A large, bold, black letter 'R' is centered in the upper right portion of the page. The background behind the letter is a solid purple color, while the rest of the page is white.

# Information on the Report on the Activities of the Public Defender of Rights for 2020

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## 01 INFORMATION ON THE REPORT ON THE ACTIVITIES OF THE PUBLIC DEFENDER OF RIGHTS FOR 2020

The concept of the Public Defender of Rights was introduced into the Slovak legal order by Constitutional Act No. 90/2001 Coll. amending the Constitution of the Slovak Republic.

The Public Defender of Rights is an atypical institution within the constitutional framework of the Slovak Republic which pursues the protection of fundamental rights and freedoms of natural and legal persons, strengthens the oversight over public authorities, and initiates reforms of law and public powers.<sup>1</sup> It is atypical in the way it works, as well as in the scope of its powers. Unlike other constitutional institutions, the mandate of the Public Defender of Rights is not based on the public authority standing behind this institution, but rather on its informal character of a so-called *soft power*, therefore, its successful mission depends on the respect of other public bodies.

The mutual respect among public authorities is a precondition for a functioning system of the rule of law to deliver one of its main objectives – to protect the rights and legitimate interests of citizens. The rule of law, as a functional principle, is sustained by people's trust, or their faith, in a certain justice contained therein. The justice means the certainty of a consequence if set conditions are cumulatively fulfilled. If the expected consequence does not occur, we can speak of individual injustice, which, however, in itself violates the idea of the rule of law and threatens it by destroying people's trust, or faith in the rule of law as an essential condition for its functioning.<sup>2</sup>

If the legal system allows for individual injustice, there is a mistake in it that threatens its existence and leads to its extinction, to self-destruction. It is therefore essential that the rule of law effectively minimizes the scope in which individual injustice could occur without the possibility to restore trust. The mission of the Public Defender of Rights is to actively engage in the realisation of the rule of law as a functional principle. By investigating individual complaints, it identifies those violations of the law or of the principles of the democratic rule of law in the conduct, decision-making or inaction of public authorities that pose a threat to the fundamental rights and freedoms. If the conclusions of investigations into complaints and/or inquiries carried out of the Public Defender of Rights' own initiative concern a larger number of persons or if they have a systemic character, the Public Defender of Rights makes proposals to amend the relevant legislation, and/or may make a submission to the Constitutional Court of the Slovak Republic.

According to the Interim Report on the measures taken in the EU member states as a result of the Covid-19 crisis and their impact on democracy, the rule of law and fundamental rights<sup>3</sup>, ombudsman institutions, in countries where they exist, on the basis of their mandate to promote and protect human rights, may provide a crucial contribution to flagging human rights issues during times of emergency and assist

<sup>1</sup> KROŠLÁK, D.: Ústavné právo. Bratislava: Wolters Kluwer, s. r. o., 2016. pg. 669.

<sup>2</sup> Conf. IHERING, R. Boj za právo. (original title: *The Struggle for Law*) Bratislava: Kalligram, spol. s.r.o., 2009. pg. 61 – 90.

<sup>3</sup> <https://www.ustavnysud.sk/-/benatska-komisia-2020>, par. 99.

citizens affected by emergency measures. They may therefore effectively complement parliamentary and judicial control. The government of the Slovak Republic is excluded from the mandate of the Public Defender of Rights as defined by the Constitution and the law.<sup>4</sup>

The only authority entitled to review and confirm the compliance of the rules adopted under government decisions taken during the state of emergency with the Constitution is the Constitutional Court. Under the Slovak law, the Public Defender of Rights has no standing to make submissions to the Constitutional Court with respect to the adoption of a decision declaring the state of emergency and to follow-up decisions to the declaration of the state of emergency. Such submissions may only be made by MPs, the Slovak government, the president, or the prosecutor general.

Of all public authorities representing different branches of government, the Public Defender of Rights cannot participate in the discourse – very useful from the point of view of a free civil society – on the current exceptional societal situation, formalised in the review of the government’s decisions, or in the form of the proceedings before the Constitutional Court.<sup>5</sup> We consider this scope of the mandate of the Public Defender of Rights self-contradictory. At the time of the state of emergency, when the government concentrates the executive power in their hands in order to contain the pandemic, even by restricting several fundamental rights and freedoms, the institution authorised to do so during “normal” times is excluded from the discourse and disqualified from reviewing the scope of restrictions of the fundamental rights and freedoms.

These aspects reflected in the activities carried out by the Public Defender of Rights in 2020; details on to what extent and how they affected the PDR’s activities are discussed in the Report on the Activities of the Public Defender of Rights for 2020.<sup>6</sup>

For the sake of convenience and better readability and navigation, the report is divided into the following sections:

- protection of fundamental rights and freedoms at the time of the pandemic
- protection of fundamental rights and freedoms based on complaints and on the PDR’s own inquiries
- cooperation with international and national institutions, awareness-raising
- the Office in 2020

<sup>4</sup> Provision of §23(2) of Act No. 564/2001 Coll. on the Public Defender of Rights, as amended.

<sup>5</sup> Mutatis mutandis, Constitutional Court finding No. 22/2020, point 19, second sentence.

<sup>6</sup> Pursuant to §23(1) of Act No. 564/2001 Coll. on the Public Defender of Rights, as amended: “The Public Defender of Rights shall submit in the first quarter of each year to the National Council an activity report in which he/she presents his/her findings concerning the observance of the fundamental rights and freedoms of natural persons and legal persons by public authorities, and his/her proposals and recommendations to remedy the identified shortcomings.” Based on and in compliance with said provision, the Public Defender of Rights submitted the 2020 Report on the Activities of the Public Defender of Rights to the National Council of the Slovak Republic in the first quarter of 2021.

