

In July 2012 the government set up a post of national minorities plenipotentiary, an advisory body to the Slovak government for national minorities in order to introduce still more institutional protection of human rights, including the rights of national minorities. The plenipotentiary performs tasks related to keeping, developing and supporting the rights of national minorities, and is the main body for the implementation of two legally binding conventions on national minorities, i.e. the Framework Agreement for the Protection of National Minorities, and the European Charter for Regional and Minority Languages. The plenipotentiary publishes annual reports on the situation of national minorities in Slovakia.

The plenipotentiary of the Slovak government for Romany communities continues his job. The priorities of the Slovak government continue to include improvement for Romany communities in every aspect of their lives. In January 2012 the Slovak Romany Community Integration Strategy by 2020 was adopted. The principles in this strategy aim to become the basis for policies, in particular those for education, employment, housing and healthcare, in order to address the poor situation of Romany communities by 2020 and for the programming period 2014–2020 with the use of structural funds. Designing solutions in relation to the majority population is an important aspect of these policies.

The adoption of an amendment to the Antidiscrimination Act in April 2013 was a major step in the direction of more protection for human rights. The amendment provides a broader definition of indirect discrimination so that it also covers a danger of discrimination in accordance with the EU directives. Moreover, the amendment changes the definition of temporary compensatory measures in a manner as to cover the elimination of the disadvantage resulting from discrimination because of racial and ethnic origin or being member of a national minority or an ethnic group. In order to promote the use of positive measures, the powers to take these measures are now also vested in local government bodies and private legal entities in addition to central government bodies.

In October 2012 the Slovak government approved the setting up of the Committee for the Rights of Lesbian, Gay, Bisexual, Transgender and Intersexual People (the LGBTI Committee), a permanent advisory body with a proportionate number of members from both government bodies and non-government organisations.

The Action Plan for the Prevention of Discrimination, Racism, Xenophobia, Anti-Semitism and Other Forms of Intolerance, adopted by the Slovak government in 2000, had become for a long time the principal document defining the government's stand on human rights policies. The primary purpose of the Action Plan was to raise public awareness of human rights and antidiscrimination, make more efficient the implementation of the antidiscrimination legislation in connection with the accession of Slovakia to the EU, and address the status of legal immigrants in Slovakia. Other important activities in the Action Plan focused on preventing intolerance, discrimination, racism, xenophobia and anti-Semitism at both national and public levels, and preventing extremism especially through training and educating professional groups.

One of the key tools of implementing human rights policies in Slovakia is the grants scheme administered by the MZVaEZ. This scheme aims at enforcing and supporting the protection of human rights and freedoms and preventing any form of discrimination, racism, xenophobia, homophobia, anti-Semitism and intolerance. Grant schemes to support selected human rights agendas have also been set up by other bodies of public administration.

It is necessary and unavoidable to raise significantly the standards of education in human rights in Slovakia so that human rights would become a natural component of any area and any level of the process of education and schooling. Education must be seen as a key tool for developing a culture of tolerance, inclusiveness and openness. It also holds true that no change in the society's attitude to human rights and the values they represent can be made without direct and proactive involvement of each segment of society, including public bodies, the civil sector and, last but not least, top political officials and the media.

### **3. International Commitments of Slovakia and their Implementation**

Slovakia is a party to virtually all basic international treaties regulating human rights and fundamental freedoms in the UN system and at the regional level in the Council of Europe. Having ratified these treaties, Slovakia has agreed to fully observe them and take specific measures to implement these treaties at the national level. As a party to the relevant conventions, Slovakia has agreed to respect findings of international judicial or quasi-judicial bodies empowered to monitor the observance of human rights at the international level. The Slovak Constitution provides that international human rights treaties are part of the Slovak national legal order and a binding source of law for national entities if these treaties are ratified and promulgated in a manner required by law. The international human rights treaties which are part of the Slovak legal order have superlegislative force, i.e. take a mid-position between constitutional laws and regular statutes, over which they take precedence.

At the international level (the UN) Slovakia is bound in the sphere of human rights by the key international treaties to which it succeeded on 28 May 1993 with effect as from 1 January 1993. It is the International Covenant on Civil and Political Rights and its optional protocol; the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the International Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of the Child; and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Later on Slovakia became a party to the Second Optional Protocol to the International Covenant on Civil and Political Right, which concerns the abolition of capital punishment; the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; two substantive optional protocols to the Convention on the Rights of the Child, which concern the trafficking of children, child prostitution, child pornography and involvement of children in military conflicts; and the UN Convention on the Rights of Persons with Disabilities and the optional protocol to the convention. On 31 October 2014 Slovak president ratified the International Convention for the Protection of All Persons from Enforced Disappearance.

On the premises of the UN Slovakia has been strongly heard in connection with the rights of children, presenting itself as the leader and the coordinator in the preparation of the international treaty on human rights. The Optional Protocol to the Convention on the Rights of the Child, on the notification process, has introduced more protection for the rights of the child. The protocol establishes the process of notifying (complaints), which provides recourse to the Committee on the Rights of the Child in instances of the violation of the rights resulting from the Convention on the Rights of the Child. Slovakia became a party to the optional protocol as the ninth country of the UN.

Under the international conventions on human rights Slovakia is to inform on a regular basis the committees established in these conventions on the progress in the implementation of these conventions at the national level. The conclusions and recommendations of the committees are important guidelines for improvement on the actual performance of human rights obligations at the national level. In spite of their legally non-binding character the recommendations of international organisations can generate the necessary pressure on national bodies in order to effect improvements in the respective spheres of human rights.

A major role in enforcing measures for the promotion and protection of human rights is played by the decisions of the UN committees in the position of quasi-judicial bodies. By now Slovakia has recognised the jurisdiction of seven UN committees (the Human rights Committee; the Committee for the Elimination of Racial Discrimination; the Committee against Torture; the Committee for the Elimination of Discrimination against Women; the Committee for the Rights of Persons with Disabilities; and the Committee for Economic, Social and Cultural Rights; and the Committee for the Rights of the Child) for accepting and considering complaints from individuals, groups of individuals or non-government organisations under its jurisdiction that raise objections as to Slovakia violating the rights defined in the conventions. After the International Convention for the Protection of All Persons from Enforced Disappearance becomes valid for Slovakia, the Committee for Enforced Disappearance will be authorised to consider complaints against Slovakia. The Slovak government is communicated the progress in each complaint on an annual basis. Thirteen individual complaints have been filed against Slovakia as yet and the consideration process has been closed in nine cases. The respective committees stated the violation of the International Covenant on Civil and Political Rights in one case (the right to the administration of public affairs) and the violation of the International Convention on the Elimination of All Forms of Racial Discrimination in two cases (the right to free movement and residence within national boundaries and the prohibition of racial discrimination in the exercise of economic, social and cultural rights in conjunction with the right to effective defence against discrimination).

