

ZSÓFIA NAGY*

National Human Rights Systems in the Slovak Republic

- **ABSTRACT:** *The Constitution of the Slovak Republic provides a comprehensive foundation for safeguarding fundamental rights, integrating international human rights treaties and principles. The Constitutional Court plays a pivotal role in adjudicating human rights cases, ensuring constitutionality through both abstract and concrete reviews. Complementing this framework, national human rights institutions (NHRIs) such as the Public Defender of Rights and the Slovak National Centre for Human Rights promote equality and accountability. However, critical gaps persist, including overlapping mandates, insufficient independence of NHRIs, and inadequate funding. This study, on the one hand, presents an extensive overview of the regional human rights system of the Slovak Republic, but on the other hand, it identifies areas for improvement, such as enhancing institutional autonomy, addressing systemic human rights issues, and strengthening compliance with international standards. These reforms are essential to ensure a robust and inclusive human rights framework in the Slovak Republic.*
- **KEYWORDS:** *National Human Rights Institutions (NHRIs), Constitutional framework, Fundamental rights adjudication, Slovak Republic, Human rights protection, Institutional reform*

1. Introduction

The Constitution of a state is the embodiment of the social contract, issued to maintain order and justice within a given society. Moreover, today's constitutions inherently contain provisions on human rights and fundamental freedoms, thus extending constitutional law beyond the regulation of the powers of state bodies.

* PhD, LL.M., Senior Researcher, Central European Academy, Hungary; nagy.zsofia@centraleuropeanacademy.hu; ORCID ID: 0009-0002-9342-1965.



Human rights are essential to the dignity of every individual and form the bedrock of democratic governance.

The constitutional development of the Slovak Republic (SR) followed a natural pathway in its quest for independence and sovereignty, which culminated on September 1, 1992, with the approval of the Constitution by the Slovak National Council.¹ Since then, the Constitution has been upgraded and amended in accordance with the standards of the international and European communities it aspired to join.

The SR, as a member of the European Union and the United Nations, recognises the necessity of safeguarding these fundamental human rights. Since its creation, the SR has made significant strides in aligning its legal framework with international human rights standards. The commitment to universal human rights is reflected in its constitutional provisions, legal statutes, and participation in international human rights treaties.

The national system of human rights protection will be discussed through the exploration of three key fields, namely: the constitutional framework of human rights in the SR, the fundamental rights adjudication of the Constitutional and general courts of the SR, and finally, the work of the National Human Rights Institutions (NHRIs). The systematic general outline of these three pivotal objectives – combined with relevant regional developments, a critical approach, and insights into the future development of human rights in the SR – aims to engage the reader in exploring the multi-layered approach that the SR presents in safeguarding human rights.

2. The Protection of Fundamental Rights in the Constitution

The inherent source of fundamental rights and freedoms stems primarily from the Constitution, which was adopted on September 1, 1992, and came into effect on January 1, 1993. It consists of nine chapters and 156 articles, generally fulfilling the most important functions – legal, dynamic, stabilising, political, integrative, ideological, and cultural² – for the purpose of maintaining social order between individuals and the state, and vice versa. The Constitution gives precedence to all international treaties covering human rights and fundamental freedoms over national laws,³ except the Constitution itself. Understandably, accession to these

1 The Constitution and constitutional laws concerning the creation of the SR as an independent democratic state became fully effective on January 1, 1993, when, in conjunction with Constitutional Act No. 542/1992 Coll. of the Federal Assembly of the Czech and Slovak Federative Republic on the dissolution of the Czech and Slovak Federative Republic, the Slovak Republic was established as an independent, sovereign, and democratic state.

2 Chovanec, 2021, p. 134.

3 Art. 7(5) of the Constitution of the SR.

international treaties must be in accordance with the approval and ratification procedures of the National Council.⁴

Regarding the terminology on human rights in the legal doctrine of the SR, the Constitution contains a specific section dedicated exclusively to the protection of fundamental rights, entitled *Fundamental Rights and Freedoms*, where all generations of human rights are enshrined.

Moreover, the term *constitutional rights and freedoms* is also mentioned in Art. 154c (1) of the Constitution, stipulating the scope of priority application of international treaties on human rights and fundamental freedoms to which the SR is a signatory. This constitutional amendment was designated to establish the priority status of international treaties on human rights and freedoms ratified by the SR prior to the introduction of this constitutional amendment.

The universally recognised principles of international human rights law are enshrined in Art. 12(1) of the Constitution, stating that: 'All human beings are free and equal in dignity and in rights. Their fundamental rights and freedoms are inalienable, imprescriptible, and irreversible.' By this passage, regardless of the diverse use of terminology in Slovak jurisprudence regarding human rights, the Slovak legal order aligns with the generally accepted international interpretation of human rights law.

Thus, in its jurisprudence, the SR tends to use the terms *fundamental rights* or *fundamental human rights*. Although other terms, such as *human rights* and *constitutional rights*, are also frequently used interchangeably, there is no significant terminological distinction between them.

■ 2.1. Relationship With International Law

The relationship between the Constitution and international law is defined in the Constitution through scattered provisions, as the interpretation and application of international law within national circumstances are of pivotal importance for human rights protection. The general rule on international treaties is stated in the Art. 1(2) of the Constitution, which provides that the Slovak Republic acknowledges and adheres to the general rules of international law, the international treaties by which it is bound, and its other international obligations.

For greater clarity regarding the precedence of international law in relation to international human rights treaties, Art. 7 of the Constitution specifies that only certain types of international treaties take precedence over national laws, and only under specific conditions. These include international treaties on human rights and fundamental freedoms, international treaties that do not require the enactment of a law, and international treaties that directly confer rights or impose duties on natural or legal persons.

4 Art. 7(4) of the Constitution of the SR.

Moreover, the Art. 154c constitutional amendment is of great importance, as it clarifies the status of international treaties by which the SR is bound. This amendment was necessitated by the country's accession to the European Union, which altered the status of international treaties – including those concerning human rights and freedoms – within the Slovak legal framework that were ratified before July 1, 2001 (i.e., before the constitutional amendment). These international treaties on human rights and fundamental freedoms are part of the Slovak legal order and take precedence over national laws if they provide a greater scope of constitutional rights and freedoms.⁵ Other international treaties ratified and promulgated before the constitutional amendment also form part of the legal order, if specified by law.⁶

The horizontal and vertical conception of human rights functioning can be observed in the Constitution. Through interpretation of certain articles, it becomes evident that both state entities, private entities, and individuals are required to respect human rights and freedoms.

The Constitution holds a vital role in modern society, warranting both respect and protection. The foundation for upholding the Constitution in societal practice lies in its representation of a broad social consensus on the essential principles of state and societal functioning. In this context, both the state and individuals – including social groups and political forces – play a crucial role in ensuring the Constitution's effective implementation and safeguarding its authority.⁷

■ 2.2. *Fundamental Rights in the Constitution*

The Constitution, in its part dedicated to fundamental rights and freedoms, provides specific chapters for certain groups within society that deserve particular protection due to their increased vulnerability.

First, an entire section is devoted to the rights and freedoms of national minorities and ethnic groups. Section 4 focuses on enhancing the right to equal treatment and the positive right to protection. The anti-discrimination clauses specify that no member of a national minority or ethnic group shall face disadvantage based on their identity. The simplicity of Art. 33⁸ aims to convey the general purpose of minority protection – that no one shall be mistreated based on their national and ethnic identity in either private or public contexts – allowing room for broad interpretation (e.g., to prevent segregation, language or religious restrictions, disadvantages in public service, or persecution).

5 Art. 154c (1) of the Constitution of the SR No. 460/1992 Coll.

6 Art. 154c (2) of the Constitution of the SR No. 460/1992 Coll.; for further analysis see: Šmigová, 2023, p. 285.

7 Orosz, Svák and Balog, 2012, p. 122.

8 'Membership in any national minority or ethnic group may not be used to the detriment of any individual.'

Second, positive rights to protection are stipulated in Art. 34, which elaborates on the rights of national minorities and ethnic groups from the standpoint of practical cultural and political rights. These include rights to promote their culture, disseminate and receive information in their mother tongues, and establish associations and educational or cultural institutions. For centuries, the SR was part of various state entities⁹, resulting in its territory being home to numerous minority and ethnic groups. It was not until the “rise of nation-states” in the 1840s that the inhabitants began to identify themselves more strongly as members of specific nations, fundamentally reshaping their sense of identity.