Individual chapters in the first and second sections cover a number of interconnected fundamental rights and freedoms; each chapter gives examples from complaints received and findings made by the Public Defender of Rights, information about an extraordinary report on environmental burdens submitted to the National Council, a brief summary of the analyses made, and other activities.

**The first section** – protection of fundamental rights and freedoms at the time of the pandemic – discusses the findings regarding the right to personal liberty and freedom of movement and of residence with respect to the following issues: mandatory isolation in state facilities – the so-called state quarantine; “invoices” for the state quarantine; ordering the isolation and quarantine; receiving benefits during a self-quarantine at home; quarantining the marginalised Roma communities; prohibiting foreign nationals from entering Slovakia; showing a COVID test certificate at entry to establishments. We also present our findings regarding religious freedoms and the right to education with respect to the following issues: school closures during the first wave of the pandemic; preferential placement of children of certain professions in kindergartens; admission of pupils to secondary schools; compulsory facemasks at schools; school closures during the second wave of the pandemic, and mandatory COVID testing. The chapter on the rights of children and parents discusses shared custody and parent-child contacts at the time of the pandemic, as well as restricted contacts of parents with their premature babies. The next chapter deals with the rights of the elderly citizens, namely the measures adopted to address pandemic-related situations in senior homes; a general ban for seniors to shop outside designated hours; provision of health care to people aged 65+ as a follow-up to the country-wide COVID testing. Subsequent chapters focus on consumer rights and the right to health care, where we present our findings concerning the prohibition of birth companions at hospitals during the pandemic and the separation of newborns from their mothers who have tested positive for COVID-19; access to abortions. The last chapter in the section on the protection of the fundamental rights and freedoms at the time of the pandemic discusses constitutional aspects of the restrictions, namely the constitutional guarantees in setting the limits for restrictions of the fundamental rights and freedoms in a crisis situation, and the restricted powers of the Public Defender of Rights during the state of emergency.

**The second section** – protection of fundamental rights and freedoms based on complaints and on the PDR’s own initiatives – is structured along individual fundamental rights and freedoms similarly to the previous section. With respect to the right to life, personal liberty and human dignity, we focus on “reserved areas” at police stations; official records on the use of coercive means; the municipal police – violation of the inviolability of home; immigration police – cancellation of permanent residence based on a Slovak Intelligence Service opinion; a survey at immigration police departments; monitoring of the forced return of foreign nationals; thorough personal searches of prisoners; contact visitations in strict security prisons; provision of health care in prisons; application of the National Preventive Mechanism in Slovakia. In the chapter on the private and family life, rights of children and parents, we

describe our findings with respect to the social and legal protection of children; a three-year ban on contacts with a child; complaint handling by the school inspection; access to education at an eight-year grammar school; home-schooling of lower-secondary pupils (grades 5-9 at elementary schools); pupils' punishments. An extremely large chapter is the one dealing with the right to work, social security and health care where we discuss our findings concerning the inaction of public authorities in disability pension proceedings; requalification of disability pensions; a possibility to "complete years of employment" after the onset of disability; wrong determination of the disability onset date; "Czechoslovak" pensions; changes in the method of pension calculations in 2005; constitutional act on pensions; determining the death of a caregiver for the purposes of paying out disability pensions; advance pension payments; amount of pension under an international agreement with Ukraine; licence to perform independent medical practice and mandatory social insurance; the special social security systems for the police and the military professionals; maternity pay under the special social security system; pregnancy benefit and its effect on further deterioration of the position of female police and military members in the special social security system; service pensions for the police, military and firefighters; the special pension security systems and its relation to the general system; social care services; inspections in social care facilities; provision of social care services in small municipalities; age limits for the award of compensation benefits; unequal treatment with personal assistants to people with disabilities; incorrect assessment of health condition of persons with autism; "Příspěvky na péči" (*care allowances*); right to assistance in material need; right of employees – labour inspection; labour unions of military professionals; human rights standards of social housing; forced eviction; the requirements of good governance when awarding rental flats. The chapter on the health care and health insurance system addresses the supervision over health care. The chapter on the freedom of expression, right to information and petition right contains the findings pertaining to formal shortcomings in decision-making on providing access to information; decision-making of a court – disclosing registration information; recording and streaming of an academic senate's session; access of convicted persons to judicial decisions; disclosing phone contacts before a court; disclosing information by a non-profit organisation established by a municipality; incorrect official complaint handling procedure; the handling of complaints by the Public Health Authority of the Slovak Republic. The next chapter – Ownership right and right to the healthy environment – details the findings concerning the problems related to the termination of old enforcement procedures; unlawful deletion of ownership title from the land registry; inactivity of the Slovak land administration authority *Slovenský pozemkový fond* in restitution proceedings; small farmers and the overall position of *Slovenský pozemkový fond*; environmental protection – the risk of contamination by asbestos; the Public Defender of Right's extraordinary report on environmental burdens in Slovakia. The last chapter in this section covers the right to judicial and other legal protection. It contains our findings on delays in judicial proceedings – at a system level, as well as in the examples from the complaints; disciplinary punishment of a lawyer – former member of the Judicial

Council of the Slovak Republic; decision-making by a municipality on an appeal in the tax proceedings; non-disclosure of decisions from the collection of deeds of the land registry; establishment of encumbrance by a district office; misconduct by a building authority; issuance of bilingual civil registry documents; non-issuance of decisions in the national visa application proceedings.

After the chapters focused on the fundamental rights and freedoms, the report presents information about key activities in international cooperation, cooperation at the national level, on awareness-raising and other activities to promote human rights, as well as information about the activities of the Office of the Public Defender of Rights in 2020.

Throughout 2020, the Public Defender of Rights followed the objective of discharging her function independently, impartially, apolitically and professionally. Her ambition was to amplify the voice of natural persons and legal persons whose complaints fall within the competence of the Public Defender of Rights so that it resonates in the work of public authorities. She was led by the principle that the public powers must be exercised in good faith, fairly, wisely and in line with their true purpose.