The regional system of human rights protection created by the European Convention on Human Rights defines even more stringent human rights standards than the universal system (the UN). The role of the Council of Europe tends to be underestimated although it is indispensable in the process of rule-making. It is the binding conventions adopted on the premises of the Council of Europe are a frame of reference for assessing compliance of national policies with international standards. At the same time, Slovakia is aware of the organisation's expert potential and makes an active use of it.

Since 1993 Slovakia has been bound by the Convention on Human rights and Fundamental Freedoms (the 'Convention'), a critical international agreement in the system of the Council of Europe, including the Convention's amendment protocols 1, 4, 6, 7, 13, 14 and 18. The Convention guarantees a range of civil and political rights and fundamental freedoms. Slovakia is not a party to Protocol 12, which lays down a general antidiscrimination clause to extend the no discrimination requirement to discrimination for any reason, as opposed to the Convention, which only prohibits discrimination in connection with the exercise of the rights and freedoms declared in the Convention. The case-law of the European Court for Human Rights will be the most relevant factor in whether Slovakia may ratify Protocol 12.

The European Court for Human Rights (the 'Court') is the most apparent institution in the structure of the bodies of the Council of Europe. Being a pillar of the European system of the protection of rights and freedoms, the Court is often referred to as the victim of its own success. The many years of reform efforts by member countries have resulted in the adoption of two legally binding tools, which are to improve the efficiency of the Court and reduce the number of pending complaints. Slovakia has been proactively supporting the reform efforts of the Court. For national bodies the decisions of the Court are a valuable source of information about how the Convention is construed and applied in practice.

The protection of the rights of national minority persons is integral part of the national human rights policy. In this respect, the Framework Convention for the Protection of National Minorities, which is the first generally legally binding multilateral document on the protection of national minorities, plays a key role. The convention expresses the international standard in the comprehensive regulation of the rights of members of national minorities. The convention constitutes an effective legal tool for the performance of duties in respect of the parties to the convention, in the centre of which there is the Committee of Ministers of the Council of Europe and the framework convention advisory committee. Slovakia joined it on 1 February 1998.

The Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (the Convention on Human Rights and Biomedicine) has been applicable to Slovakia since 1 December 1999. The Additional Protocol on the Prohibition of Cloning Human Beings has been applicable to Slovakia since 1 March 2001.

These conventions are termed as complementary ones. The European Charter for Regional and Minority Languages has a special status. In legal terms, it is an international framework multilateral treaty of a cultural nature the implementation of which requires adopting legislative and implementing measures unless they have been adopted already. In terms of content, it is an instrument, which aims at creating conditions for the preservation and development of regional or minority languages in education, judiciary, state and public administration, the media, culture, economic and social life, and cross-border collaboration.

These are the RE's conventions on human rights: The Convention on Action against Trafficking in Human Beings, valid for Slovakia since 2008 with the GRETA supervisor body (the Expert Group for Action against Trafficking in Human Beings), plus conventions signed but not yet ratified by Slovakia: the Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (the Lanzarote Convention) valid since 1 July 2010 and the Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention) valid since 1 August 2014.

There was a major reform of the UN in 2005 and 2006, concentrated on human rights protection and support. The UN Council for Human Rights has become the basic body for this area. Also, the reform provided more importance for the inspection bodies established in human rights treaties. The powers of the UN Council for Human Rights, the succession body of the UN Commission for Human Rights, is to prevent violence, injustice and discrimination; protect the most vulnerable individuals and groups; and identify instances of serious violation of human rights. One of the main objectives of supporting and protecting human rights globally is to assess the occurrence of crisis areas and situation issue recommendations for addressing them. In May 2008 Slovakia became a member of the UN Council for Human Rights and continued on the Council until 2011. As an active member of the international community Slovakia has announced its plan to run for membership in the UN Council for Human rights for the period 2018–2020.

In March 2007 the UN Council for Human Rights adopted a an institutional document regulating the basic rules for a new process of universal periodic review (the UPR, which provides access to reviewing human rights situation in any member country of the UN. The UPR is a unique coordinated process allowing each member country to declare which activities the country wants to implement in order to improve domestic human rights

situation. The UPR also gives a comprehensive picture of the human rights situation in all member countries of the UN. The situation in each member country is reviewed on a four-year basis and this allows monitoring the current situation and the progress in human rights.

In the first round of the UPR Slovakia was reviewed in May 2009. The UN Council for Human Rights made 91 recommendations to Slovakia; nine of them were refused. The summary of the UPR first round is presented in the document Observance of Human Rights in Slovakia in light of the recommendations from the UN Council for Human Rights Universal Periodic Review and the Assessment by Committees. The Slovak government took notice of this document on 5 October 2011. Contentwise, most recommendations concerned the situation of the Romany population, the adopting of measures to improve their situation, the combating of discrimination and racially motivated criminal offences, gender equality, the combating of violence against women, children's rights, migrants' rights, and the combating of trafficking with people.

The UPR second round for Slovakia was formally concluded by the UN Council for Human Rights accepting the Review Report on 20 June 2014. Slovakia did not accept nine and partially accepted four out of the 146 recommendations addressed in the second round. The remaining recommendations were accepted. The refused recommendations concerned the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the ILO Convention no. 169 on Indigenous and Tribal Peoples, and the ILO Convention no. 189 on Decent Work for Domestic Workers. If Slovakia ratified these conventions, it would assume duties beyond the current national legislation, which is seen as sufficient. In terms of the recommendations concerning the education of Romany children Slovakia did not accept those concerning the establishment of a mechanism to investigate complaints about discrimination and segregation at schools and ensure that Romany children attend school. These issues are sufficiently regulated at legislation and institutional levels in Slovakia. Slovakia also did not accept the recommendation for better representation of the Romany population in parliament as the Slovak Constitution provides that the law-making body is created on the civil rather than national principle.