The use of minority languages is guaranteed, particularly with respect to their admissibility in education, official communication, and decision-making on issues related to national minorities and ethnic groups, provided that the conditions for minority language use are met under other laws. However, the rights of national minorities are balanced by a constitutional provision aimed at protecting the national unity and sovereignty of the Slovak state.¹⁰

Other specific minority or vulnerable groups are mentioned in the Constitution, jointly incorporated in Section 5, entitled *Economic, Social, and Cultural Rights*. Art. 38 stipulates that women, minors, and persons with disabilities are entitled to special protection in the fields of healthcare and employment. The articles of Section 5 concern the social security protection of these vulnerable groups, addressing anti-discrimination and additional safeguards. Moreover, the protection of the family structure, children, and pregnant women is articulated in Art. 41, which establishes special protection for these groups from a social security and welfare perspective, ensuring equal rights.

The Constitution, as the highest legal authority, defines fundamental human and political rights, the rights of national minorities and ethnic groups, as well as economic, social, and cultural rights. It also enshrines the right to environmental protection, the preservation of cultural heritage, and access to judicial and other legal protection. The term “human rights” refers to a set of rights guaranteed to citizens by the Constitution and international treaties ratified by the state. These rights establish the relationship between a democratic state and all its citizens, regardless of nationality, race, age, gender, religion, political beliefs, or any other potentially discriminatory distinction. This modern concept is rooted in natural law theories, emphasising that people, as social beings, possess inalienable rights that the state is obligated to uphold. These human rights ensure human dignity and the possibility of living freely in a just society.

9 The legal history of the SR is quite unique, considering the fact that its territory was part of different countries throughout history. Scholars mainly conduct research on the legal and state history of Czech and Slovak territories jointly. Most of the Slovak territories belonged to the Hungarian state entity in the 19th century, and to Czechoslovakia in the 20th century. See more in: Nagy, 2022.

10 Art. 34(3) of the Constitution.

The inclination towards the protection of fundamental rights, incorporated in the basic functions of the Constitution, contributes to its universal character through its axiological function, which reflects the value orientation of the state and society – i.e., it represents societal values shared within the community and with which society as a whole identifies.¹¹

At first glance, however, the Constitution could be considered neutral, as Art. 1(1) stipulates that ‘The Slovak Republic is a sovereign, democratic state governed by the rule of law. It is not bound to any ideology or religion.’ Nevertheless, the quoted sentence strongly incorporates a value-based element aimed at preventing any particular ideology or religion from gaining a dominant position in the state or society. It expresses respect for and recognition of the natural plurality of opinions inherent in any democratically organised society.¹²

The Constitution establishes several guiding principles concerning the status of the individual within the state: sovereignty and democracy, the source of state power derived from citizens who exercise it through their elected representatives or directly¹³, and the equality and non-discrimination of individuals’ fundamental rights¹⁴. These principles draw inspiration from fundamental axiological values, including human dignity, freedom, equality, and the rule of law. Although the Constitution does not directly establish a hierarchical order, it follows the evolution of the generations of human rights.

Regarding the hierarchy of human rights and freedoms, the Constitution does not explicitly establish an order among them. However, certain rights – such as the right to life and human dignity – are often considered foundational, as they underpin the realisation of other rights. The Constitutional Court of the SR has emphasised that while all fundamental rights are protected, some may carry more weight in specific contexts, especially when balancing competing rights or interests.

The Constitutional Court has established the principle of constitutionally conforming interpretation as the primary method for interpreting fundamental rights. From the principle of the priority of constitutionally conforming interpretation, it follows that in cases where various interpretations of related legal norms are possible using standard interpretive methods, the interpretation that ensures the full or fuller realisation of constitutionally guaranteed rights of natural or legal persons must be preferred. In cases of doubt, all public authorities are constitutionally obligated to interpret legal norms in favour of the realisation of constitutionally guaranteed fundamental rights and freedoms, or human rights and fundamental freedoms stemming from a qualified international treaty.¹⁵

11 Orosz, Svák and Balog, 2012, pp. 57 and 60.

12 Ibid., p. 61.

13 Art. 2(1) of the Constitution of the SR No. 460/1992 Coll.

14 Art. 12 of the Constitution of the SR No. 460/1992 Coll.

15 PL. ÚS 110/2011 (3 July 2013) p. 21.

■ 2.3. *The Catalogue of Fundamental Rights in the Constitution*

The Constitution of the SR organises freedoms and rights into specific categories, each encompassing various provisions. Among the fundamental human rights and freedoms, the Constitution lists the right to life, personal liberty, human dignity, privacy, property rights, freedom of movement, freedom of thought, conscience and religion, freedom of expression, the right to information, freedom of assembly, and freedom of association. Moreover, political rights include the right to participate in public affairs, to vote and be elected, to access public office, to petition, and to participate in referendums.

Another group of fundamental rights covers the core rights of national minorities and ethnic groups (the right to education in one's language, to use one's language in official communications, to cultural development, and to participate in addressing minority-related matters). Furthermore, economic, social, and cultural rights are incorporated in the Constitution (the right to work and fair remuneration, to rest and leisure, to social security, to protection of family, maternity, and parenthood, to education, and freedom of scientific research and artistic creation). The Constitution also includes rights related to environmental protection and cultural heritage (the right to a favourable environment, to timely and complete information about the environment, and the obligation to protect and enhance the environment and cultural heritage). Lastly, all elements of access to justice and a fair trial are incorporated to guarantee judicial and legal protection of individual human rights.

The SR has its own specific characteristics regarding the prioritisation and importance of certain fundamental rights and freedoms, reflecting its political, social, and economic context. The adjudication of fundamental rights cases involving the SR before the European Court of Human Rights is notable, as certain areas of human rights consistently appear before the Court, highlighting persistent issues with their protection. There are also emerging dynamic areas (e.g., environmental issues, medically assisted reproduction) where human rights protection must be further developed and complemented. From the author's own discretion, the right to a fair trial, the right to non-discrimination, and the right to a healthy environment are areas of law that could be of particular importance to the SR.

The right to a fair trial has been a constant concern; however, in recent years, the issue of the rule of law, judicial efficiency, and lengthy proceedings has become increasingly significant in the SR. If these challenges are insufficiently addressed, they could potentially undermine public trust in the judiciary, hinder

access to justice, and attract scrutiny from international bodies such as the European Court of Human Rights.¹⁶

Furthermore, non-discrimination rights in relation to national and ethnic minorities have been on the agenda since the establishment of the SR as an independent sovereign state.¹⁷ The recent 2021 census indicates the relevant minority groups numerically, particularly the Hungarian and Roma minorities.¹⁸

An additional right should be mentioned, linked to the principle of non-discrimination and stemming from the Constitution – namely, the right to education for all children. This right became particularly essential during the pandemic period¹⁹, when certain marginalised groups were positively discriminated against to ensure access to education.²⁰ Even before that, the problem of segregation in the school system had drawn the attention of international human rights organisations. The SR has been focusing on addressing such issues in recent years through national projects aimed at introducing good practices, as well as through legislative changes.²¹

Another issue concerns whether limitation clauses exist in the Constitution. Fundamentally, limitation clauses in any constitution embody a nuanced approach that emphasises the importance of balance and oversight to protect both public

16 The ECtHR has shown greater scrutiny of the SR's criminal procedures, reflecting potential systemic issues in judicial processes, including lengthy proceedings and pre-trial detention conditions. Moreover, the dismantling of the Special Prosecutor's Office has been acknowledged with regret by the European Commission, which expressed concerns about the effectiveness of investigations and the rule of law in the country. See more: Máčaj, 2023, pp. 23–34; Wong, 2024.

17 Regarding current legal issues related to non-discrimination and the controversial Beneš Decrees, see: Scheu and Pál, 2023, pp. 57–67.