Motto:

And this is the highest statesmanship and the soundest wisdom on the part of a good citizen, not to divide the interests of the citizens but to unite all on the basis of impartial justice.

*(Cicero, De officiis – excerpt)*

## 02 SUMMARY OF VIOLATIONS OF FUNDAMENTAL RIGHTS FROM THE SUBMITTED COMPLAINTS

Document	Article	Number of identified violations
<b>Constitution</b>		
	16(1) – personal inviolability and privacy	14
	16(2) – torture, inhuman and degrading treatment	2
	17 – personal freedom	3
	19 (1) – protection of human dignity	2
	19(2) – protection of private and family life	6
	19(3) – personal data protection	1
	20 – ownership right	4
	21 – inviolability of home	2
	22 – privacy of letters and personal data protection	1
	26 – right to information	11
	27 – right of petition	6
	35(3) – right to work	1
	36 – right to just and satisfying working conditions	3
	39 – adequate material provision in old age and in the event of work disability	11
	40 – protection of health	6
	41(1) – special protection of children and juveniles	4
	41(4) – right to parental upbringing and care	2
	41(5) – right to assistance from the state in childcare	1
	42 – right to education	14
	46(1) – protection against unlawful procedure	45
	48(2) – undue delays	82
<b>Convention for the Protection of Human Rights and Fundamental Freedoms</b>		
	8 – family and private life	3
<b>Convention on the Rights of the Child</b>		
	3 – child’s best interest	5
<b>International Covenant on Economic, Social and Cultural Rights</b>		
	11(1) – adequate living standard	2
<b>UN Convention on the Rights of Persons with Disabilities</b>		
	19 – autonomous living and social inclusion of people with disabilities	1
	28(1) – adequate living standard and social protection of people with disabilities	1
<b>All identified violations</b>		<b>233</b>

### 03 SUMMARY OF THE OFFICE'S ACTIVITIES

In 2020, the Office dealt with a total of 3,727 agenda documents and dealt with 7 proceedings initiated on its own initiative. Of all agenda documents, 2,453 were complaints<sup>7</sup> which were delivered either in person, by post, email or via electronic mailbox No. E0005579891, including outstanding complaints carried over from 2019. The Office received a total of 3,075 submissions and complaints in 2020, the second highest number in the eighteen years since the establishment of the Public Defender of Rights in Slovakia. It was the result not only of our successful communication in media, but also of the citizens' increased trust in the work of the Public Defender of Rights, including in the situation caused by the COVID-19 pandemic.

A total of 166 submissions were made through a form available at the [detskyombudsman.sk](http://detskyombudsman.sk)<sup>8</sup> website, 1,108 requests for guidance were delivered via electronic mail.<sup>9</sup> All of them were completed in 2020.

After reviewing 1,888 complaints, the Public Defender of Rights found 233 violations of fundamental rights and freedoms in 186 complaints. No violation of fundamental rights or freedoms was found in 729 complaints, 973 complaints were outside the powers of the Public Defender of Rights, and 565 complaints were carried over to 2021.

The Office received 102 individual requests for information from natural and legal persons in 2020, 101 of which were also completed in 2020. One request, delivered to the Office on 31 December 2020, was carried over to 2021.

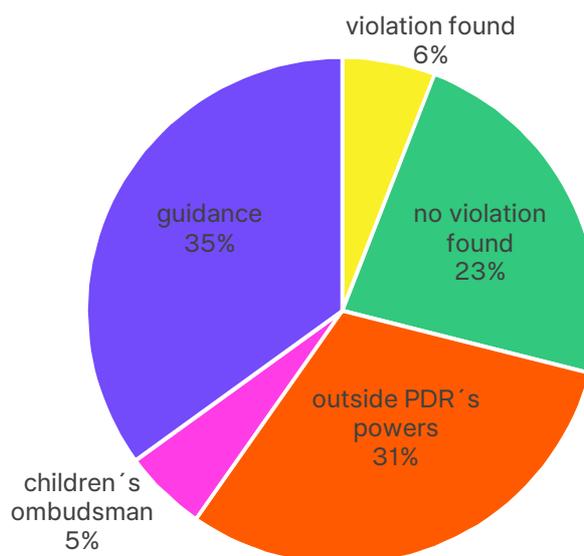
Total/year		Total		Number (completed)
3,727	complaints	2,453	violation found	186
			no violation found	729
			outside PDR's powers	973
	submissions	1,274	children's ombudsman	166
			guidance	1,108

<sup>7</sup> The number of complaints rose 8% against 2019, and as much as 56% against 2018.

<sup>8</sup> Through [www.detskyombudsman.sk](http://www.detskyombudsman.sk), the Office is raising the awareness among children and young people of the fundamental rights and freedoms, of their rights in school, family and interpersonal relations, and of the means to exercise them. The Office considers this pivotal, because it is more difficult for children and young people to exercise their rights than it is for adults, if they lack information. The website contains information, prepared in a manner comprehensible for young users, about the work and competences of the Public Defender of Rights, about her activities concerning children and protection of their rights, and about the Convention on the Rights of the Child.

<sup>9</sup> The Office is often contacted by people seeking help and assistance with problems that do not fall under the Public Defender of Rights' jurisdiction. They mostly involve civil law-related issues, such as distraintment procedures, disputes between neighbours, disputes with banks, while people often seek legal advice as well. The Office seeks to guide and advise them on how their problems can be resolved and/or refer them to a competent authority or institution that can help them.