In the conclusion of the review process Slovakia declared voluntary human rights commitments. Slovakia confirmed its intent to continue be involved in children's rights at both regional and universal levels and endorse wide ratification of the Optional Protocol to the Convention on the Rights of the Child, on the notification procedure. In order to improve the implementation of the European Convention on Human Rights at national level, Slovakia has agreed to promote a more efficient functioning of the system established in the convention. The voluntary commitments also include the promise to submit a preliminary report on progress in the implementation of the UPR second round recommendations.

As many recommendations addressed to Slovakia are of a horizontal nature, it is necessary that the relevant institutions and bodies in Slovakia be timely informed and work together in a coordinated manner.

#### **4. Institutions, Implementation and Control Mechanisms, and Independent and Non-government Organisations in Slovakia**

Human rights are an effective means of cultivating and bringing prosperity to communities and countries. The essence, the meaning and the goal of human rights of the 20th and the 21st centuries has been formed by the recognition and the acknowledgement of the necessity of peaceful and worthy cohabitation of human beings. The consensus achieved by the global community in recognising the significance of human rights is rather considerable in the history of mankind. Unified in their diversity, it is democratic countries in particular that create the preconditions for putting the ideas of human rights in practice as effective as possible.

The legislative definition and institutional enforcement of human rights is the first conditions for their practical applicability. Each country approaches the building of the legal and the institutional frameworks of human rights protection according to its own historical, social, political and cultural patterns. However, there are also other significant factors at work in modern democracies, such as the voluntary joining of the democratic community, respect to shared standards, principles and values, voluntary commitments deriving from these standards, principles and values, and positive solutions and experience of other democracies.

The democratic development of a country can be assessed also through the models employed by that country in the legislative and institutional regulation of human rights, and whether these models are part of a democratic environment that believes that it has to continue developing and improving.

There are several determinants that influence the balance sheet of national institutional structures of human rights enforcement that is part of the assessment of the human rights situation in Slovakia. First of all, it needs to be acknowledged that the state is the key guarantor in endorsing and enforcing human rights. The state adopts laws that promote and protect human rights. The state creates state administration bodies, local-government and public institutions, which promote and protect human rights and put them in the limelight. Moreover, the state recognises the equal role of civil society organisations in this area and provides support for it. As a member of the UN, the RE, the EU and the OSCE, Slovakia recognises that these organisations have created mechanisms with rule-making, monitoring, advisory, supportive and expert functions in the area of human rights. Consequently, they are a unique frame and criterion of reference for us to assess the formation, evolution and current situation of our own democratic mechanisms. All people are legitimate holders of human rights. Given this specifically human, modern privilege and necessity, all people are responsible for that human rights are generally and universally recognised, enjoyed, exercised and defended. However, it remains specific to each country how it develops this broad and general responsibility for human rights. The responsibility of the state is twofold. First, it is the responsibility for the correct functioning of public bodies and other mechanisms of applying human rights. Second, it is the responsibility to shape the preconditions for individual responsibility for human rights. Individual responsibility for exercising and respecting human rights should be expressed in personal, family, professional, civil, social and political life as well as at schools. This is conditional upon several factors, such as education for human rights and democratic citizenship, professional training, and the raising of public awareness. After becoming an independent country in 1993, Slovakia was put through a demanding period of building democratic statehood and adapting to the civilisation framework on which it had decided during the Velvet Revolution in 1989, then being part of

Czechoslovakia. Slovakia was building and re-shaping institutions, including those to promote and protect human rights. Their current structure bears traces of the period of the dynamic and complicated period of political, economic and social transformation, a situation historically new to Slovakia, and the extent of the cognitive and organisational management of this transformation. Apparent results in human rights can only be accomplished with people and institutions that are ready and prepared and a suitably implemented system. The generally desirable, beneficial and active responsibility of this kind can only manifest itself if there are systematic and life-long education and professional training in democratic citizenship and human rights that reach across the whole society. Continuing problems, in particular those in the key transversal human rights agendas, the increase of antidemocratic and radical attitudes and conduct of some population accompanied by the risk of extremist political solutions plus the increasing apathy to be involved in the European affairs and public life confirm direct proportion between the cultivation of awareness, knowledge and attitudes, and practical conduct. Progress in implementing human rights standards and policies is primarily made if they are communicated both vertically and horizontally and harmonised in the best-arranged institutional framework that enjoys a continuous support from government in the interest of its own functionality, evaluation and improvement. In this respect, the current human rights institutions in Slovakia show a considerable potential for improvement and as such pose a challenge to the Slovak government. No specialised research has been conducted in Slovakia that would provide an in-depth examination and an evaluation of the conditions and the quality of the institutional mechanisms for the support and protection of human rights, and be used by the Slovak government for making adequate conclusions. Yet the existing experience, knowledge, and documents adopted in Slovakia over more than twenty years of democratic development allows establishing basic findings and identifying the priorities and the tasks for future. These are detailed in the attachments to this document.

Also, the Slovak government expects that each next government will build on and further develop these approaches.

The Constitution of the Slovak Republic is the legal basis of the human rights status and its institutional materialisation. The source of government lies in people and all government bodies must act within the limits of the Constitution and statutes, guaranteeing the fundamental rights and freedoms of the people living in Slovakia. All government bodies are obliged to implement human rights into how they work and function internally as well as act externally.

The Constitution of the Slovak Republic establishes some bodies and institutions with a specific status in the promotion and protection of human rights. Courts are the bodies to protect the rule of law and the enforceability of law; the Constitutional Court of the Slovak Republic is the ultimate national authority for considering cases of violation of the fundamental rights and freedoms. The Slovak Bar Chamber also plays an important role, such in providing professional assistance to people filing a complaint with the European Court of Human Rights or a relevant human rights body of the UN.

An important role in asserting human rights is played by the NR SR, which passes legislation that regulates the exercise of the fundamental rights and freedoms laid down in the Slovak Constitution. The primary initiative and control bodies to discuss this legislation include the NR SR Committee for Human Rights and National Minorities, and the NR SR Constitutional Committee. The NR SR has available sufficient capacities, through its powers as well as its experience with multilateral collaboration in parliament. Multiplication effects should become

more apparent in discussing current human rights affairs in the national parliament, adopting legislation, or supervising the implementation of the human rights legislation and the operation of relevant government bodies. The NR SR could emphasise its initiating role also in the communication with other institutions of human rights promotion and protection. A representative of the NR SR Committee for Human Rights and National Minorities gets invited to government sessions. However, room for collaboration and joint action is much broader.