18 The Slovak Statistical Office, for the first time, allowed the assignment of both a first and second nationality; thus, the results of the population census must be analysed with greater complexity and nuance. The absolute number of people of Hungarian minority is 456,154 (422,065 indicated Hungarian nationality as first; 34,089 as second), and the Roma minority is 156,164 (67,179 as first; 88,985 as second). For critical analysis, see: Harrach, 2023, pp. 7–33.

19 Regarding the derogation of human rights in cases of crises, see: Hassanová, 2023, pp. 15–27.

20 The Decision of the Minister No. 020/18259:2-A1810 focused on reopening regular in-person teaching for students from socially disadvantaged backgrounds who attended primary and secondary schools and lacked material and financial means to access distance online learning. These students were to be taught in person in small groups (five students and one teacher) under conditions specified by the decision. Such uplifting of students from these social backgrounds could be evaluated as an efficient, sensitive approach to the right to education under restrictive circumstances. See: Cenkner and Pavlíčková, 2021.

21 On December 22, 2023, the European Commission referred the SR to the Court of Justice of the European Union for its insufficient efforts in addressing the segregation of Roma children in education (Commission v. SR, Case C-799/23). The application underlined the urgent need to implement systemic changes in the school system to promote desegregation, to which the SR responded through initiatives such as the National Project 'Opportunity for All.'

welfare and constitutional integrity. The limitation of fundamental rights serves as a critical mechanism for crisis management in extraordinary circumstances that the state may face, which necessitates protecting public interests and welfare to the *detriment* of individual freedoms. Consequently, key principles of legitimacy, legality, and proportionality have to be assessed to ensure due diligence and prevent the erosion of fundamental rights under the guise of necessity.

The Constitution contains such clauses on both general and specific rights. The general clause is expressed in Art. 13(3): 'Legal restrictions on fundamental rights and freedoms must apply equally to all cases that meet the prescribed conditions.' Furthermore, Art. 13(4) highlights that 'When restricting fundamental rights and freedoms, their essence and purpose must be respected. Such restrictions may only be applied to achieve a specified objective.' These passages encompass the general norm on the limitation on fundamental rights and freedoms, stressing the uniformity of application and the need to respect the core essence and purpose of the restricted rights, with a clearly defined objective to be achieved through the limitation – thus still upholding the principles of the rule of law.²²

Besides addressing limitations generally, the Constitution also recognises and specifies the exceptional circumstances under which fundamental rights can be restricted in Art. 51(2): 'The conditions and scope of the restriction of fundamental rights and freedoms, as well as the extent of obligations during times of war, a state of war, a state of emergency, and a state of crisis, shall be determined by a constitutional law.' The aforementioned constitutional law is Act No. 227/2002 Coll. on State Security in Times of War, State of War, State of Emergency, and State of Crisis, which specifically regulates the conditions and scope of restrictions on fundamental rights and freedoms, listing them for each type of crisis situation. Legitimate restrictions on fundamental rights and freedoms are typically repressive in nature and are designed to safeguard values acknowledged by society. However, if these limitations are not upheld, any interference with fundamental rights and freedoms is prohibited and, if carried out, deemed unconstitutional.²³

Specific clauses in the Constitution stipulate which exact fundamental right may be limited, under what circumstances, and to what extent. These fundamental freedoms differ in character, usually applying to *relative* human rights – e.g., freedom of movement and residence, the right to peaceful assembly, the right to strike, the imposition of a work obligation, the right to education, the right to privacy, property rights, freedom of religion and belief, the right to health protection, and the right to judicial and other legal protection.²⁴

22 Legality, legal certainty, prevention of abuse of power, equality before the law, non-discrimination, and access to justice. See: Venice Commission, CDL-AD(2016)007, Rule of Law Checklist.

23 Švecová, 2019, p. 26.

24 See the following Articles of the Constitution: Arts. 16, 17, 18, 20, 23, 24, 28, 35, 40, 42, 46.

In the history of the SR, a state of emergency²⁵ has been declared three times, the last two occasions necessitated by the global COVID-19 pandemic.²⁶ Understandably, the proportionality test had to be utilised as a fundamental tool to evaluate whether limitations on fundamental rights were justified. The proportionality test encompasses assessments of legitimacy (based on a legitimate objective), suitability (whether the restrictive measure is appropriate to achieve that objective), and necessity (measuring the level of intrusion caused by the restriction). Perhaps the most nuanced and problematic step is evaluating proportionality in the *narrow* sense – that is, whether the restriction was balanced in relation to the objective it sought to achieve. This step examines whether the benefits of achieving the legitimate objective outweigh the harm caused to the restricted rights, requiring a very complex analysis.²⁷

Even though the legislator anticipated situations requiring the restriction of fundamental rights in various forms, the pandemic highlighted setbacks caused by surprise and lack of preparedness among the executive, legislative, and judicial bodies. The Constitutional Court was summoned multiple times to evaluate the constitutionality of decisions (mainly government resolutions) related to declaring a state of emergency or crisis and imposing restrictions on freedoms such as movement. Judicial activity during the pandemic provided an opportunity to reflect on vulnerabilities in the practical application of the proportionality test

25 The definition of a state of emergency is stipulated in Constitutional Act No. 227/2002 Coll. on State Security in Times of War, State of War, State of Emergency, and State of Crisis.

26 Government Resolution No. 114 of March 15, 2020, regarding the proposal to declare a state of emergency under Article 5 of Constitutional Act No. 227/2002 Coll. on State Security in Times of War, State of War, State of Emergency, and State of Crisis; Government Resolution No. 587 of September 30, 2020.

27 Lalík, 2021, pp. 62–63.

for restricting fundamental rights, as well as the potential for misuse and over-reaching legislation.²⁸

■ 2.4. *Right to Access to Justice and Fair Trial*

The right to access justice and to an effective remedy is a cornerstone of fair treatment under the law. These rights are deeply rooted in the principle of the rule of law, which becomes fully realised when individuals engage with judicial proceedings. By facilitating such access, the rule of law empowers individuals to expect a process marked by integrity, fairness, and equity in the evaluation of their matters by the judiciary or other competent state authorities. By evaluating the legal prerequisites of these rights, we can gain a deeper understanding of the effectiveness of their implementation in later chapters.

The essence of access to justice is intricately linked to the calibre of the legal process administered by the courts on behalf of the state. The qualitative standard of this process hinges on the degree to which legal principles are meaningfully integrated into judicial reasoning and decision-making. In their absence, the application of the law risks descending into rigid formalism, stripping it of justice and equity. Legal principles thus perform a pivotal function in embedding societal values within the legal order, safeguarding these moral and ethical standards through robust legal protection.²⁹

There is no exact definition of the right to justice or effective remedy, but legal science usually understands these as substantive and procedural legal institutes addressing the right to a fair trial, the right to appeal, access to courts,

28 Through the analysis of the Court's decision in PL. ÚS 2/2021, where the legality, proportionality, and legitimacy of Government's Resolution No. 160 of March 17, 2021, to prolong the state of emergency in the country were reviewed, one can see an example of the balancing act necessary in decision-making regarding restrictions on fundamental rights and freedoms. The Government justified the prolongation due to the health risks posed by the British variant of the virus and, in order to protect public health, imposed limitations on free movement and assembly, with exemptions for vulnerable groups. The Court confirmed the resolution's constitutionality but emphasised the need for continuous re-evaluation of restrictions to prevent potential overreach. It highlighted the balance between public safety and fundamental rights, ensuring that measures are justified, proportionate, and time-bound.

It is interesting to examine the concurring opinion of Judge Peter Straka, who stated that the proportionality test was inadequate, as the majority of the Court did not duly analyse the necessity and balance of the restrictions and the intended objective. He argued that the Government did not adequately demonstrate that the restrictions were the least invasive means to achieve the objective of public health protection. The lack of substantial data to support the extension of the state of emergency seems to imply that the mere existence of the pandemic was considered sufficient justification; however, a state of emergency should be an exception, not a norm. Less restrictive measures, such as targeted pandemic legislation, could have been a better response in the name of proportionality in a narrower sense. See: Constitutional Court's decision (PL. ÚS 2/2021) and the concurring opinion of Judge Peter Straka.

29 Mrva and Krajovič, 2017, p. 96.

and ensuring an effective legal remedy. These “sub-rights” under the right to access to justice also prevail in the Constitution.