**Tab.: Share of agenda documents received in 2020, in %**



## 04 AWARDS RECEIVED

### **2020 SDGs Award in the Public Sector category**

The Public Defender of Rights received the 2020 SDGs Award, granted by the Pontis foundation, for her contribution to meeting the sustainable development goals. These awards are granted to projects designed to make the world a better place by 2030, for example, by seeking solutions to eradicate the poverty, fight inequalities or climate change.

### **Award for engagement in promotion of human rights and the rule of law**

Since 2016, the French and German Ministries of Foreign Affairs have been awarding joint awards to commemorate the adoption of the Universal Declaration of Human Rights to 15 individuals in the field of human rights advocacy around the world each year. The Slovak Public Defender of Rights was the only European personality to receive this Franco-German prize for human rights in 2020; she was awarded for her advocacy in support of the rights of the Roma minority, reproductive rights and humane state-sanctioned quarantine measures, as well as for her engagement in promoting the equal treatment of men and women and fight against discrimination on grounds of sexual orientation or gender identity.

### **Award for the Office's visual identity**

The visual identity of the Office won the 2020 National Award for Design in the Identity category. Its authors, Andrej & Andrej, have built the PDR's visual identity on a unique typeface using the exclamation mark as a symbol of warning against violations of fundamental rights and freedoms. The exclamation mark in the typeface thus naturally symbolises the very function of the Public Defender of Rights in society, that is, that she warns about injustice.

## 05 ORGANISATIONAL ARRANGEMENTS AND ECONOMIC PERFORMANCE OF THE OFFICE

The limit on the number of the Office employees for 2020 remained unchanged at 57: one constitutional official – the Public Defender of Rights, 42 civil servants, and 14 employees performing work in public interest. Said limit on the number of employees was approved by government resolution No. 500 of 14 October 2019 by which the Slovak government approved the state budget proposal, but due to the lack of financial resources, the approved organisational structure could not be fulfilled in 2020. The employee turnover was at 11.3% in 2020.

As at 31 December 2020, the Office had a total of 46 employees (excluding the Public Defender of Rights). The activities involving the discharge of the competences of the Public Defender of Rights were carried out by 26 experts; 20 employees were responsible for organisational, administrative and operating tasks.

On 14 November 2020, the Slovak government adopted resolution No. 649/2020 regarding the proposal of the general government's state budget for 2021-2023. Under this resolution, the limit on the number of the Office employees was set at 52 (including the Public Defender of Rights), that is, the total headcount was reduced by 5 job positions.

The Public Defender of Rights' power to individually decide on the number of employees is one of the legislative guarantees of the institution's autonomy. Even though the limit had been reduced without prior discussion, by a decision unilaterally taken by the government, the Public Defender of Rights respected the society-wide need to strike the balance between the available public resources and necessary expenditures, as well as the need to adopt general consolidation measures towards sustainable public finances. Therefore, she issued a decision on organisational changes in the form of reducing the number of positions for civil servants and for employees performing work in the public interest with effect from 1 January 2021. However, she considers the number of jobs and related budgetary funds inadequate for the proper discharge of the function of the Public Defender of Rights. We believe the reduced headcount is only a temporary issue, and consider the way the limit has been set an extraordinary interference with the original powers of this constitutional authority under these circumstances.

Therefore, like in the previous years, it has to be noted that the power of the Public Defender of Rights to autonomously decide about the number of the employees necessary for the proper discharge of the function of the Public Defender of Rights is not sufficiently guaranteed in Slovakia.

Despite these challenging conditions, even in 2020 the Office was able to provide internships to interested individuals. The Office concluded a total of 19 internship agreements in 2020: fourteen in the protection of fundamental rights and freedoms section and five in the management and administration section.

In line with the Concept for the Development of Information and Communication Technologies and Systems prepared by the Office in the first half of 2020, the Office carried on with information technology upgrades.

The Office does not own any immovable property; it is headquartered in the office premises leased under valid tenancy contract No. NZ/31/2014 in a building at Grösslingova 35, Bratislava, solely owned by the Diplomatic Corps Services, a. s., Bratislava, a joint-stock company 100% owned by the state. The rent paid by the Office flows back to the state budget in the form of dividends.

During the period under review, the Office's filing department registered a total of 7,969 delivered records of which as much as 70% were delivered by electronic means (4,658 via email and 906 via electronic mailbox at the Central Government Portal (ÚPVS)) and 30% were delivered by post or in person (2,405).

The Office sent a total of 6,877 records in 2020, of which as much as 73% were sent by electronic means (2,940 via email, 2,054 via electronic mailbox at the Central Government Portal) and 27% were sent by post (1,883).

#### Funds spent in 2020:

#### Budget allocations and expenditures at 31 December 2020 (in €):

Classification		Budget			
		approved	amended	funds drawn	balance
610	remunerations	1,061,440,	1,066,276	1,056,890	9,386
620	social and health insurance	372,400	368,494	357,716	10,778
630	goods and services	410,434	419,244	382,074	37,170
640	current transfers	13,100	13,200	9,836	3,364
700	capital expenditures	0	50,040	50,023	17
Total		1,857,374	1,917,254	1,856,539	60,715

The largest share of expenditures is spent on the remuneration of the Office employees and corresponding social and health insurance payments.

Of regular operating costs, i.e., the purchase of goods and services, the largest amount of funds was spent on rent payments for the office premises and related services, including the supply of energy, totalling €172,087, paid by the Office to the owner of the building, the Diplomatic Corps Services, a. s., Bratislava. A majority of the Office's spending is related to ensuring regular operations of the organisation. The funds spent on the critical restoration of hardware are classified as non-current, i.e., irregular expenditures.

## 06 OVERVIEW OF THE PDR ACTIVITIES DURING PANDEMIC COVID-19 (SELECTION)

### (23 March) PROTECTION OF MARGINALIZED COMMUNITIES

Representatives of NGOs working with marginalized communities called upon the government to draft a crisis plan if the pandemic spreads to more impoverished areas. The PDR identified with the wording of the call for the creation of crisis solutions and fully supported it.

