

# *Council of Europe contribution for the 32<sup>nd</sup> UPR session (October-November 2019) regarding Slovakia*

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## Prevention of torture (CPT)

The 'European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment' organises country visits in order to visit places of detention to assess how persons deprived of their liberty are treated. After each visit, the CPT sends a detailed report to the State concerned. This report includes the CPT's findings, and its recommendations, comments and requests for information.

### 2013 periodic visit

The CPT's report: <http://rm.coe.int/doc/0900001680697da8>



1680697da8.pdf

The Government's response: <http://rm.coe.int/doc/0900001680697dab>



1680697dab.pdf

News flash on the publication of the report and response for a brief summary:

<https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-publishes-report-on-the-slovak-republ-1>

## Council of Europe Commissioner for Human Rights

The Commissioner for Human Rights is an independent and impartial non-judicial institution established by Council of Europe to promote awareness of and respect for human rights in the 47 Council of Europe member States. The information below covers two visits by the former Commissioner, Mr Nils Muižnieks, in 2015 and 2018.

From 15 to 19 June 2015, the Commissioner carried out a visit to Slovakia. In the subsequent [report](#), the Commissioner addressed discrimination of Roma, persons with disabilities and LGBTI persons. He noted that, while Slovakia's anti-discrimination framework is comprehensive, it provides a differing degree of protection for various vulnerable social groups, and that it must be reformed to close all protection gaps. The Commissioner welcomed the adoption of Slovakia's first human rights strategy and noted the importance of linking it to sectorial action plans and their effective implementation notably at local level. He also urged Slovakia to provide the Ombudsperson and the National Centre for Human Rights with adequate support and resources to effectively carry out their mandates.

On Roma, the Commissioner expressed serious concern about persistent manifestations of anti-Gypsyism and hate speech, and instances of excessive use of force by the police during raids in Roma settlements. The incidence and implications of racist hate crime, including racially motivated police violence, affecting Roma, appeared to be underestimated by the authorities. The placement of Roma children in special schools, the spatial segregation of Roma, and their substandard housing situation were also singled out as issues to be addressed as a matter of priority.

As concerns persons with disabilities, the Commissioner welcomed the reform aimed at prohibiting the full legal incapacitation of persons with psychosocial and intellectual disabilities as of July 2016. He called for the finalisation of this process and the development of a flexible system of supported decision-making, based on individual consent and necessary judicial safeguards to ensure that persons placed under guardianship can challenge this measure. At the same time, the Commissioner remained concerned about the slow deinstitutionalisation process and the practice of transforming traditional residential institutions into smaller housing units.

The strengthened policy and institutional framework notwithstanding, persistent anti-gay public discourse and hate speech were found to be worrying. The Commissioner noted that this must be countered by effective measures, including extension of the provisions of domestic hate speech legislation to cover sexual orientation, gender identity, and sex characteristics. The provisions of the Criminal Code establishing hatred based on ethnicity, race, skin colour and sexual orientation as an aggravating circumstance should be also extended to cover transphobic hate crime. Law enforcement officials should be adequately equipped to identify and effectively investigate such incidents. Furthermore, the Commissioner encouraged Slovakia to provide legal recognition to same sex couples allowing them to address the practical problems related to the social reality in which they live. He also called on the authorities to promote and fully respect the human rights of trans and intersex persons.

From 12 to 16 March 2018, the Commissioner conducted a follow-up visit to Slovakia, with a particular focus on inclusive education for Roma children and children with disabilities. However, the visit followed shortly after the murder of investigative journalist Ján Kuciak and his fiancée Martina Kušnírová, which led to the inclusion of safety of journalist as an issue of focus as well.

In the [press release](#) following the visit, the Commissioner called on the Slovak authorities to start addressing the continuing segregation of Roma children and children with disabilities in education in a more comprehensive manner. Noting that little meaningful progress had been achieved in this field since his visit in June 2015, the Commissioner stressed that measures to tackle school segregation could not be ad hoc, piecemeal and temporary. They must be bold and sustainable and reflect a long-term vision of inclusion shared by all stakeholders and supported across all levels and areas of the administration.

Despite the acknowledgment from the government of the need to tackle school segregation, as well as some of the legislative and policy measures that had been put in place since his last visit, examples of successful inclusion were usually not due to a systemic approach. He particularly noted the lack of a clear roadmap to desegregation at the national, regional or locals levels. He also expressed concern about the non-enforcement of legal obligations in the field of inclusion, even after court orders to desegregate.