Namely, the right to access to justice is stipulated in Art. 46, guaranteeing that everyone may claim their rights in an independent and impartial court or, in specific cases, before another authority of the SR, and providing that anyone who claims their rights were violated by a decision of a public authority has the right to seek judicial review, unless otherwise stipulated by law. Paragraph 3 encapsulates the right to an effective remedy, as it ensures the right to compensation for damages caused by unlawful decisions or improper conduct by public authorities, including the judiciary.

From a broader perspective, some prerequisites to the right to access to justice are scattered throughout the Constitution. These are legal institutes that contribute to just proceedings, e.g., the presumption of access to legal assistance³⁰ and the opportunity to conduct proceedings in a minority language.³¹

3. Fundamental Rights Adjudication in the SR

The inclusion of the right to judicial and legal protection among the human rights safeguarded by the Constitution underscores the practical enforcement of legal protection. This applies not only to human rights but also to all rights derived from the Slovak legal system. Without effective mechanisms for judicial and legal protection, all other rights would depend solely on voluntary adherence, which is never fully achieved in any state.³²

The protection of fundamental rights is vested in several state bodies, all of which can be characterised by their purpose to preventively or repressively ensure the protection of rights and freedoms.³³

The concrete protection of fundamental human rights was initially carried out by the Constitutional Court, but under its influence, it has become increasingly vested in the general courts, which provide direct protection in individual cases.³⁴

The Slovak framework for monitoring and enforcing human rights includes several key institutions: the Constitutional Court of the Slovak Republic, the Supreme Court of the Slovak Republic, the Supreme Administrative Court, the Public Defender of Rights (Ombudsman), the Ordinary Court System, and the Prosecutor’s Office. These bodies are integral components of the SR’s institutional

30 Art. 47(2) of the Constitution of the SR.

31 Art. 34(2) of the Constitution of the SR.

32 Svák and Cibulka, 2009, p. 927.

33 Svák, 1995, p. 7.

34 Orosz, Svák and Balog, 2012, p. 227.

human rights protection structure and are explicitly mandated by law to fulfil this role at the national level.

The Constitutional Court of the SR is an independent judicial body responsible for protecting constitutionality.³⁵ It oversees the constitutionality of laws and legal regulations, decisions by public administration or local government authorities, and their effective implementation. Moreover, it adjudicates individual complaints from natural or legal persons alleging human rights violations.³⁶ The Constitutional Court is empowered to exclusively interpret the Constitution or constitutional laws in cases of dispute, including matters related to fundamental rights and freedoms.³⁷

The judicial system is composed of the Supreme Court of the SR and other courts.³⁸ The Supreme Court is the highest body of general judiciary, aiming to ensure uniformity in the interpretation of laws by lower-level courts. It publishes significant legally binding decisions in the *Collection of Opinions of the Supreme Court and Decisions of the Courts of the Slovak Republic*.³⁹

The establishment⁴⁰ of the Supreme Administrative Court marked a significant step forward in restoring the judiciary's true function and regaining public trust in the independence and effectiveness of the justice system. It is the supreme judicial authority in matters of administrative justice, ensuring the uniformity and legality of decision-making in administrative matters. The Court has assumed some competencies previously held by the Constitutional Court, such as ruling on the constitutionality and legality of elections to local self-government bodies. Its role in adjudicating these matters has led it to be described as a "small constitutional court."⁴¹

The Public Defender of Rights was introduced in the Constitution in 2001 as an independent institution dedicated to safeguarding the fundamental rights and freedoms of individuals before public administration bodies and other public authorities.⁴² The Office of the Public Defender of Rights is a typical "soft-law" institution, as it does not possess direct enforcement powers, although it plays a significant role in critiquing institutional malfunctions of public bodies. The initiation of public debate on societal issues also contributes to the promotion

35 Art. 124 of the Constitution of the SR.

36 Art. 127 of the Constitution of the SR.

37 Art. 128 of the Constitution of the SR.

38 Art. 143 of the Constitution of the SR.

39 Art. 8 of the Act No. 757/2004 Coll. on Courts.

40 The Supreme Administrative Court was established with effect from January 1, 2021, by Constitutional Act No. 422/2020 Coll., which amends and supplements the Constitution, as amended. Its activities commenced on August 1, 2021.

41 The Court's competencies are defined in Act No. 162/2015 Coll. on the Administrative Judicial Code, as amended, and Act No. 432/2021 Coll. on the Disciplinary Rules of the Supreme Administrative Court of the Slovak Republic and on the amendment and supplementation of certain laws (Disciplinary Judicial Code), as amended.

42 Art. 151a of the Constitution of the SR.

of human rights to a wider audience. Its functions are governed by the Constitution and Act No. 564/2001 Coll. on the Public Defender of Rights. A major new role of the Public Defender of Rights was introduced in May 2023: acting as a coordinating body for the National Preventive Mechanism under the Optional Protocol to the Convention against Torture.⁴³

The Ordinary Court System in Slovakia was extensively reformed in 2020, aiming to achieve specialisation of judges, improve decision quality, and, in the long term, produce faster and more predictable court rulings. An additional benefit is reducing the risk of corruption by enlarging court districts. District and regional courts serve as the initial institutions individuals encounter in safeguarding human rights, directly applying protection mechanisms in line with the right to access to justice and effective remedy, thereby strengthening legal certainty.⁴⁴

The Prosecutor's Office, as stipulated in the Constitution, protects the rights and legally protected interests of individuals, legal entities, and the state.⁴⁵ Its role, as defined by law, is that of a supervisory authority for the protection of rights, requiring it to take measures to prevent, identify, and rectify violations of legality, restore infringed rights, and hold responsible parties accountable.

■ 3.1. *The Constitutional Court of the SR*

The Constitutional Court of the SR is an independent judicial body for the protection of constitutionality.⁴⁶ It represents the highest judicial authority for constitutional protection as well as for the protection of fundamental rights. Within the dual judicial system, the Constitutional Court's protection is invoked only when it is not ensured by another (general) court. Its principal role is to support the alignment of the democratic legal framework and to uphold the rights and freedoms of

43 Art. 151a of the Constitution of the SR empowers the Court to systematically inspect facilities where individuals deprived of their liberty are held or could be held by public authorities. These facilities include prisons, detention centers, police custody cells, asylum facilities, and immigration detention centers. The objective is to protect individuals from torture, inhuman treatment, or other forms of mistreatment.

See: Art. I of Act No. 110/2023 Coll., which amends and supplements Act No. 564/2001 Coll. on the Public Defender of Rights, as amended, and certain other laws.

44 'The general judiciary ensures that individuals and legal entities can enforce their rights, commits to providing them with effective protection against unlawful state interventions, and prioritises the protection and promotion of individual fundamental rights and freedoms. Relevant procedural codes guarantee the effectiveness of this legal protection and safeguard the lawful approach to exercising fundamental rights and freedoms.'

See: II. ÚS 13/2001 Resolution of February 14, 2001, Collection of Decisions and Resolutions of the Constitutional Court of the Slovak Republic 2001.

45 Art. 149 of the Constitution of the SR.

46 Art. 124 of the Constitution of the SR.

citizens. The Constitutional Court has diverse functions and powers, which are primarily regulated in several scattered legal sources.⁴⁷

The Constitutional Court has versatile functions, including the review of constitutionality of various legal acts and international agreements⁴⁸; resolution of competence disputes between state bodies and local governments⁴⁹; adjudication on the legality of elections and referenda⁵⁰; rulings on the vacancy or indictment of the President⁵¹; the protection of fundamental rights of natural and legal persons⁵²; and the interpretation of the Constitution or constitutional laws in cases of dispute.⁵³

The Constitutional Court has progressively expanded its interpretative authority concerning the Constitution, frequently rendering decisions of a proactive nature. This evolution reflects its assertion of informal powers through judicial law-making in interpreting constitutional provisions and safeguarding fundamental rights. The dynamic interplay between the executive and legislative branches has significantly influenced the development of the Court's competencies. During the politically turbulent 1990s, the Constitutional Court adopted a

47 Arts. 124–140 of the Constitution of the SR stipulate the competences of the Constitutional Court. These are further detailed in Act no. 314/2018 on the Constitutional Court of the SR, which specifies the position of judges, procedural rules, and the organisational and operational framework. Internal regulations, such as Regulation No. 500/2019, govern procedural specifics, internal functioning, and staff organisation (plenum, senates, judges, rapporteurs).