President of the Slovak Republic signs the legislation passed by the NR SR. The NR SR may ask the Constitutional Court of the Slovak Republic to review whether a law is in no conflict with the Slovak Constitution. It is a mechanism of abstract review of the compliance of laws and other legal rules with the Constitution under article 125 of the Slovak Constitution. In such a review, the Constitutional Court of the Slovak Republic judges on the compliance of legal rules with not only chapter II of the Constitution (laying down the fundamental rights and freedoms) but also all the international treaties consented to by the NR SR, ratified by the Slovak government and published in the Collection of Laws, i.e. also those regulating human rights.

The Centre for Legal Aid (the CPP) is a government agency, which has been providing legal aid since 2006 for persons who lack in the money to assert and protect their rights in a regular manner. The main purpose of the centre is to secure better access to justice for people in material need. Legislation regulates the conditions and the procedures for the centre to provide free legal aid. In the meaning of this legislation, the CPP provides legal aid in national civil, business, employment, and family law cases, cases heard by administrative courts and where these cases end up to be heard by the Constitutional Court of the Slovak Republic. In cross-border disputes, the aid is provided in civil, business, employment, family, and asylum law cases, administrative proceedings for banishment, and where these cases are heard by administrative court or the Constitutional Court of the Slovak Republic. The CPP usually provides legal aid through lawyers and mediators. Applicants for free legal aid must qualify for the statutory criteria, with the main criteria being that the applicant's income is equal to or lower than 1.4 times the subsistence level determined by separate legislation and the applicant cannot pay for legal service using their own means.

The CPP operates 14 branch offices and six consulting offices. This strong regional network should also be used for the benefit of the existing independent institutions, such as the SNSLP and the VOP.

Although the tasks of the aforesaid institutions are different, all of them have room for improving and accelerating their activities for the benefit of human rights. What needs to be done is adopt a sequence of system measures aimed at eliminating obstacles to effective legal protection, ensuring openness of the judiciary, ensuring more efficient operation of courts, reducing delays, combating corruption, and applying national antidiscrimination legislation in accordance with the EU legislation and international human rights conventions. What should also be done is create a single database of human rights documents for these bodies to use these documents as to make them accessible to professional public from a single source on the Internet.

More trust in government bodies could be won through better coordination of the legislative, executive and judicial branches of government in asserting the standards of human rights and the values and principles resulting from Slovakia being a democratic country and a member in

international organisations. Attitudes of principle shown by top country officials and institutions can have a substantial opinion-forming impact. They are also desirable in addressing and solving the urgent and developmental issues in human rights.

Laws, including those regulating the fundamental rights and freedoms, are usually drafted by central government bodies. The legislative departments of ministries have a duty to assess whether the legal rule under preparation complies with the Constitution of the Slovak Republic, national legislation and international human rights commitments. Prior to being discussed by the government, legal rules are subject to review by two standing advisory bodies: the Legislative Council of the Government of the Slovak Republic, and the Council. The legislation related to economic and social rights is also subject to review by the Economic and Social Council of the Slovak Republic. The powers of the Legislative Council, as a standing advisory and coordination body of the Slovak government, are defined in a government resolution of 2012: the Council adopts opinions on draft legal rules and reviews their compliance with European law, the conventions of the RE and other international treaties binding on Slovakia.

Since the beginnings of institutional protection of human rights in Slovakia the preparation and the implementation of public human rights policies have been gradually delegated to ministries, usually in accordance with their powers. The establishment of these powers has been subjected to certain changes since the 1990s. Some departments, such as the Office of the Government of the Slovak Republic, have received more, or more dominant, powers whereas the powers of other departments have been reduced.

In 1998–2012 each Slovak government had a deputy prime minister with the portfolio of human rights and national minorities. In the previous periods, Slovak governments had no deputy prime ministers with such an agenda. However, in 1994–1998 there was a deputy prime minister for social and spiritual development, coordinating the agendas of education, healthcare, culture, the environment, national and church policy, and tripartite negotiation leadership. The titles and agendas of deputy prime minister were changing as follows in 1998–2012: deputy prime minister for human and minority rights and regional development in 1998–2002 and 2002–2006; deputy prime minister for knowledge society, European affairs, human rights and minorities in 2006–2010; and deputy prime minister for human rights and national minorities in 2010–2012.

Like with other institutions, there was applied a model the *raison d'être*, functionality and benefit of which should be reviewed after some time as a specific way of dealing with things in Slovakia and compared with other foreign models as well as the recommendations of international organisations in general and the UN and the RE in particular. Although the agenda and the name of deputy prime minister's office have been changing, the core responsibilities have always been the same: make, implement and coordinate the government's human rights policies. Deputy prime minister had no dedicated department to discharge these responsibilities and was included in the organisational chart of the Office of the Government of the Slovak Republic. After the 2012 election, the Slovak government adopted a different model of institutional set-up and modified deputy prime minister's powers and portfolio. Now deputy prime minister and the foreign and European affairs minister is vested with powers to coordinate human rights policies and exercises these powers through his chairmanship in the Council (as opposed to the previous periods when the Council was chaired by deputy prime minister for human rights and national minorities). Other central government human rights bodies include the Ministry of Labour, Social Affairs and Family of the Slovak Republic, which also is the central government body for the promotion of social

inclusion of people with serious disabilities, aid for people with insufficient means of livelihood, social protection of children, social guardianship and coordination of government family policy, gender equality and equal opportunities and the coordination of government policies in these areas. The Ministry of Justice of the Slovak Republic, which is also in charge of the application of the Antidiscrimination Act, is preparing legal rules in the areas of constitutional law, criminal law, civil law and family law, and is in charge of representing Slovakia before the European Court of Human Rights and the European Court of Justice. The Ministry of the Interior of the Slovak Republic is a central government body for: asylum seekers and emigrants; assembly and association; the registration of some legal entities; and the organisation of referenda, presidential elections, elections to the NR SR, local government and the European parliament. The Office of the Government of the Slovak Republic exercises the powers under the law regulating the use of languages of national minorities and performs tasks in the sphere of promoting national minorities through a grant programme *Cultures of National Minorities*. The human rights agenda has been given more emphasis at the specified as well as other departments through accumulated responsibilities for the administration of the respective councils and committees as advisory bodies to the Slovak government, especially since 2011 as shown below.