"We are facing a specific situation in which the right to protection of health and life has priority. Particularly vulnerable groups include seniors and people with disabilities, homeless people, but it is also crucial to protect people from marginalized communities living in areas with limited or no access to drinking water. Limited access to hygiene standards may cause unavoidable damage to life and health. In such a situation, rapid and necessary measures against the spread of the disease must be taken," said the PDR.

### (1 April) COMPLIANCE WITH RIGHTS DURING CHILDBIRTHS

"I consider essential that healthcare institution apply uniform standards and procedures based on the latest scientific and medical evidence ensuring respect for fundamental rights and freedoms when providing maternity care during the COVID-19 pandemic," said the PDR.

Some healthcare facilities limited women's rights to a birth companion of their choice during the pandemic or they order to perform Caesarean section or separate women from their newborns without proper medical indication. The PDR, in a letter addressed to the Minister of Health, referred to the World Health Organization's opinion on the maternity care during the pandemic according to which all pregnant women including those with confirmed or suspected COVID-19 infections have the right to quality care before, during and after childbirth. This right includes having a companion of their choice present during delivery. Its opinion also relies on the UN Special Rapporteur on the violence against women calling on states to guarantee women's rights to a birth companion of their choice.

### (21 April) ACCESS TO SAFE ABORTIONS DURING THE PANDEMIC

The PDR addressed the Minister of Health with the issue of providing adequate sexual and reproductive health services during the COVID-19 pandemic. In some healthcare facilities, doctors refuse to perform abortions. Ombudswoman asked the Minister to take measures to secure safe access to abortion for women.

"Interference with fundamental rights in the time of pandemic and state of national emergency can only take place if this interference follows a legitimate aim, it is necessary and carried out appropriately. I consider it essential to emphasize that the COVID-19 pandemic should not be used as an excuse for the inappropriate interference with sexual and reproductive rights of women," the PDR stated.

#### (23 April) RESTRICTION OF SHOPPING TIME FOR SENIORS

The PDR addressed the Slovak government with respect to the Public Health Office (ÚVZ) measure concerning the general ban on shopping for seniors outside the reserved hours. The Office ordered to operators of some shops to allow entry to the persons over 65 years only from Monday to Friday from 9 a.m. to 11 a.m. At other times, these people are prohibited from doing shopping in selected shops.

"I am convinced that the Public Health Office measures of 21 April 2020 not only go beyond the admissible limits and exceed the requirements of the proportionality test, but they are also inapplicable and unenforceable in practice," stated the PDR.

#### (28 April) MANDATORY STATE QUARANTINE

The PDR addressed the chief hygienist and asked him for redress in case of a possible violation of fundamental rights during the implementation of mandatory state quarantine, ordered upon return to the Slovak Republic territory. According to her, the implementation of the restriction, interfering with human dignity and even degrading treatment, is inappropriate. Such interference is not acceptable in a democratic society even in such a difficult situation that the Slovak Republic must face currently. The PDR sent the letter with recommendations to the Slovak government and to the permanent and chief crisis management teams.

"It is evident that placing people in state quarantine can lead to the infection of initially healthy people, with a direct causal link to the actions of state authorities," the PDR noticed.

An overview of measures proposed by the PDR:

- the mandatory state quarantine should not be imposed generally, only if people are unable to self-quarantine at home and if there is a suspicion that a person could be infected with the coronavirus,
- to create a list of high-risk and low-risk countries,
- early identification of risk cases (e.g. by rapid tests),
- self-quarantine at home and its strict control,
- possibility to undergo a mandatory state quarantine voluntarily in a state-run facility,
- protection against disease in state-run facilities and awareness.

#### (29 April) REGIME OF FOREIGNERS' ENTRY INTO THE TERRITORY OF THE SR

The PDR addressed a letter to the Minister of Interior concerning the regime of foreigners' entry into the SR's territory, respectively non-admission of their close persons or ambiguity of this procedure. She proposed to the Minister to clearly define the foreigners covered by the exemption from the ban on the entry into the territory of the SR enshrined in the government resolution. At the same time, it is necessary to harmonize the procedures of ÚHCP (Bureau of Border and Foreign Police) and ÚVZ, as well as to take into account and not to omit the cases when many unmarried couples live together in a common household.

## (12 May) OBSTETRIC CARE AND PREMATURE CHILDREN

The PDR welcomes changes to the measures that will allow women to have a birth companion of their choice and the abolition of prevention of direct contact of parents with prematurely born babies in some healthcare facilities during the COVID-19 pandemic.

"In this situation, it is crucial to consider the best interest of a child, to what extent the right of parents to contact with the child can be restricted and whether a total prohibition of parental contact with the child is an appropriate intervention," said the PDR. The PDR reminded the Minister of Health on the absence of the relevant Ministry's guidelines regulating the presence of an accompanying person of minor patients in the healthcare facilities during the COVID-19 pandemic.

## (2 October) LEGAL PROTECTION DURING THE PANDEMIC

The PDR presented to the Government Council for Human Rights, Minorities and Gender Equality a report on the activities during the first wave of the pandemic. She pointed out the disproportionate interference with human rights, particularly the lack of opportunity to defend against anti-pandemic measures. Therefore, the PDR proposed to the Government Council to adopt a resolution that would recommend the government to initiate a legislative change to create an effective system of legal protection for people unreasonably affected by the anti-pandemic measures.

"The current legislation does not provide for the judicial review of measures of the Public Health Office (ÚVZ) in the required quality. On the contrary, it creates legal vacuum and uncertainty which may be misused at any time and against anybody without any control," said the PDR.