48 Arts. 125 (1) and (4) of the Constitution of the SR.

49 Arts. 126 and 127a of the Constitution of the SR.

50 Arts. 125b and 129 of the Constitution of the SR.

51 Art. 107 of the Constitution of the SR.

52 Art. 127 of the Constitution of the SR.

53 Art. 128 of the Constitution of the SR.

resolute and assertive stance in protecting constitutionality, actively fulfilling its role as the guardian of the constitutional system of checks and balances.⁵⁴

As the primal protector of constitutionality, the Constitutional Court exercises this role through two means: first, through judicial review (proceedings on the conformity of legal regulations), and second, through proceedings on constitutional complaints. Both mechanisms ensure that fundamental rights are collectively and individually protected, thus upholding the constitutional order of the state.

Regarding the function of judicial review and the allocation of competencies between the two judicial systems (general and constitutional judiciary), the Constitutional Court alone is entrusted with determining the constitutional compliance of legal regulations throughout the entire vertical hierarchy.⁵⁵ This mechanism serves the collective protection of fundamental rights and is expressed through the following categorisation of the Court's jurisdiction: abstract constitutional review, concrete constitutional review, interpretative jurisdiction, authority related to the implementation of democratic governance, and the power to resolve disputes over jurisdictional competence.⁵⁶

■ 3.2. *Judicial Review and Constitutional Complaint*

Abstract constitutional review ensures that all laws and subordinate legal norms align with the Constitution. By enforcing the hierarchical structure of legal

54 A notable case illustrating the Court's approach is PL. ÚS 33/95, where it adopted an "activist" stance regarding the method of privatisation of state property following the transition from a socialist to a capitalist economic system. The government's modification of privatisation rules mid-process prompted parliamentary opposition, as the retroactive effect violated the principle of legal certainty and the rule of law (Art. 1 of the Constitution).

The Constitutional Court held that Section 24(10) of the challenged Act violated Articles 12(1), 13, and 20(1) of the Slovak Constitution. This provision compelled municipalities and housing cooperatives to accept state-issued bonds as payment for property transfers. The Court ruled that this unlawfully restricted property rights by forcing acceptance of bonds that were neither liquid nor equivalent to cash. Furthermore, the proportionality test revealed an unequal burden on municipalities and cooperatives. The Court clarified that citizens do not have a constitutional right to receive property from the state, and thus Parliament is free to alter privatisation methods, provided equality and fairness are maintained.

In the public eye, this decision established the Court as a courageous and independent institution among the three branches of power, capable of opposing political pressures in government economic policy. Although later scholarly critiques argued that, by modern standards, the proportionality test might not justify the municipalities' burden – given the primacy of public interest – the decision nonetheless positioned the Court as a critical and independent actor in strengthening democracy. For more see: Štiavnický and Steuer, 2020, pp. 185–186.

55 Čič et al., 1997, p. 415.

56 Svák and Cibulka, 2009, p. 876.

regulations, this mechanism upholds the supremacy of the Constitution, which embodies the will of the people as expressed in the social contract – the ultimate foundation of authority in the state.

The initiation of proceedings is governed by the principle of disposition, meaning that the Constitutional Court can only commence proceedings based on a formal proposal submitted by authorized subjects.⁵⁷ The procedural rules for initiating proceedings in abstract constitutional review are governed by the Constitutional Court Act and the Rules of Procedure, which specify that only state authorities may initiate such proceedings.⁵⁸ If the Constitutional Court rules that certain legal regulations are not in compliance with the Constitution, the respective regulations, their parts, or certain provisions lose their effect. The bodies that issued these laws are obligated to bring them into compliance with the Constitution, constitutional laws, and international treaties promulgated in accordance with the law, within six months of the Constitutional Court's ruling.⁵⁹ This form of norm control is often referred to as that of a 'negative legislator', as the Court has the competence to annul laws in part or in whole.

The legal basis for concrete constitutional review stems from Arts. 127 and 127a⁶⁰ of the Constitution. It aims to provide protection in specific cases where constitutional values have been violated, directly and immediately threatening an individual's constitutional rights or resulting in their violation. A constitutional complaint may be filed in such cases, serving as a control mechanism over state bodies to ensure respect for fundamental rights when interacting with natural persons.

An individual or legal entity is authorised to file a constitutional complaint if they allege a violation of their fundamental rights or freedoms, or of human rights and fundamental freedoms arising from an international treaty ratified by the SR and promulgated in accordance with the law.

Based on the principle of subsidiarity, the Constitutional Court can decide on a constitutional complaint only if no other court is competent to decide on the matter. This implies that the Constitutional Court's jurisdiction to decide on constitutional complaints does not replace the authority of other public bodies

57 'These entities do not include the petitioner as a natural person. The right to file a petition to initiate proceedings on the conformity of legal regulations cannot be granted to a natural person, even in light of Art. 152(3) of the Constitution. Art. 152(3) of the Constitution, as a procedural provision, regulates only the petitions of entities specified in Art. 130 of the Constitution. This provision refers exclusively to entities that are procedurally authorized to initiate proceedings on the conformity of legal regulations pursuant to Art. 130(1)(a) to (e) of the Constitution.'

PL. ÚS 1/1994 Resolution of the Constitutional Court from January 27, 1994.

58 Specified in Art. 41 of the Act No. 314/2018 Coll. on the Constitutional Court, and the Art. 130(1) of the Constitution.

59 Art. 125(3) of the Constitution.

60 A constitutional complaint is also available also to local self-government bodies – the so-called 'municipal complaints' – according to Art. 127a of the Constitution.

to adjudicate the rights and legally protected interests of individuals and legal entities or to provide protection for those rights and interests. The Constitutional Court serves the last “instance” of effective national authority to address violations of fundamental rights.

If the Constitutional Court accepts a complaint, it must determine whether the protected rights or freedoms have been violated by a valid decision, measure, or other action. If such a violation is found, the Court is required to annul the decision, measure, or action in question. In cases where the violation arises from inaction, the Constitutional Court may instruct the responsible party to take appropriate action. Additionally, the Court may remand the case for further proceedings, prohibit the continuation of the infringement of specific fundamental rights and freedoms, or, where feasible, order the responsible party to restore the status quo prior to the violation.⁶¹

The procedural specificities of the constitutional complaint are defined in Art. 123 of the Act on the Constitutional Court, highlighting the principle of subsidiarity and the casual link between the violation and the decision of the state authority.

The SR can be characterised by a model of concentrated constitutional judiciary, meaning that the Constitutional Court is the only specialised court with the authority to review constitutionality and it is not concerned with the tasks of ordinary courts. However, the ordinary court system is another pivotal body that carries out fundamental rights adjudication, while at the same time being part of an independent judicial system with the objective of protecting legality.⁶² Art. 142(1) of the Constitution stipulates the competence of ordinary courts: they adjudicate civil and criminal cases and review the legality of decisions made by public administration bodies, as well as the legality of decisions, measures, or other interventions by public authorities, if provided for by law.

Individuals can, in the first instance, utilise the system of ordinary courts in cases of alleged violations of their fundamental rights, where an independent judicial authority applies the law on fundamental rights in a manner consistent with the Constitution. Art. 46 of the Constitution establishes the right to access to justice and the right to an effective remedy provided by the legal order.

Ordinary courts’ judgments cannot be reviewed by another ordinary court, but the Constitutional Court has the authority to review such judgments. However, this review does not extend to reassessing the factual findings or legal conclusions of the ordinary courts. Instead, the Constitutional Court focuses on determining whether the interpretation and application of the law are compatible with the Constitution or with international treaties on human rights and fundamental freedoms.

61 Art. 127 of the Constitution.

62 II. ÚS 1/95 Resolution of the Constitutional Court dated January 10, 1995.

The Constitutional Court may intervene only in cases where the decision of an ordinary court demonstrates arbitrariness, lacks adequate justification, or violates constitutional principles. Even if the Constitutional Court disagrees with the legal interpretation of an ordinary court, it may replace the court's legal opinion only if the interpretation is found to be arbitrary, unjustified, or constitutionally incompatible.