He called on Slovakia to introduce in law a clear obligation to desegregate and an enforceable right to inclusion, combined with a strong and internally coherent system of support to schools and pupils, including providing teaching and other assistants, funded through a stable budget that makes it reliable and long-term, and not primarily through temporary projects. The Commissioner also found a huge unfulfilled need for training of teachers. He welcomed discussions about reform of primary school diagnostics and strengthening pre-primary education.

The Commissioner emphasised that tackling school segregation should be seen in its wider social context. For Roma, this involved tackling anti-Gypsyism, spatial segregation of Roma and other forms of discrimination, including with regard to policing. For persons with disabilities, inclusive education should go hand-in-hand with a process of deinstitutionalisation.

Concerning the safety of journalists, the Commissioner called for a prompt and effective investigation in the murder of journalist Ján Kuciak and his partner Martina Kušnírová in order to identify and punish the perpetrators, but especially those who ordered the murders. He also called for an urgent public discussion about media freedom and the safety of journalists, focusing in particular on political discourse.

### ***Fight against racism and intolerance (ECRI)***

*The European Commission against Racism and Intolerance (ECRI) is a human rights body of the Council of Europe, composed of independent experts, which monitors problems of racism, xenophobia, antisemitism, intolerance and discrimination on grounds such as “race”, national/ethnic origin, colour, citizenship, religion and language. It prepares reports and issues recommendations to member States, in which its findings, along with recommendations are published. These reports are drawn up after a contact visit to the country in question and a confidential dialogue with the national authorities. The country monitoring takes place in five-year cycles. As part of the fourth round of ECRI’s monitoring work, a new process of interim follow-up has been introduced with respect to a small number of specific recommendations made in each of ECRI’s country reports.*

As part of ECRI’s ongoing country monitoring work, ECRI adopted its Fifth report on Slovakia on 19 June 2014:

<https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Slovakia/SVK-CbC-V-2014-037-ENG.pdf>



SVK-CbC-V-2014-037  
-ENG.pdf

ECRI adopted its Conclusions on the Implementation of the Recommendations in Respect of Slovakia Subject to Interim Follow-Up on 24 March 2017:

<https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Slovakia/SVK-IFU-V-2017-024-ENG.pdf>



SVK-IFU-V-2017-024  
-ENG.pdf

## Protection of minorities

### Framework Convention for the Protection of National Minorities

The monitoring procedure for this convention requires each state party to submit a report within one year following the entry into force of the Framework Convention and additional reports every five subsequent years. State reports are examined by the [Advisory Committee](#), a body composed of 18 independent experts responsible for adopting country-specific opinions. These opinions, on which States Parties have an opportunity to comment, are meant to advise the Committee of Ministers in the preparation of its resolutions, containing conclusions and recommendations to the State concerned.

The Advisory Committee on the Framework Convention adopted the 4th Opinion in respect of Slovak Republic on 3 December 2014

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680303190>



ACFC\_Slovak\_Rep.pdf

Resolution CM/ResCMN(2016)6 on the implementation of the Framework Convention for the Protection on National Minorities by Slovak Republic was adopted by the Committee of Ministers on 13 April 2016 at the 1253th meeting of the Ministers' Deputies

[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016806429ea](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016806429ea)



Res\_CMN2016\_6.pdf

### European Charter for Regional or Minority Languages

The [Charter's monitoring procedure](#) is based on state reports, as each State Party is required to present its first report within the year following the entry into force of the Charter with respect to the Party concerned. The subsequent reports are presented at three-yearly intervals. A committee of independent experts examines the state's periodical report and addresses an evaluation report to the Committee of Ministers, including proposals for recommendations.

The Slovak Republic submitted its 4<sup>th</sup> periodical [report](#) in March 2015. The Committee of Experts adopted its [evaluation report](#) on the Slovak Republic in November 2015 and the corresponding Committee of Ministers' [recommendations](#) were adopted in April 2016.

The Charter protects, in the Slovak Republic, to Bulgarian, Croatian, Czech, German, Hungarian, Polish, Romani, Ruthenian, Ukrainian and Yiddish. The Committee of Experts' evaluation report highlights that awareness-raising and promotion of tolerance towards the minority languages and the cultures they represent are needed.