After 1993 offices of government plenipotentiaries for selected human right agendas falling under different central government bodies were established. The current plenipotentiaries are as follows: government plenipotentiary for national minorities; government plenipotentiary for Romany communities; and government plenipotentiary for the development of civil society. The plenipotentiaries are advisory bodies with no executive powers, organised under the Ministry of the Interior (the plenipotentiary for Romany communities and the development of civil society) and the Office of the Government (the plenipotentiary for national minorities). Their task is to assist in implementing government policy in their areas in collaboration with central state administration bodies, local state administration bodies, local government and MVOs. The status, responsibilities, powers and tasks of plenipotentiaries are defined in charters. The responsibilities of the government plenipotentiary for national minorities include the preservation, development and promotion of the rights of members of national minorities; the plenipotentiary implements system measures for the improvement of the situation of national minorities. The responsibilities of the government plenipotentiary for Romany communities include the dealing with Romany community issues; the plenipotentiary implements system measures for the improvement of the situation of these communities and their integration in the society; implements and coordinates more effective policies and system measures for the prevention of social exclusion of Romany communities and the promotion of their inclusion in the society; and sets up the Interdepartmental Board for Romany Communities. The government plenipotentiary for the development of civil society implements and coordinates civil society development action plans and open governance initiatives. As yet there has been no fundamental discussion on the existing methods of appointing, status, responsibilities and powers of the plenipotentiaries whose existence is tied to an area of human rights. However, the experts in the Council have been raising these subjects, especially during the last two years. They complain that the office of the plenipotentiary for national minorities continues to be vacant and emphasise the need to review the conceptual design of the system of government and non-government institutes that ensure the application and protection of human rights.

The Council was set up in November 2011 as a standing expert advisory, coordinating and consulting body to the government for the protection of the fundamental human rights and

freedoms. When the government changed in 2012, the Council continued with the members as originally set up.

When established, the Council started to build on the then-existing and rather heterogeneous system of government advisory bodies for different human rights agendas, reformed this system in order to enhance a system simultaneous approach, and initiated progressive human rights policies. In spite of achieving a major consensus about a common platform in a rather short time, the Council was not the only government council for this complex agenda and the system of government advisory bodies saw further changes.

The members and the responsibilities of the Council correspond to the basic purpose of its existence – a forum for a dialogue between state administration, local government, civil society, academic community, and independent and non-government human rights organisations. Representatives of the NR SR Committee for Human Rights and National Minorities and the NR SR Constitutional Committee, the secretary of the Legislative Council of the Government of the Slovak Republic, and a representative of the Confederation of Trade Unions are invited to the Council meetings on a regular basis.

Originally, there were eight committees, standing expert bodies of the Council: Committee for National Minorities and Ethnic Groups (chaired by government plenipotentiary for national minorities); Committee for Elderly People (was chaired by the minister of labour, social affairs and family); Committee for People with Disabilities (chaired by the minister of labour, social affairs and family); Committee for Gender Equality (chaired by the minister of labour, social affairs and family); Committee for Children and Youth (chaired by the minister of labour, social affairs and family); Committee for Research, Education, Human Rights Awareness and Developmental Education (chaired by the minister of education, science, research and sports); Committee for the Prevention and Elimination of Racism, Xenophobia, Anti-Semitism and Other Forms of Intolerance (chaired by deputy prime minister and the minister of the interior); and Committee for Non-government Non-profit Organisations (was chaired by government plenipotentiary for the development of civil society). In 2012 the last committee was transformed into the Council of the Government of the Slovak Republic for Non-government Non-profit Organisations (chaired by deputy prime minister and the minister of the interior) and the Committee for the Rights of the LGBTI Persons (chaired by the minister of justice) was established. In 2014 the Committee for Elderly People was transformed into the Council of the Government of the Slovak Republic for the Rights of Elderly People and the Adaptation of Public Policies to Population Ageing (chaired by the minister of labour, social affairs and family).

Council deputy chairs are the representatives of the government and civil society (non-government sector experts). Committee deputy chairs are solely civil society representatives. Secretaries and secretariat staff for the Council and the committees are state administration employees.

There is no general rule for determining the optimum number of councils and committees. The existing system of standing government advisory bodies for human rights and their collaboration have not yet been put to any major review. Setting up more bodies or transforming the existing ones is subject to discussion in the relevant government advisory bodies and departments the representative of which takes the chairmanship of the advisory body and provides premises for the body's secretariat.

The Council sets up temporary working groups in order to ensure more intensive expert examination. In 2011–2012 it was working groups for: inclusive education; active ageing and intergenerational solidarity; the rights of persons with minority sexual orientation; the methodology of collecting data on age, sex, membership in national minority or ethnic group and other characteristics. In April 2014 a working group was set up to deal with the needs of better operation of the Council. The agenda was defined using the experience from the Council sessions during the last two years. The solutions of the working group should result in a draft amendment to the charter and the rules of the Council in order to add to the response capacity during sessions as well as the interval periods. Originally, the Council held four sessions a year, and should become an all-year working body for both adopting relevant meritorious decisions, statements and opinions on current human rights issues and conducting continuous value-related discussions.

By the fourth year of its existence the Council has become a core and an indispensable platform of partner dialogue between public administration and the civil and the academic sectors. The Council has proved its expert potential that can be employed in drafting conceptual and legislation documents on human rights. It would be appropriate to focus this unique capacity also on the preliminary assessment of the institutional model of human rights promotion and protection in Slovakia.

Active involvement in the preparation of the strategy has become a separate and especially important part of the operation of the Council and its committees. It was through this processes that pressing issues in institutional protection of human rights in Slovakia were put on the table. This brought particular attention to the situation of government-established, independent mechanisms as well as MVOs.

The World Conference on Human Rights in Vienna in June 1993 was a break-through impulse for the collaboration in the field of establishing new dedicated human rights institutions in countries. The Paris Principles on the status of national human rights institutions were defined and adopted in the UN in December of the same year.

In the spirit of the World Conference on Human Rights, the Slovak government and the UN made an agreement in 1994 to establish the SNSLP, followed by the NR SR passing the law setting up the SNSLP.