Ordinary courts operate within a separate judicial system from the Constitutional Court; however, their roles are interconnected through the ability of ordinary courts to initiate a review of the constitutionality of laws they are required to apply in their decision-making. From this perspective, judicial initiatives play a significant role, as ordinary courts can act as “watchdogs” ensuring preliminary constitutional oversight of laws while respecting the Constitutional Court's exclusive authority to interpret and determine constitutionality.

■ 3.3. Statistics

The annual statistics detailing the workload of the Constitutional Court are publicly accessible online, providing valuable insights into the most pressing issues concerning constitutional matters within the state and the safeguarding of fundamental rights. This analysis presents an overview of the most recent data from 2022, 2023, and the first half of 2024, offering a quantitative perspective on the workload of constitutional adjudication.⁶³ More comprehensive data are usually available in the published *Yearbook of the Constitutional Court*; however, the most recent publication contains processed data only up to 2023.

The most detailed statistics from 2022 provide an in-depth description of the types of proceedings before the Constitutional Court.⁶⁴ The majority of cases focused on the concrete review of constitutionality, particularly involving constitutional complaints. A total of 2,862 cases were submitted to the chamber for adjudication on fundamental rights. The number of decided cases reached 2,967, with 983 submissions still pending, including the oldest submission from 2018. The most frequent cases concerned the right to have one's case heard publicly without undue delay⁶⁵ and the right to have the matter resolved within a reasonable time⁶⁶ (383 violations), the right to legal protection and a fair trial⁶⁷ (189 violations), and the right to personal liberty and security⁶⁸ (24 violations).

63 At the time this article was written (May– December 2024), these statistics were made available by the official authorities.

64 See: Ústavný súd Slovenskej republiky, 2023.

65 Art. 48(2) of the Constitution of the SR.

66 Art. 6(1) of the Convention for the Protection of Human Rights and Fundamental Freedoms (Convention).

67 Art. 46(1) of the Convention for the Protection of Human Rights and Fundamental Freedoms (Convention).

68 Art. 17 of the Convention for the Protection of Human Rights and Fundamental Freedoms (Convention).

The abstract review of constitutionality (proceedings on the conformity of legal regulations under Art. 125 of the Constitution) was invoked in 15 initiated cases and decided in 19 cases. One review based on proceedings under Art. 125b (1) of the Constitution was also initiated and decided by the Court. Altogether, 2,876 submissions were made, and 2,995 judgements were delivered.

The official statistical data for 2023, provided in the *Yearbook of the Constitutional Court 2023*, indicated that the majority of cases involved alleged fundamental rights violations. The number of submitted constitutional complaints 3,116 with 3,172 resolved. These cases primarily concerned the right to have one's case heard without undue delay, the right to have the matter resolved within a reasonable time, the right to legal protection and a fair trial, and the right to personal liberty and security. The Constitutional Court found violations of these rights in 618⁶⁹ cases, including 431 judgements related to the right to have one's case heard without undue delay and resolved within a reasonable time, 190 judgements concerning the right to legal protection and a fair trial, and 19 judgements involving violations of the right to personal liberty and security. In 403 judgments, the Court awarded complainants financial compensation.

Proceedings concerning abstract norm control in 2023 were initiated under Art. 125(1) (a) and (b) in 13 cases, and under Art. 128 of the Constitution in one case. Altogether, 21 cases were decided, relating to proceedings on the conformity of legal regulations under Article 125(1) (a) and (b) of the Constitution. In total, 3,130 submissions were made, 3,193 judgements were delivered, and 939 cases remained pending as of December 31, 2023.

In 2023, the Constitutional Court received 254 more proposals and resolved nearly 200 (198) more cases compared to 2022. The number of pending cases requiring plenary jurisdiction was reduced from 27 to 20. On average, each judge handled approximately 246 cases during the year, approximately 16 more than in 2022. From October 1, 2023, the plenary of the Constitutional Court operated with an incomplete composition, consisting of 12 out of the total 13 judges.⁷⁰

The most recent publicly available data, covering the first half of the year 2024 (January 1, 2024–June 30, 2024), show that the Court identified violations of fundamental rights in 323 cases. Of these, 242 judgments pertained to the right to have cases heard without undue delay and resolved within a reasonable time, 73 judgments addressed the right to legal protection and a fair trial, and 17 judgements found violations of the right to personal liberty and security. In total, the Court awarded financial compensation to complainants in 238 judgements. Moreover, the Constitutional Court delivered one resolution unifying the legal opinions of its chambers (ÚS 1/2024).

69 In 20 decisions, the Constitutional Court found violations of both Art. 48(2) and Art. 46(1) of the Constitution, and in 2 decisions, it found violations of both Art. 46(1) and Art. 17 of the Constitution. See: Ústavný súd Slovenskej republiky, 2024a.

70 Ibid.

As of the latest data, the number of submissions stood at 1,657, with 1,603 cases resolved and 954 cases remaining pending, of which 21 were plenary cases.⁷¹

These statistics demonstrate a consistent increase in the number of constitutional complaints, highlighting the Constitutional Court's pivotal role in fundamental rights adjudication. Although abstract reviews of constitutionality provide broader oversight of the state's adherence to constitutional principles, the data indicate that individual rights protection remains the Court's dominant function. Over the years, there has been a steady reduction in pending cases, despite the plenary operating with an incomplete composition since October 1, 2023; however, the trend also shows a continued increase in new submissions.

4. Human Rights Institutions in the SR (NHRI)

NHRIs are independent public bodies established by constitutional or legislative mandates to promote and protect human rights at the national level. They bridge the gap between the state and civil society, playing a vital role in monitoring and implementing international human rights standards domestically and facilitating social and scientific discourse on topical issues in human rights protection.

The SR has its fair share of independent public bodies, which can be categorically classified as control and advisory bodies for the protection of fundamental rights. Control bodies primarily use preventive measures to protect the law, which consist of detecting violations of the law and identifying their perpetrators.⁷² The primary task of control authorities is to monitor whether the law is being violated, both in its application and enforcement. In contrast, advisory bodies perform professional, coordination, and consultative tasks, supporting the work of various ministries, councils, legislative bodies, and government commissioners.⁷³

An important indicator of the quality and status of NHRIs is accreditation according to the criteria of the Paris Principles, endorsed by the UN General Assembly in 1993 (Resolution A/RES/48/134). This accreditation vouches for the credibility of these institutions and helps ensure their independence, pluralism, effectiveness, and accountability under the umbrella of the European Network of NHRIs.

In the following sections, we examine the official NHRIs of the SR, focusing on the most essential authority, namely the Slovak National Centre for Human Rights (SNCHR), highlighting its functions and mandates, and describing them under key pillars that have been subject to criticism and recent development.

⁷¹ Ústavný súd Slovenskej republiky, 2024b.

⁷² Svák, 1995, p. 7.

⁷³ The analysis of other key advisory bodies is not included.

Additionally, we describe the Public Defender of Rights (PDR), the Commissioner for Children, and the Commissioner for Persons with Disabilities. Although these are not part of the Global Alliance of NHRIs (GANHRI) and are rather Ombudsman institutions, they are not NHRI institutions per se. However, it is still worth briefly reviewing some aspects of the Paris Principles through them to underscore their complementary importance and recent developments.

■ 4.1. *Slovak National Centre for Human Rights*

The SNCHR was established under Act No. 308/1993 Coll. on the Establishment of the Slovak National Centre for Human Rights, as amended. It operates as an independent institution with dual mandates: serving as an NHRI and as a national equality body, based on Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and Protection Against Discrimination and on Amendments and Supplements to Certain Acts (Anti-Discrimination Act), which extended its competencies to intervene in cases requiring the application of equal treatment.⁷⁴

Under Act No. 308/1993 Coll. on the Establishment of the SNCHR, its activities include monitoring and evaluating compliance with human rights; conducting research and surveys on human rights; disseminating information and providing library services; offering human rights-related services such as representation before courts (though the law does not specify the exact nature of these services); and publishing an annual report on compliance with human rights and the principles of equal treatment.⁷⁵

Regarding compliance with the Paris Principles, GANHRI, through its Sub-Committee on Accreditation, determines the status of a given NHRI. The SNCHR is currently accredited with B-status, based on the results of its most recent re-accreditation in March 2014.