The Committee of Experts confirms its readiness to work together with the Slovak Republic to ensure the application of the Charter in all areas where there are sufficient numbers of speakers of

regional or minority languages and appreciates the Slovakian authorities' willingness to work on further developments in this field.



ECRML\_Slovakia.pdf



ECRML\_Slovakia\_ev.pdf



RecChL2016\_2.pdf

### ***Ad hoc Committee of Experts on Roma and Traveller Issues (CAHROM)***

*Following the High-Level meeting, intergovernmental work on Roma issues has been upgraded: on 16 February 2011 the Ministers Deputies adopted terms of reference for a new Committee of Experts (CAHROM) to be answerable directly to the Committee of Ministers. The [terms of reference](#) - which have been renewed by the Ministers Deputies for the years 2018-2019 - place emphasis on the analysis and evaluation of the implementation of national policies and thematic exchanges of experience and good practices. European Union institutions, international organisations, the European Roma and Travellers Forum and other relevant (Roma and Traveller) organisations are associated as observers to the CAHROM.*

The Council of Europe is implementing a Joint Project with the European Union “Inclusive Schools: Making a Difference for Roma Children” (INSCHOOL) since May 2017 in Slovakia as well as in the Czech Republic, Hungary, Romania and the United Kingdom. The Project aims at enhancing social inclusion of Roma by promoting inclusive education policies and practices. It does so by setting up support mechanisms and resources for the schools, by providing support to teachers to promote inclusion and improve learning outcomes of Roma children, by fostering stronger partnerships within each country and by raising awareness on the benefits of inclusive education for the general public as well as decision makers. In each country, the Project has two levels of intervention. At the practice level, it implements the methodology of the “Index for Inclusion” (T. Booth and M. Ainscow, Index for Inclusion: a guide to school development led by inclusive values, 2016) in a cluster of schools, focusing on the transfer of know-how from schools with proven inclusive education practices (national support schools) towards schools open to adopt an inclusive culture (pilot schools). The participating schools are supported by grants for the implementation of their Inclusive School Development Plans. At the policy level, in close cooperation with the Ministry of Education, a National Working Group looks into the gaps and inconsistencies between the existing policies and practices in schools, and provides assistance in addressing them.

In Slovakia, a particular focus is put on improving the quality of education and increasing the participation of Roma in inclusive mainstream education, as called by the Council of the European Union in its recommendation on the 2017 National Reform Package of Slovakia and the Council of Europe Commissioner for Human Rights following its country visit in March 2018. Indeed, the 2016 EU Agency for Fundamental Rights (FRA) survey indicated that 62 % of Roma children attend a school where all or most other children are also Roma. The 2015 OECD Programme for International Student Assessment (PISA) survey showed a decline in basic skills and a high level of inequality, with low achievement strongly linked to socioeconomic background, affecting particularly the Roma community.

INSCHOOL is thus implemented in 7 schools in 6 localities (Hlohovec, Raslavice Liptovská Teplička, Budimír, Spišský Štvrtok, Žilina Budatin and Jarna). First results will be assessed at the end of 2018. A National Working Group was established in April 2018 under the Ministry of Education, Science, Research and Sport with the participation of key education institutions. It will analyse the results achieved in schools and discussed the findings requiring systemic actions.

Project website: <https://pjp-eu.coe.int/en/web/inclusive-education-for-roma-children/home>

### **Action against trafficking in human beings (GRETA)**

*The Council of Europe Convention on Action against Trafficking in Human Beings was adopted by the Committee of Ministers of the Council of Europe on 3 May 2005, following a series of other initiatives by the Council of Europe in the field of combating trafficking in human beings. The Convention entered into force on 1 February 2008, following its 10th ratification. While building on existing international instruments, the Convention goes beyond the minimum standards agreed upon in them and strengthens the protection afforded to victims.*

*The Convention has a comprehensive scope of application, encompassing all forms of trafficking (whether national or transnational, linked or not linked to organised crime) and taking in all persons who are victims of trafficking (women, men or children). The forms of exploitation covered by the Convention are, at a minimum, sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs.*

*The main added value of the Convention is its human rights perspective and focus on victim protection. Its Preamble defines trafficking in human beings as a violation of human rights and an offence to the dignity and integrity of the human being. The Convention provides for a series of rights for victims of trafficking, in particular the right to be identified as a victim, to be protected and assisted, to be given a recovery and reflection period of at least 30 days, to be granted a renewable residence permit, and to receive compensation for the damages suffered.*