In terms of inadequacy, some measures appeared problematic during the first wave. For example, in the implementation of a state quarantine, in the procedure preventing foreigners' entry in the territory of the SR, in the general ban on shopping hours for seniors outside reserved hours, in adopting restrictions for seniors placed in nursing houses or in restricting the provision of standard healthcare. The PDR even found the violation of the fundamental right when implementing quarantine for the entire Roma settlements.

"Unfortunately, following the communication with individual actors combating the pandemic, I concluded that finding a balance in adopting measures to preserve fundamental rights and freedoms as much as possible, was not a priority," the PDR concluded.

## (4 November) DEMONSTRATION OF A CERTIFICATE ON THE RESULT OF TEST AS A REQUIREMENT TO ENTER THE SHOPS AND OTHER FACILITIES

Statement of the PDR. A government resolution of 28 October 2020 restricted the freedom of movement and stay by curfew within the state of national emergency, with some exceptions. Said government resolution imposes on the natural persons an obligation to conform their movement and stay from 2 to 8 November 2020 from 5 a.m. to 1 a.m. of the following day to curfew unless they can justify their

movement in public and demonstrate it by one of the established exceptions. Following the review of controversial aspects, I concluded that the entry to shops and other facilities conditional upon the demonstration of the negative result of the COVID-19 test does not constitute an unconstitutional interference with the right to privacy.

The crucial is the provision of the art. 19, subsec. 3 of the Constitution providing protection, inter alia, against the unlawful collection of personal data. At the international level, the constitutional protection of personal data is supplemented by the provisions of the art. 8 of the Charter of Fundamental Rights of the European Union and the subsequent Regulation of the European Parliament and Council No. 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (the GDPR Regulation).

#### (12 November) PROVISION OF HEALTH CARE

The PDR addressed the Minister of Health with regard to the provision of health care to people over 65. Before nationwide testing, seniors over 65 were advised not to participate in testing if they could stay in home isolation due to non-participation. Subsequently, however, seniors over 65 found themselves in "legal vacuum" in the provision of other than planned, preventive or urgent health care since they were not covered by any of the exceptions of the government or ÚVZ (Public Health Authority). Such a procedure thus prevents from providing routine health care to vulnerable groups of the population who need such care. In practice, it means that some of the healthcare providers refuse to admit patients over 65 without showing a negative COVID-19 test. "Therefore, I would like to ask you to evaluate the conditions of curfew, so they will not make the access to healthcare more difficult for seniors over 65, given that they belong to the most vulnerable groups of the population," said the PDR.

The Ombudswoman also pointed out to the separation of newborn babies from their mothers if they are positive for COVID-19. "The World Health Organization and some Slovak experts in obstetrics and neonatology, including the chief expert of the Ministry of Health for gynaecology Miroslav Borovský, emphasize the risks of separating children from mothers and disagree with such practices," the Ombudswoman said.

#### (28 November) SEPARATION OF NEWBORN BABIES FROM THEIR MOTHERS IS INADMISSIBLE

The PDR welcomes that the Minister of Health, following the PDR's repeated notices, stated that the practice of separating the newborn babies from their mothers is inadmissible. The PDR emphasized the inadequacy of such practice already in the first half of November. She also noticed that there is a procedure "Management of labour of a mother with suspected/confirmed COVID-19 infection" which recommends joint isolation of a mother and child in case of asymptomatic women and children. However, it is necessary to monitor its implementation.

(18 December) LEGAL OPINION on the complaints submitted by the Association of towns and municipalities, civic association Let's give children a voice and other applicants for interference with the right to education

#### Application of testing

A measure which makes a school attendance conditional upon testing pupils may be assessed as proportional during pandemic; however, pupils who are unable to undergo testing for any reason cannot be excluded from the educational process. Given emerges from the limits of the constitutional act, which allows restricting some of the fundamental rights but does not include the right to education. This leads to conclusion that the state is obliged to ensure the right to education even during the state of emergency. Making pupils return to on-site learning conditional upon testing them and one of their legal representatives constitutes the interference with the right to privacy.

#### Switch to distance learning

Decisions of the Minister of Education on the extraordinary suspension of on-site learning (October – November) was legally grounded and pursued a legitimate goal – the protection of health. However, these decisions violated the pupils' rights to education in the framework of 10 years of compulsory school attendance. Said decisions were not inevitable and appropriate since they did not take sufficiently into account existence of pupils without access to online distance learning. These interventions are particularly sensible for pupils from socially disadvantaged communities. The extraordinary suspension of on-site learning means losing access to any education within compulsory school attendance; therefore, the right to education was associated with the violation of the non-discrimination. Similar requirements apply to pupils with disabilities for whom the distance learning is not effective.

Recommendations: anti-epidemiological measures related to the right to education should be adopted predictably according to a predetermined procedure, sufficiently in advance in order to reflect the regional epidemiological situation, requirements for the education of pupils at risk, the entire period of the extraordinary suspension of the on-site learning in the implementation of the basic standard of mandatory school attendance as well as taking into account the fundamental importance of education as nationwide value.

# EXCERPTS FROM THE CONSTITUTION OF THE SLOVAK REPUBLIC

## Chapter Two, Basic Rights and Freedoms

### Part One

#### GENERAL PROVISIONS

##### Article 11

Repealed since 1 July 2001.

##### Article 12

(1) People are free and equal in dignity and in their rights. Basic rights and freedoms are inviolable, inalienable, imprescriptible, and infeasible.

(2) Basic rights and freedoms on the territory of the Slovak Republic are guaranteed to everyone regardless of sex, race, colour of skin, language, faith and religion, political, or other thoughts, national or social origin, affiliation to a nation, or ethnic group, property, descent, or any other status. No one may be harmed, preferred, or discriminated against on these grounds.

(3) Everyone has the right to freely decide on his nationality. Any influence on this decision and any form of pressure aimed at suppressing of anyone's nationality are forbidden.