4.1.1. *Independence, Mandate, and Pluralism*

The pillars of independence and mandate, as outlined in the Paris Principles, have been in focus in recent years as the SNCHR has made efforts to enhance its compliance with these principles. It is essential to highlight the shortcomings, criticisms, and efforts towards ensuring the guarantees under these two principles in relation to the SNCHR.

The proposal to amend the founding Act was a response to the evaluation and recommendations carried out by the Sub-Committee on Accreditation of GANHRI. The independence and effectiveness of the SNHRC have been emphasised in discussions regarding its role in monitoring compliance with international human rights treaties. Concerns have been raised about the limitations imposed

74 The initial legal basis for the establishment of equality bodies was laid by Council Directive 2000/43/EC of June 29, 2000, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

75 See in more detail: Art. 1 (2) of Act No. 308/1993 Coll. on the Establishment of the SNCHR.

by existing legislation, which restrict the Centre's ability to fully exercise its potential, as it primarily engages in tasks related to promoting equality.

Moreover, it has been highlighted that a transparent, participatory, and merit-based process for selecting board members should be formalised to ensure independence and diversity, with a focus on pluralistic representation across gender, ethnicity, and professional backgrounds. Governance reforms are necessary to remove voting rights for parliamentarians on the Administrative Board, safeguarding the Centre's operational autonomy. Functional immunity for board members should be established to protect them from liability for actions taken in good faith, while a transparent and objective dismissal process should ensure stability and independence. The SNCHR also requires adequate state funding through a dedicated budget line to support its activities, ensure accessibility, and maintain autonomy.⁷⁶

The legislative proposal from 2019 followed a request to the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE), which assessed the proposed amendment, identified key issues, and offered recommendations to align it with international standards. While the amendment was ultimately not adopted, the recommendations remain a valuable reference for potential future legislative reforms aimed at achieving full compliance with the Paris Principles by strengthening independence, a broad mandate, and pluralism.⁷⁷

The SNCHR is not established under the Constitution but through separate legislation, which is not the most preferable legal basis to ensure its independence in law. The independence of the SNCHR should be strengthened by amending its governance structure to ensure that members of Parliament do not have voting rights on the Administrative Board, thereby safeguarding the institution's independent functioning, as well by introducing provisions to ensure an objective dismissal process. Another strong safeguard for the independence of its leadership could be established through the introduction of functional immunity for its members for official actions undertaken in good faith.

These aspects proposed expanding the mandate to address human rights complaints more generally, similar to its role in discrimination cases, while avoiding overlap with the mandates of other NHRIs, mainly the PDR, and clearly defining their legal relationship. Its role in commenting on legislation should be strengthened by requiring that its annual human rights report be submitted directly to the National Council of the SR, which should be formally obliged to address it. Additionally, an explicit investigative function covering the Centre's human rights mandate should be included in the list of functions.⁷⁸

76 International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, 2014, pp. 8–9.

77 Slovak National Centre for Human Rights, 2022, p. 2.

78 Ibid.

Moreover, pluralism in leadership and governance should be enhanced by embedding the principle of pluralistic representation in the selection criteria for board members; establishing clear legal grounds and processes for the removal of board members, with appeal mechanisms; introducing appropriate compensation for board members; and ensuring pluralism in the selection of the Executive Director.

Most recently, there has been no significant development since the 2019 efforts to amend the Centre's founding Act to align with the Paris Principles. However, a minor amendment in March 2023 (Act No. 110/2023 Coll.) clarified that the Centre's reports are independent, but it had little impact on the implementation of the Paris Principles. In January 2023, the Ministry of Justice acknowledged the need for legislative changes to enhance the Centre's independence, recognising the European Commission's proposed directives as an opportunity to restart these efforts.⁷⁹

■ 4.2. *The Public Defender of Rights (PDR)*

The Slovak PDR is an independent institution established under Constitutional Act No. 90/2001 Coll., as amended, by the inclusion of Art. 151a in the Constitution of the SR. Subsequently, Act No. 564/2001 Coll., a specific legislative act detailing its competencies, powers, and mandates, was adopted. The institution operates as a form of "soft power", relying on its moral authority and the respect of other state bodies for its effectiveness. It serves citizens by amplifying the voices of individuals affected by shortcomings in public administration, as it elevates discourse on systemic problems by actively advocating for the public.

The PDR's mandate covers state administration bodies, local governments, and legal or natural persons involved in administrative decision-making. It also acts as a national preventive mechanism under international treaties, aiming to protect individuals from torture, cruel, inhuman, or degrading treatment or punishment in prisons, detention centres, asylum facilities, and other locations where individuals may be deprived of liberty by public authorities, such as police custody cells or immigration detention centres.⁸⁰ However, it excludes institutions such as the National Council, the President, the Government, the judiciary (with some exceptions), intelligence services, and prosecutors.⁸¹

This NHRI plays a crucial role in ensuring accountability within government institutions and adherence to human rights standards, particularly those outlined in the Paris Principles.

The PDR has investigative powers, including access to premises and documents, the ability to interview individuals in custody or under state care, and the

⁷⁹ Kluková, 2023, p. 57.

⁸⁰ Art. 3 of the Act no. 564/2001 Coll. On the Public Defender of Rights.

⁸¹ Art. 3(4) of the Act no. 564/2001 Coll. On the Public Defender of Rights.

right to issue recommendations to address rights violations.⁸² Public administration bodies are obligated to cooperate with the PDR and implement its proposals where feasible.⁸³ However, its recommendations are non-binding and lack enforceable sanctions. Its powers are designed to request remedies without the authority to alter the decisions of the relevant bodies, though it can initiate proceedings on conformity under Art. 125(1) of the Constitution.

The most recent amendment, Act No. 110/2023 Coll., amending and supplementing Act No. 564/2001 Coll. on the Public Defender of Rights, as amended, and other related laws, extended its competencies to include tasks as the coordinating body of the National Preventive Mechanism (NPM) under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.⁸⁴

Although the PDR plays a vital role in the Slovak human rights framework, its effectiveness relies heavily on institutional cooperation and respect, given its lack of binding authority.

4.2.1. *Paris Principles and the PDR*

If we closely examine the determinants set by the Paris Principles, the PDR shows a fair degree of compliance, particularly regarding independence, accessibility, and funding. The PDR is established as an independent body under the Slovak Constitution and specific legal frameworks, ensuring operational autonomy from the government. By being democratically appointed – elected by Parliament – it gains an additional layer to independence. It can act without requiring prior approval from other state bodies, reinforcing its autonomous functioning and capacity for independent initiative.⁸⁵

Moreover, access to its services is ensured through its empowerment to represent individuals or groups who believe their fundamental rights have been violated by public authorities. It also maintains a fairly adequate public outreach

82 Art. 17(1) of the Act no. 564/2001 Coll. On the Public Defender of Rights.

83 Art. 17(2) of the Act no. 564/2001 Coll. On the Public Defender of Rights.

84 To fulfil these responsibilities, the Public Defender of Rights (PDR) conducts systematic visits to locations where individuals are, or may potentially be, deprived of their liberty by public authorities. These visits, initiated either in response to a complaint or independently, aim to enhance the protection of such individuals from torture, cruel, inhuman, or degrading treatment or punishment, as well as other forms of mistreatment.

85 However, the previous PDR expressed reservations regarding de facto independence, noting that the nomination for the position is often determined by personal connections. In the SR, candidates can only be nominated by a group of at least 15 Members of Parliament; no other entities are allowed to submit nominations. Consequently, the current process de lege lata does not sufficiently support impartiality, independence, or legitimacy. To achieve these, the process should be based on a public call, and the selection should be transparent, grounded in demonstrated achievements in the field of human rights, objective, and governed by law. See: Patakyova, 2021, p. 14.

and communication strategy.⁸⁶ The PDR is financed through the state budget, with provisions ensuring that the allocated resources are sufficient for it to fulfil its mandate effectively, thereby securing adequate funding to maintain functional independence and operational effectiveness.