The SNSLP has existed as an independent institution for twenty years, with its powers in the field of human rights and fundamental freedoms, in particular the rights of the child and the observance of equal treatment, defined by law. Almost for the same period discussions have been held as to the extent of SNSLP's activities and powers. In April 2011 the Slovak government arranged for the preparation and adoption of the SNSLP Analytical Review Report, with reference to its policy statement in which the government agreed to put at work all the institutions and mechanisms for the protection and promotion of human rights, including the SNSLP and the CPP. The task was carried forward to next term of office. The pressing nature of the task proved itself at government sessions during 2012–2014. In 2014 the Slovak government, under the leadership of the Ministry of Justice, launched the process of amending the NR SR act establishing the SNSLP. Discussions on the act lead to requirements that legislation changes should be made to the SNSLP that would be in accordance with the Paris Principles and the recommendations of the International Coordination Committee of the National Human Rights Institutions (the ICC NHRI) established with the UN, in particular through reasonable expert discussions; the Council has

demonstrated it is well suited for such discussions. In accordance with the urgent need in society, emphasis is placed on the necessity to engage government means in order to enforce the position of the SNSLP as an institution that will enjoy such powers as to be able to effectively fulfil the statutory-defined responsibilities in the interest of effective protection of human rights consisting in monitoring human rights, receiving and dealing with complaints, facilitating conflicts, endorsing human rights, providing professional training, publishing printed material, conducting research, and providing advice and assistance for the Slovak government. The main criteria for the activities of the SNSLP should be a broad mandate based on human rights standards, independence of government bodies, and pluralism. Adequate resources and investigative, quasi-judicial powers need to be provided for the effective operation of the SNSLP. As different countries define the scope of mandate for similar institutions differently, adequate funding and a transparent selection and appointment of the members in the bodies of these institutions are something that needs to be ensured for institutions of this type.

According to the Paris Principles, recognised by the international community as a test of institutional legitimacy and trustworthiness, Slovakia was to build, in the pre-accession period, another mechanism of human rights promotion and protection, which is usually referred to as *ombudsman*.

Under article 151a of the Constitution of the Slovak Republic, the VOP is an independent body of the Slovak Republic that protects, to the extent and in the manner as defined by law, the fundamental rights and freedoms of natural persons and legal entities in proceedings before the bodies of public administration and other public bodies if the conduct of such bodies or their decisions or failure to act is in conflict with the legal order. In the cases defined by law the ombudsman is allowed to take part in exercising the responsibility of the persons working at public bodies if these persons violate a fundamental right or freedom of a natural person or legal entity. All public bodies are to provide the ombudsman with any cooperation that may be required. The VOP may move for the institution of proceedings before the Constitutional Court of the Slovak Republic if a generally binding legal rule violates a fundamental right or freedom guaranteed for a natural person or legal entity. The institute of the VOP is regulated in detail in the Ombudsman Act, which took effect on 1 January 2002. Any person believing that, contrary to the legal order or the principles of democracy and the rule of law, fundamental rights or freedoms have been violated by conduct, decision or failure to act on part of a public body may have recourse to the ombudsman. Also, the VOP may act on their own initiative, in addition to filing complaints.

The key powers of the VOP in investigating complaints include: enter public administration buildings; request files, documents and explanations even where the inspection of files is limited by separate legislation; obtains testimony from public administration employees and talk without the presence of another to people who are held on the premises for keeping persons in custody, serving imprisonment or soldier's disciplinary punishment, receiving in-patient or protective medical treatment, receiving special institutional treatment or protective youthful and young offenders rehabilitation, or are held in police cells for seized persons. Where the VOP asks for or requires remedy, public administration bodies have a statutory duty to comply within 20 days. Every year, the VOP submits to the NR SR a report describing the complaints received by the VOP and how public administration bodies observe human rights; the report also presents suggestions and recommendations for the remedy of the deficiencies identified.

There are no major critical voices as to the statutory regulation of the VOP's powers. What is problematic is the extent to which the VOP is generally accepted and recognised as a relevant organisation enjoying such respect that should be enjoyed by a constitutional body. The complaints and reports of the VOP should be viewed as constructive discharge of the ombudsman's role as it is regulated in statutes and the Constitution. A need for more robustness in these approaches may be seen in that both the current representative and the ombudsman have been drawing attention to the poor standard of these approaches since 2002.

The Paris Principles provide that both the SNSLP and the VOP should be funded by the government but be independent of it. They are not MVOs but should provide a 'bridge' between the civil society and the government. According to some non-government sector stakeholders, both the SNSLP and the VOP have been suffering from insufficient funds and insufficient number of employees and been confronted with political interference with their independent position, which both are intolerable in the long-term and demand a robust solution.

In 2014 a new strategic public policy document dealing with the protection of children against violence was adopted. Historically, it was the first attempt to introduce a system to the protection of children against violence. The national strategy for the protection of children against violence is based on the weaknesses and the risks of the policy for the protection of children against violence. Moreover, the National Coordination Centre for Dealing with Violence against Children has been set up. The centre coordinates the performance of Slovakia's strategic objectives for the protection of children against violence and carries out the coordinating tasks in respect of putting the UN Convention on the Rights of the Child in practice.

The Slovak Ministry of Labour, Social Affairs and Family has been preparing a bill to regulate public protection of the rights of children and persons with disabilities.

MVOs are indispensable component of the institutional system for the promotion and protection of human rights. MVOs stem from the civil society, which is a source of sovereignty and an important pillar of democracy.

The role of MVOs is present in almost every sphere of life. The human rights aspect and the values related to it are implicit part of everyday business of MVOs in general and those specialised in compliance with human rights and fundamental freedom in particular. MVOs and their platforms and umbrella organisations promote awareness of democratic citizenship and human rights, monitor whether human rights are observed, arrange for legal acts, spread information on human rights, provide legal assistance and do much more. The legitimacy of MVOs consists in their knowing, strictly respecting and analysing legally binding human rights documents. MVOs make a marked contribution to democracy, the rule of law and the stabilisation of human rights principles and values.

MVOs are a relevant partner to public administration in shaping and implementing policies, which they have been demonstrating over a long term also by having their representatives on standing government advisory bodies, interdepartmental boards, other working groups, the Council and its committees and working groups. The experts of MVOs have also made a considerable contribution to the Strategy. MVOs are respected as entities that bring in new issues and endorse public interest.

State administration and local government support MVOs in providing services which MVOs can deliver more efficiently because they have available adequate structures, in-depth knowledge, and networking contacts and enjoy the trust of the target groups. However, this support is disproportionate to how much MVOs' capacities can be utilised, and is tied to short-term grant or subsidy schemes or projects. There is no system institutional support for MVOs whatsoever.

The agenda of MVO, open governance and the participation of civil society in public affairs administration is catered for at the state administration level by the office of the government plenipotentiary for the development of civil society. It was established as an organisational unit of the Office of the Government of the Slovak Republic in 2011 and delimited to the Ministry of the Interior in 2012. This fact along with the dealing with substantive conditions for existence, viability and utilisable benefits of MVOs is one of the fundamental challenges for the country, the Slovak government and the entire society.