(4) No one may be harmed in his rights for exercising of his basic rights and freedoms.

##### Article 13

(1) Duties may be imposed

a) by law or on the basis of a law, within its limits, and while complying with basic rights and freedoms,

b) by international treaty pursuant to Article 7, paragraph 4 which directly establishes rights and obligations of natural persons or legal persons, or

c) by government ordinance pursuant to Article 120, paragraph 2

(2) Limits to basic rights and freedoms may be set only by law under conditions laid down in this Constitution.

(3) Legal restrictions of basic rights and freedoms must apply equally to all cases which meet prescribed conditions.

(4) When restricting basic rights and freedoms, attention must be paid to their essence and meaning. These restrictions may only be used for the prescribed purpose.

### Part Two

#### BASIC HUMAN RIGHTS AND FREEDOMS

##### Article 14

Everyone can have rights.

##### Article 15

(1) Everyone has the right to life. Human life is worthy of protection already before birth.

(2) No one may be deprived of life.

(3) Capital punishment is not permitted.

(4) It is not a violation of rights under this article, if someone is deprived of life as a result of an action that is not deemed criminal under the law.

##### Article 16

(1) The inviolability of the person and its privacy is guaranteed. It may be limited only in cases laid down by law.

(2) No one may be tortured, or subjected to cruel, inhuman, or humiliating treatment or punishment.

#### Article 17

(1) Personal freedom is guaranteed.

(2) No one may be prosecuted or deprived of freedom other than for reasons and in a manner which shall be laid down by law. No one may be deprived of freedom solely because of his inability to fulfil a contractual obligation.

(3) A person accused or suspected of a criminal act may be detained only in the cases specified by the law. The detained person must be immediately informed of the reasons for detention, questioned and either freed or handed over for trial within 48 hours, in cases of criminal offences of terrorism within 96 hours. The judge must interrogate the detained person within 48 hours and in cases of particularly serious criminal acts within 72 hours, and must decide whether to detain or free the person.

(4) An accused person may be arrested only on the basis of a written, substantiated order of a judge. The arrested person must be handed over to the court within 24 hours. The judge must question the arrested person and decide on his custody or release within 48 hours and in particularly serious crimes within 72 hours from the hand over.

(5) A person may be taken into custody only for reasons and for a period laid down by law and on the basis of a court ruling.

(6) The law shall lay down in which cases a person can be admitted to, or kept in, institutional health care without his consent. Such a measure must be reported within 24 hours to the court which will then decide on this placement within five days.

(7) The mental state of a person accused of a criminal act may be examined only on the basis of a written court order.

#### Article 18

(1) No one may be subjected to forced labour, or services.

(2) The provision of paragraph 1 does not apply to

a) work assigned according to law to persons serving a prison sentence or persons serving other sentence substituting a prison sentence,

b) military service or other service laid down by law in lieu of compulsory military service,

c) services required on the basis of the law in the event of natural disasters, accidents, or other dangers posing a threat to life, health, or property of great value,

d) activities prescribed by law to protect life, health, or the rights of others,

e) small community services on the basis of the law.

#### Article 19

(1) Everyone has the right to the preservation of human dignity, personal honour, reputation and the protection of good name.

(2) Everyone has the right to protection against unauthorized interference in private and family life.

(3) Everyone has the right to protection against unauthorized collection, publication, or other misuse of personal data.

#### Article 20

(1) Everyone has the right to own property. The ownership right of all owners has the same legal content and protection. Property acquired in any way which is contrary to the legal order shall not enjoy such protection. Inheritance is guaranteed.

(2) The law shall lay down which property, other than property specified in Article 4 of this Constitution, necessary to ensure the needs of society, national food self-sufficiency, the development of the national economy and public interest, may be owned only by the state, municipality, or designated individuals or legal persons. The law may also lay down that certain things may be owned only by citizens or legal persons resident in the Slovak Republic.

(3) Ownership is binding. It may not be misused to the detriment of the rights of others, or in contravention with general interests protected by law. The exercising of the ownership right may not harm human health, nature, cultural monuments and the environment beyond limits laid down by law.

(4) Expropriation or enforced restriction of the ownership right is possible only to the necessary extent and in the public interest, on the basis of law and for adequate compensation.

(5) Other interference with property rights may be permitted only in the case of property acquired in an illegal manner or from illegal earnings, and if it is necessary in a democratic society in the interests of national security, preservation of public order, good morals or the rights and freedoms of others. Conditions shall be stipulated by law.

#### Article 21

(1) A person's home is inviolable. It may not be entered without the resident's consent.

(2) A house search is admissible only in connection with criminal proceedings and only on the basis of a written, substantiated order of the judge. The method of carrying out a house search shall be laid down by law.

(3) Other infringements upon the inviolability of one's home may be permitted by law only if it is necessary in a democratic society in order to protect people's lives, health, or property, to protect the rights and freedoms of others, or to prevent a serious threat to public order. If the home is used also for business, or to perform other economic activity, such infringements may be permitted by law also when this is necessary in the discharge of the tasks of public administration.

#### Article 22

(1) The privacy of letters and secrecy of mailed messages and other written documents and the protection of personal data is guaranteed.

(2) No one may violate the privacy of letters and the secrecy of other written documents and records, whether they are kept in privacy, or sent by mail or in any other way, with the exception of cases which shall be laid down by law. Equally guaranteed is the secrecy of messages conveyed by telephone, telegraph, or other similar means.

#### Article 23

(1) Freedom of movement and right of abode are guaranteed.

(2) Everyone who is rightfully staying on the territory of the Slovak Republic has the right to freely leave this territory.

(3) Freedoms under paragraphs 1 and 2 may be restricted by law, if it is necessary for the security of the state, to maintain public order, protect the health and the rights and freedoms of others, and, in designated areas, also in the interest of environmental protection.