*Another important added value of the Convention is the monitoring system set up to supervise the implementation of the obligations contained in it, which consists of two pillars: the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties.*

*The Convention is not restricted to Council of Europe member states; non-members states and the European Union also have the possibility of becoming Party to the Convention.*

#### **GRETA's page on the Slovak Republic:**

<http://www.coe.int/en/web/anti-human-trafficking/slovakia>

In the context of the 2<sup>nd</sup> evaluation round, the following documents are available on the Slovak Republic:

- [Government's Reply to GRETA's 2nd Questionnaire](#), published 28 January 2015
- [GRETA's Evaluation Report and Government's Comments](#), published 9 November 2015
- [Recommendation of the Committee of the Parties](#), adopted 30 November 2015
- [Government's Reply to the Committee of the Parties' Recommendation](#), received 30 November 2016

## Preventing and combating violence against women and domestic violence

The Council of Europe Convention on preventing and Combating violence against women and domestic violence (*Istanbul Convention*, CETS No. 210) provides for two types of monitoring procedures: a country-by-country evaluation procedure and a special inquiry procedure in exceptional cases where action is required to prevent a serious, massive or persistent pattern of any acts of violence covered by the Convention. GREVIO, the Group of Experts on Action against violence against women and domestic violence, is the independent body responsible for monitoring the implementation of CETS No. 210. GREVIO launched its first evaluation procedure in spring 2016, after adopting a questionnaire on legislative and other measures giving effect to the Istanbul Convention.

## Protection of children against sexual abuse (Lanzarote Convention)

The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse, also known as “*the Lanzarote Convention*”, requires criminalisation of all kinds of sexual offences against children. It sets out that states in Europe and beyond shall adopt specific legislation and take measures to prevent sexual violence, to protect child victims and to prosecute perpetrators.

The “Lanzarote Committee” (i.e. the Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse) is the body established to monitor whether Parties effectively implement the Lanzarote Convention. To do so, the Committee evaluates the information which has been provided by the national authorities and other sources in their replies to questionnaires developed by the Committee itself. This monitoring procedure is divided by rounds, each round concerning a theme; starting with sexual abuse in the circle of trust.

As to the 1st monitoring round on the “Protection of children against sexual exploitation and sexual abuse in the circle of trust”, Slovakia was not assessed as it was not yet a Party to the Convention when the round was launched.

As regards the urgent monitoring round on “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”, Slovakia (as well as the other 39 parties covered by the round) received the following 5 “urge recommendations”:

- urges Parties in line with Article 5 of the Convention to effectively screen all persons who, by their professions, have regular contact with children affected by the refugee crisis for convictions of acts of sexual exploitation or sexual abuse of children in line with their internal law (R18);
- since examining the family situation is important where there are suspicions of child sexual exploitation or abuse, urges Parties to take the necessary measures to avoid risks that the child may be abused or exploited in case of family reunification (R27);
- urges Parties that have not yet done so to take the necessary legislative or other measures to ensure that child victims of sexual exploitation and sexual abuse affected by the refugee crisis may benefit from therapeutic assistance, notably emergency psychological care (R29);



- urges Parties to encourage the co-ordination and collaboration of the different actors who intervene for and with children affected by the refugee crisis to ensure that appropriate support may be provided immediately after the disclosure of sexual exploitation and sexual abuse (R30);
- urges Parties to make use, within the context of the refugee crisis, of the specific co-operation tools already available in the framework of Europol/Interpol which are specifically aimed at identifying victims of sexual exploitation and sexual abuse (R33).

### ***Fight against corruption (GRECO)***

*The 'Group of States against Corruption' (GRECO) monitors all its members through a "horizontal" evaluation procedure within thematic evaluation rounds. The evaluation reports contain recommendations aimed at furthering the necessary legislative, institutional and practical reforms. Subsequently, the implementation of those recommendations is examined in the framework of a "compliance procedure", assessing whether they have been implemented satisfactorily, partly or have not been implemented 18 months after the adoption of the evaluation report.*

On 18 October 2017, GRECO adopted and published the Slovak Republic's Second Compliance Report. It is available here: <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/168075f4b7>



[GRECO\\_Slovakia.pdf](#)

As for members of parliament, the only progress recorded has been the revision of the Rules of Procedure of the National Council with a view to establishing the legal basis for a Code of Conduct for MPs and for holding MPs accountable for breaches. Although the draft Code of Conduct is said to have been prepared and to address inter alia conflicts of interest and the acceptance of gifts and other benefits by MPs, it remains to be endorsed by the inter-parliamentary Working Group before being submitted to parliament for formal adoption. Regrettably, political consensus has still not been reached on how to attain greater transparency of the legislative process by regulating MPs' relations with third parties, including lobbyists, or how to further refine financial disclosure rules and strengthen their supervision and enforcement.