Recommendations of international monitoring bodies provide aid to finding positive solutions. Ultimately, implementation report assessments in respect of international human rights conventions include the monitoring of how public administration collaborates with civil society in the member country. Developed and effective dialogue between public administration and civil society is seen as a desirable transversal principle that receives continuous support. Public administration proactively creating room for social discussion should be accompanied by accepting the diversity of opinions, confronting critique from civil society, non-governmental organisations and the academic community, responding and showing interest in finding and creating constructive solutions. Continuous and inclusive collaboration should be demonstrated throughout the preparation, creation, implementation, monitoring and assessment of public policies.

## **5. Priorities and Tasks for Human Rights Promotion and Protection in Slovakia**

Multiple departmental policies, strategies, action programmes, action plans or other programme-like documents addressing various human rights aspects with a usable potential to get relevant information have existed and been applied in Slovakia since 1989. Preparations on a new strategic document began in 2012. This document was meant to map all the deficits and challenges identified. Although it is not possible to rely on exhaustive comprehensive and continuous research, what can be done is identify basic framework priorities for the promotion and protection of human rights in Slovakia in a short-term, mid-term and long-term.

The frameworks and priorities are formulated as related, holistically and synergically interconnected and conditioned elements. In relation to the existing, partial documents, this programming document provides an umbrella vision, which will be developed and described in more specific terms on the basis of the existing programmes as well as those to be yet prepared. Preparations of the Strategy have shown that many measures need to be taken and implemented in the human rights agenda in order to make a substantial progress in enforceability of law or effect partial steps for specific civil, social, cultural or economic rights. The purpose of this document is also to facilitate the involvement of all stakeholders in this process – the government, public authority, civil society, and educational, research and cultural institutions.

## **Priority I – Human Rights Agenda as Key Reform Programme of Slovak Government** **Analysis of Human Rights in Slovakia**

### **TASK I.1: Comprehensive analysis of how human rights are observed and protected in Slovakia plus analysis of institutional mechanisms.**

#### **Framework for Task I.1:**

Findings of this kind are important for understanding, assessing and reinforcing democracy as such.

The output generated by working groups and expert meetings during the preparations of the Strategy has presented many unanswered questions of interpretation, implementation, application practice and enforceability of human rights. It put emphasis on the need to make a comprehensive review of the existing developments and identify long-term trends and measures to be taken. Comprehensive research will assess the compatibility of national human rights policies with the policies of the UN, the RE, the EU, the OSCE and other international organisations. It will also define a methodology basis for a continuous monitoring and data collection in respect of human rights in Slovakia.

## **Priority II – Consolidate System of Institutional Support for and Protection of Human Rights in Slovakia**

### **TASK II.1: Bolster MVOs, participation and the position of independent and other human rights protection mechanisms in Slovakia.**

#### **Framework for Task II.1:**

The SNSLP and VOP are established by the government as independent institutions for the protection and support of human rights. Their mission is indispensable and is growing with the complexity of the issues in discrimination and the protection of fundamental rights and freedoms. The SNSLP and the VOP have been provided with insufficient funds and insufficient human resources. This is intolerable in the long term and calls for a robust solution. The Paris Principles and the conclusions of the Council's advisory bodies and experts workshops during the preparation of the Strategy show a rare agreement in the requirement that expert participative approach should be applied in order to cause both the institutions to operate as efficiently as possible.

Delivering a range of activities beneficial to the protection of human rights, MVOs are indispensable component of the institutional system of such protection. MVO have the expertise and the vigilance for the principles and values of human rights. They are a relevant partner to public administration in shaping and implementing policies. Both central government and local government respect MVOs as entities that draw attention to emerging issues and endorse public interest. However, this fails to be reflected in the legislation, institutional and financial support which MVOs receive.

The basic challenges Slovakia and the Slovak government are facing include the need to deal with substantive conditions for existence, viability and utilisable benefits of MVOs.

System measures need to be taken in terms of providing MVOs with more funds and better statutory regulation, enhancing participation and ensuring continuity of the existing institutional mechanisms and processes.

**TASK II.2: Legislation, financial and human resources strengthening of agenda, public policies, institutions and processes of exercising and protecting human rights.**

Framework for Task II.2:

Given all the priorities and tasks defined in this Strategy and the follow-up action plans, it is necessary to make consistent use of the institute of the selected influences clause so that the Strategy would reflect, at least in the chapter Social Influence, the influence and impact on not only social exclusion, equal opportunities, gender equality, employment and the environment but also human rights understood in broad context. The clause should be strictly applied in drafting all legislation and public policies.

As demonstrated in flourishing democracies and their sustainable stability and economic prosperity, investments in human rights are investments certain to return. In order to make a marked progress in exercising and protecting human rights, it is necessary to (a) set up an interdepartmental programme funded from the state budget by the material criterion, which programme would be allocated to the complex human rights agenda: strategies, action plans, programmes, grant schemes, institutions, participative processes, the government fund for urgent human rights incidents and other tools;(b) make an effective use of the EU structural funds, in particular the European Social Fund and other financial mechanisms to help disadvantaged population and support their social inclusion.

**Priority III – Human Rights Education, Professional Training and Research in Slovakia**

**TASK III.1: Set up National Commission for Education and Awareness of Human Rights and Democratic Citizenship and prepare a relevant national plan for 2015–2020 supervised by the Ministry of Education, Science, Research and Sports of the Slovak Republic.**

Framework for Task III.1:

The preparation of the Strategy put in the limelight the question of whether the stakeholders in all institutions as well as the whole society and individuals had the knowledge, attitudes and competencies required for exercising and protecting human rights, and creating, implementing, assessing and applying human rights policies. The conclusions claiming the unavoidability of nationwide and life-long education and professional training in democratic citizenship and human rights as the key preconditions for recognising, applying and defending all human rights were referred to most often and with the highest intensity in the outputs produced by working groups and expert workshops. What has to be done in order to best shape the concept and the implementation of such education is set up a standing expert independent body, a national commission, whose first and urgent task will consist in preparing a national plan of human rights education, arranging for the body to be in charge of

this plan and making sure the plan is put in practice. Support the use of a language that would reflect the fundamental rights and freedoms and the human rights principles and take account of the present and the position and the situation of women in the society as the existing language usage does in respect of men, with all this in accordance with a strict compliance with the standard Slovak language.