Some specific areas of its functioning, however, require qualitative development – particularly regarding pluralism, mandate, and cooperation. Reforms to align the PDR more closely with the Paris principles were clarified by the Ministry of Justice of the Slovak Republic in 2018 during the legislative process focused on amendments to the SNCHR, and their key observations remain complementary to this assessment.⁸⁷

The scope of its mandate has room for development – for instance, to include monitoring the human rights situation in the SR, issuing recommendations and opinions on any human rights issue, and promoting human rights education and awareness. Its mandate should also be more clearly specified regarding its ability to operate on its own initiative and its exclusion from intervening in certain public authorities. Furthermore, the mandate does not explicitly mention monitoring, issuing recommendations, raising awareness, or facilitating education in the field of human rights.⁸⁸ Currently, it primarily acts as an ‘investigative’ initiator and representative of individuals when a malfunction in the actions of public authorities is alleged in a submitted complaint.

Cooperation between the PDR and both domestic and international stakeholders, including non-governmental organisations, is not established in the legislation. Communication is primarily focused between the PDR and the public authority under review, where it proposes measures to eliminate shortcomings and expects the authority to engage actively in corrective action.

The issue of pluralism is not necessarily implemented, as the composition of the PDR’s office does not explicitly reflect Slovak society’s diversity in terms of ethnicity, gender, or other social groups. Enhancing staff diversity and enabling the creation of advisory commissions would further strengthen its pluralistic and effective functioning.

By introducing changes in the above-mentioned aspects, the PDR could operate as an independent and effective human rights institution capable of addressing the evolving needs of Slovak society while meeting international standards.⁸⁹ Notwithstanding, following the developments of 2023, the PDR’s position was elevated to function as a signalling system and preventive mechanism, with this additional competence placing specific focus on the protection of human dignity.

86 Improvements could also include extending materials to minority languages and enhancing regional accessibility through offices outside the capital city.

87 Ministerstvo spravodlivosti, 2018.

88 *Ibid.*, p. 42.

89 *Ibid.*

■ 4.3. *Commissioner for Children and Commissioner for Persons With Disabilities*

The prerequisite for the creation of the offices of the Commissioner for Children and the Commissioner for Persons with Disabilities was the ratification of the UN Conventions on the Rights of the Child and the Convention on the Rights of Persons with Disabilities. With the establishment of these two ombudsman-like positions, the SR created independent and autonomous monitoring mechanisms to oversee the fundamental rights of children and persons with disabilities.

The scope, status, election, conditions for the performance of duties, and termination of the duties of the Commissioners are stipulated by Act. No. 176/2015 Coll. on the Commissioner for Children and the Commissioner for Persons with Disabilities. Their competencies are largely the same and often overlap, though they are governed by different objectives. These two functions may be viewed as specialized forms of the PDR, focusing on specific segments of human rights protection according to the UN Convention each is designated to uphold.

The Commissioners have a comprehensive mandate to monitor, advocate for, and enforce the protection of children's rights and the rights of persons with disabilities. They possess significant powers to gather information, communicate directly with children, and propose or enforce corrective measures. Additionally, entities under their jurisdiction are obligated to cooperate fully, provide access to premises, and support the Commissioners in ensuring the effective implementation of rights protection. The framework ensures that the Commissioners' work aligns closely with international treaties and national legal standards.⁹⁰ Their personal scope is further extended to include legal entities and natural persons – entrepreneurs – so that monitoring activities apply to the private sector as well.⁹¹

The 2023 reform of the Act on the PDR also benefited these two offices by enhancing the systematic prevention mechanism through visits to special facilities where children or persons with disabilities may be present and deprived of liberty by public authorities or as a result of dependence on care provision.⁹²

4.3.1. *The Commissioners and the Paris Principles*

During the preparatory works for the bill, the legislative bodies underlined the importance of the Paris Principles, as expressed in the explanatory report accompanying the legislative proposals.⁹³

90 Arts. 4–5 and Arts. 10–11 of the Act. No. 176/2015 Coll. on the Commissioner for Children and the Commissioner for Persons with Disabilities.

91 Arts. 3 and 9 of the Act. No. 176/2015 Coll. on the Commissioner for Children and the Commissioner for Persons with Disabilities.

92 Art. 4(2) b) and h); Art. 10(1) b) p. 2 of the Act. No. 176/2015 Coll. on the Commissioner for Children and the Commissioner for Persons with Disabilities.

93 National Council of the Slovak Republic, 2015.

The principle of independence is strengthened by the fact that national public authorities cannot interfere with the exercise of the Commissioners' powers or competencies.⁹⁴ Their mandate and powers are of a similar quality to those of the PDR, while the Commissioner for Children is encouraged to enhance the active participation of children in accordance with Art. 12 of the UN Convention on the Rights of the Child. Moreover, the mandate covers not only the possibility of acting in individual cases but also includes promoting awareness, monitoring compliance with fundamental rights standards, and addressing violations – whether in specific cases or systemic issues.

Their mandate further extends to awareness-raising, scientific contribution, and public advocacy. The Commissioners' mandates urge them to become representatives of the voices of those they are appointed to protect through preventive and control mechanisms directed towards public authorities. The role of the Commissioners requires passionate advocacy and dedication to increasing the visibility of the most vulnerable. Although their mandates are narrower than those of other NHRIs, being limited to specific UN Conventions, this can create a more targeted and prompt mechanism, though it may also make cooperation with other human rights institutions more difficult.⁹⁵

From the perspective of representing the most vulnerable groups in society, accessibility to their services is a fundamental element in fulfilling their tasks. The Commissioners must be readily available at all times. Beyond traditional means – such as personal visits, written correspondence, and electronic communication – a hotline has been established. Most importantly, ensuring that all affected individuals have appropriate means to reach out to the Commissioners enhances responsiveness and strengthens protection.

5. Conclusion

The Slovak constitutional framework for human rights protection is underpinned by the Constitution, which guarantees an extensive catalogue of fundamental rights and freedoms and prioritises the application of international human rights treaties. The Constitutional Court serves as the ultimate arbiter of constitutionality, employing mechanisms such as abstract and concrete constitutional reviews to safeguard both systemic and individual rights. Complementing this, ordinary courts and specialised bodies, like the Supreme Administrative Court, ensure judicial protection in day-to-day legal disputes, reinforcing access to justice and judicial fairness.

⁹⁴ Art. 2(2) and Art. 8(2) of the Act. No. 176/2015 Coll. on the Commissioner for Children and the Commissioner for Persons with Disabilities.

⁹⁵ Csudai, 2020, p. 41.

NHRIs play a critical complementary role in monitoring, promoting, and protecting human rights. The PDR acts as a guardian against violations by public authorities and serves as the coordinating body for the National Preventive Mechanism, while the SNCHR focuses on equality and human rights promotion. Additionally, specialised bodies such as the Commissioners for Children and Persons with Disabilities provide targeted advocacy for vulnerable groups.

Despite this robust framework, critical gaps persist. The Constitutional Court, while pivotal, faces challenges in handling an increasing caseload and ensuring efficiency. Overlapping mandates between institutions such as the PDR and SNCHR require clearer delineation to avoid redundancies. The PDR's lack of binding authority limits its effectiveness, as it relies heavily on voluntary compliance from public authorities. Similarly, the SNCHR's independence and operational capacity are hindered by insufficient funding, a lack of pluralistic representation in governance, and a narrow legislative mandate that does not fully align with international standards, such as the Paris Principles.

Areas for improvement include strengthening the compliance of NHRIs with the Paris Principles through constitutional or legislative amendments. Efforts to address systemic human rights concerns – such as delays in judicial proceedings, discrimination against marginalised groups, and limited access to education – must be intensified. Furthermore, the legislative framework should explicitly empower institutions to monitor and report on human rights violations comprehensively, including those within the private sector.

In conclusion, while the SR's constitutional and institutional mechanisms demonstrate a solid commitment to human rights, addressing these critical gaps is essential for their full realisation. Reforms that bolster institutional independence, enhance operational capacity, and ensure greater collaboration between NHRIs and judicial bodies would not only strengthen the country's human rights framework but also better align it with international standards, ensuring comprehensive protection of human dignity for all citizens.

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