With respect to judges, the progress has been mixed. The corruption prevention framework has been reinforced by the new Judicial Code of Conduct, which is implemented through a unified approach involving judges, judicial self-governing bodies, including notably the Judicial Council, and professional associations of judges. The combination of the new rules and the new supervisory and advisory/counselling functions attributed to judicial bodies amount to a dedicated policy aimed at preventing and managing conflicts of interest within the judiciary. Nonetheless, the Code itself is worded in too general terms and remains to be complemented by detailed "interpretation rules", relating inter alia to conflicts of interest and give explanations and concrete examples of actual and potential conflicts of interest derived from practice. Similarly, while the adoption of legislation establishing an obligation on judges to declare liabilities and gifts is a positive development, the threshold for declaring gifts received by judges in their personal capacity remains too high and more efficient scrutiny of judges' asset declarations has to be ensured.

As regards prosecutors, several developments are to be welcomed. The Code of Ethics for Prosecutors, accompanied by a detailed commentary, has been adopted and its supervision entrusted to the Ethics Committee. Prosecutors may no longer accept gifts while performing their duties and are to declare liabilities in the form of debts and loans. That being said, as in the case of judges, the threshold for declaring gifts received by prosecutors in their private capacity needs to be lowered to an appropriate level and the scope of public disclosure of the information from the asset declarations of prosecutors expanded to consistently include value-related information.

## ***Execution of judgments and decisions of the European Court of Human Rights***

### ***Statistical data***

At 31 December 2017, there were 63 (59 cases at 31.12.2016) cases against Slovak Republic pending before the Committee of Ministers for supervision of their execution. Among these cases, 9 cases were “leading cases” evidencing more or less important general problems (10 “leading” cases at 31.12.2016).

In 2017, the CM was seized by 1 new leading case (no new leading cases in 2016) and the amount of just satisfaction awarded was € 5 940 023 (€ 594 630 awarded in 2016). In 2018<sup>1</sup>, the CM was seized by 1 new leading case and the sums awarded in 2018 as just satisfaction amount to € 3 871 940.

In 2017, 22 cases (28 cases closed in 2016) were closed by the adoption of a Final Resolution.

### ***Main cases / groups of cases under the Committee of Ministers’ supervision***

The main case presently under the Committee of Minister’s supervision cover notably the issues presented below. For fuller overview of the situation see the [Country Factsheets](#) available on the website of the Department for the Execution of Judgments of the European Court of Human Rights and in the [Committee of Ministers’ Annual Reports](#) on its supervision activity. More detailed information on the status of execution in individual cases can be found through [Hudoc-EXEC](#).

### ***Protection of property rights***

*Disproportionate restrictions on the use of property through a rent control scheme.*

[Bittó and Others](#), application No. 30255/09, judgment final on 28/04/2014, enhanced supervision.

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<sup>1</sup> Statistical data at 14th June 2018.

## Social and Economic Rights (ECSR)

The European Committee of Social Rights (ECSR) monitors compliance with the [European Social Charter](#) under two procedures: the national periodic reporting system and the collective complaints procedure. Following a decision taken by the Committee of Ministers in 2006, the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

### [Slovak Republic and the Social Charter](#)



[ESC\\_Slovak\\_Rep.pdf](#)

## Venice Commission

The [European Commission for Democracy through Law](#) (Venice Commission) is the Council of Europe's advisory body on constitutional matters. It provides States and international organisations working with it (EU, OSCE/ODIHR) with legal advice in the form of opinions.

Since 2013 the Commission adopted two opinions concerning the appointment of judges of the Constitutional Court of **Slovakia**.

### [CDL-AD\(2017\)001](#)

*Opinion on questions relating to the appointment of judges of the Constitutional Court*

### [CDL-AD\(2014\)015](#)

*Opinion on the procedure for appointing judges to the Constitutional Court in times of the presidential transition in the Slovak Republic*



[VC\\_Slovakia.pdf](#)



[VC\\_AD\\_2014\\_015.pdf](#)