#### **Priority IV – Selected System Measures for Judicial and Other Legal Protection**

**Task IV.1: On a continuous basis adopt system measures that would confirm the protection of the right to judicial and other legal protection and the enforceability of human rights.**

##### Framework for Task IV.1:

In order to have effective judicial protection, it is necessary to adopt a set of system measures, especially amend the rules of judicial procedure so as to reduce delays in proceedings; and address the status and the protection of victims in criminal procedure, the status and the protection of minors in any (not only criminal) procedure, and procedural requirements for accelerated procedure dealing with alleged violation of the fundamental rights and freedoms.

It is necessary to provide systematic training for judges in fundamental rights and freedoms protection in respect of the case-law of constitutional courts and the courts of the EU; bolster administrative judiciary bodies in terms of staff, funding and organisation; and accomplish real enforceability of judgements in reasonable time. What also needs to be done in respect of administrative proceedings is make sure that these proceedings are conducted in accordance with good administrative practice, the decision-making bodies of public administration deliver their decisions within statutory time-limits, administrative bodies deliver due decision in each case, and such decision can be reviewable at least in one administrative instance and can also be reviewed by court. The real enforceability of administrative decisions also needs to be improved. A critical measure guaranteeing an effective and accessible manner of enforceability of the fundamental rights and freedoms should consist in guaranteeing that anyone believing their human rights have been violated by a public administration body always can have recourse to court. Moreover, it needs to be ensured in the application practice that all bodies empowered to deliver decisions have a duty, by virtue of office, to examine in proceedings whether the course of action of a public authority body has violated human rights or not.

#### **Priority V– System Measures to Prevent and Eliminate Obstacles to Real Equality of Rights and Rewarding Life for All Groups of Population**

**TASK V.1: Improve the implementation of the existing programming documents for vulnerable and marginalised groups and individuals and create new programming documents.**

##### Framework for Task V.1:

The effective implementation of civil, political, economic, social and cultural rights and freedoms is connected with the consistent elimination of the gap between legislation and practice in exercising the horizontal priority of gender equality, equal opportunities, the rights of members of minorities and all vulnerable population groups: women, children and youth,

persons with disabilities, persons at risk of poverty and social exclusion, Romany communities, victims of violence, abuse, crime and terrorism, LGBTI persons, elderly people, migrants and aliens, with special regard to individuals and population groups with multiple vulnerability. It is necessary to promote gender equality and equal opportunities at any level of personal, family, career and social life. The preparations of the Strategy identified the need to adopt new human rights public policy programming documents (action plans) focused on the rights of LGBTI persons, the rights of members of national minorities and the rights of the persons at risk of poverty.

At the expert level, have deeper discussions on those human rights conventions and treaties which are not yet binding on Slovakia, such as Protocol 12 to the Convention on Human Rights and Fundamental Freedoms, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the European Social Charter Supplementary Protocol on collective complaints, and the acceptance of article 31(1), (2) and (3) of the revised European Social Charter.

**TASK V.2: Improve effective prevention and elimination of all forms of violence, in particular violence against women and children.**

Framework for Task V.2:

Human dignity and human rights are incompatible with any form of violence. Violence breaks down partnerships as well as personal and social relations. Democratic society is obliged to itself to establish and strictly exercise zero tolerance for any form of violence, enhance effective prevention and confirm comprehensive protection of and aid and assistance to victims of violence, abuse, crime and terrorism. This requires expert discussions and relevant communication of the purpose and the essence of international human rights documents dealing with the protection of the rights of women and children, both the documents Slovakia has agreed to observe and those Slovakia is considering to accept as binding, towards the general public in order to make room for discussion, such as the Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention) and the Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (the Lanzarote Convention).

**TASK V.3: Implement systematic and comprehensive measures aimed at the protection of the fundamental rights and freedoms of adults living outside marriage.**

Framework for Task V.3:

Take the necessary legal measures in order to ensure protection of the rights of persons living as partners outside marriage.

**Priority VI – Adopt Systematic and Comprehensive Measures against Any Form of Intolerance**

**TASK VI.1: Adopt systematic and comprehensive measures aimed at the prevention and elimination of all forms of intolerance.**

Framework for Task VI.1:

As a country with a population of a high degree of national and ethnic diversity, Slovakia fully endorses the principles of the universality of human rights, non-discrimination and equality for all people irrespective of sex, race, skin colour, language, faith, religion, political or other opinions, national or social origin, nationality, ethnicity, property, gender or other status. Consequently, it is necessary to implement systematic and complex measures aimed at preventing and eliminating all forms of intolerance.

### **Priority VII – Make Full and Systematic Use of Slovakia’s Membership in International Human Rights Organisations in order to Improve Support for and Protection of Human Rights in Slovakia**

**TASK VII.1: Make use of the communication with treaty-based and monitoring bodies in order to facilitate more flexible implementation of international human rights commitments in national legislation.**

#### **Framework for Task VII.1:**

The implementation of international commitments in Slovakia’s legislation requires direct intervention as well as many positive measures to be taken by the government and its agencies. Assessment reports as well as the conclusions and findings made by the international bodies established to assess the observance of human rights suggest that Slovakia suffers several deficiencies in connection with the direct implementation of international commitments in the national legislation. Also, there may be a sum of deficiencies that may become evident at a later time. Slovakia must address this issues as early as drafting legal rules. It is not only the issue of a possible conflict between legislation and international commitments but also a poor implementation of positive measures aimed at developing human rights, in particular the no discrimination requirement in a country with a population of racial, language, national, ethnic and cultural diversity. It is an area that needs to be viewed as a whole as well as in the detail, through a dialogue with civil society, MVOs and interest groups.

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The two years of preparing the Strategy has shown that a modern perception of human rights and the learning of their principles and values are not as obvious as have been seen so far. It is perfectly legitimate for not only the general public but also all the stakeholders involved in the human rights agenda to ask themselves questions and seek answers. Human rights are developing as is the society. In a democratic society human rights always take the route forward to extend and include rather than backward to limit and restrict.

Working on the Strategy has shown the importance of discussions between the government and the civil sectors as a tool for formulating objectives of national significance. The adoption of the Strategy should be seen as the first stage of cultivating the national discussions on human rights that should be held continuously and within the clearly defined confines of Slovakia’s national legislation and international commitments.

The purpose of the Strategy is that these things become the principle and the universal value present in the processes which will follow up on the Strategy and detail its priorities and tasks.