(4) Every citizen has the right to freely enter the territory of the Slovak Republic. A citizen may not be forced to leave the homeland and may not be deported.

(5) A foreign national may be deported only in cases laid down by law.

#### Article 24

(1) The freedoms of thought, conscience, religious creed and faith are guaranteed. This right also encompasses the possibility to change one's religious creed, or faith. Everyone has the right to be without religious creed. Everyone has the right to publicly express his thoughts.

(2) Everyone has the right to freely express religion, or faith alone or together with others, privately or publicly, by means of religious services, religious acts, by observing religious rites, or to participate in the teachings thereof.

(3) Churches and religious communities administer their own affairs, in particular, they constitute their own bodies, appoint their clergymen, organize the teaching of religion, and establish religious orders and other church institutions independently of state bodies.

(4) Conditions for exercising of rights under paragraphs 1 to 3 may be limited only by law, if such a measure is necessary in a democratic society to protect public order, health, morals, or the rights and freedoms of others.

#### Article 25

(1) The defence of the Slovak Republic is a duty and a matter of honour for citizens. The law shall lay down the scope of the compulsory military service.

(2) No one may be forced to perform military service if it is against his conscience or religious creed. Details will be laid down by law.

### **Part Three**

#### **POLITICAL RIGHTS**

#### Article 26

(1) The freedom of speech and the right to information are guaranteed.

(2) Everyone has the right to express his views in word, writing, print, picture, or other means as well as the right to freely seek out, receive, and spread ideas and information without regard for state borders. The issuing of press is not subject to approval procedures. Enterprise in the fields of radio and television may be subject to the awarding of an approval from the state. The conditions shall be laid down by law.

(3) Censorship is banned.

(4) The freedom of speech and the right to seek out and disseminate information may be restricted by law, if such a measure is necessary in a democratic society to protect the rights and freedoms of others, state security, public order, or public health and morals.

(5) Public authority bodies are obliged to provide information on their activities in an appropriate manner and in the state language. The conditions and manner of execution shall be laid down by law.

#### Article 27

(1) The right of petition is guaranteed. Everyone has the right, alone or with others, to address requests, proposals, and complaints to state bodies and territorial self-administration bodies in matters of public or other common interest.

(2) A petition may not call for the violation of basic rights and freedoms.

(3) A petition must not interfere with the independence of a court.

#### Article 28

(1) The right to peacefully assemble is guaranteed.

(2) Conditions for exercising this right shall be laid down by law in the event of assemblies in public places, if such a measure is necessary

in a democratic society to protect the rights and freedoms of others, public order, health and morals, property, or the security of the state. An assembly may not be made conditional on the issuance of an authorization by a state administration body.

#### Article 29

(1) The right to freely associate is guaranteed. Everyone has the right to associate with others in clubs, societies, or other associations.

(2) Citizens have the right to establish political parties and political movements and to associate in them.

(3) The exercising of rights under paragraphs 1 and 2 may be restricted only in cases laid down by law, if it is necessary in a democratic society for reasons of state security, to protect public order, to prevent criminal acts, or to protect the rights and freedoms of others.

(4) Political parties and political movements, as well as clubs, societies, or other associations are separated from the state.

#### Article 30

(1) Citizens have the right to participate in the administration of public affairs either directly or through the free election of their representatives. Foreigners with a permanent residence on the territory of the Slovak Republic have the right to vote and be elected in the self-administration bodies of municipalities and self-administration bodies of superior territorial units.

(2) Elections must be held within deadlines not exceeding the regular electoral period as laid down by law.

(3) The right to vote is universal, equal, and direct and is exercised by means of secret ballot. Conditions for exercising the right to vote shall be laid down by law.

(4) Citizens have access to elected and other public posts under equal conditions.

#### Article 31

The legal regulation of all political rights and freedoms and their interpretation and use must enable and protect a free competition of political forces in a democratic society.

#### Article 32

Citizens have the right to put up resistance against anyone who would eliminate the democratic order of basic human rights and freedoms listed in this Constitution, if the activity of constitutional bodies and the effective use of legal means are rendered impossible.

### **Part Four**

#### **THE RIGHTS OF NATIONAL MINORITIES AND ETHNIC GROUPS**

#### Article 33

Membership in any national minority, or ethnic group, must not be to anyone's detriment.

#### Article 34

(1) The comprehensive development of citizens belonging to national minorities or ethnic groups in the Slovak Republic is guaranteed, particularly the right to develop their own culture together with other members of the minority or ethnic group, the right to disseminate and receive information in their mother tongue, the right to associate in national minority associations, and the right to establish and maintain educational and cultural institutions. Details shall be laid down by law.

(2) In addition to the right to master the state language, citizens belonging to national minorities, or ethnic groups, also have, under conditions defined by law, a guaranteed

a) right to education in their own language,

- b) right to use their language in official communications,
- c) right to participate in the decisions on affairs concerning national minorities and ethnic groups.

(3) The exercise of the rights of citizens belonging to national minorities and ethnic groups that are guaranteed in this Constitution may not lead to jeopardizing of the sovereignty and territorial integrity of the Slovak Republic, and to discrimination against its other inhabitants.

## **Part Five**

### **ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

#### Article 35

(1) Everyone has the right to a free choice of profession and to training for it, as well as the right to engage in entrepreneurial or other gainful activity.

(2) Conditions and restrictions with regard to the execution of certain professions or activities may be laid down by law.

(3) Citizens have the right to work. The state shall materially and to an appropriate extent provide for citizens who are unable to exercise this right through no fault of their own. The conditions shall be laid down by law.

(4) A different regulation of rights listed under paragraphs 1 to 3 may be laid down by law for foreign nationals.

#### Article 36

Employees have the right to just and satisfying working conditions. The law guarantees, above all

- a) the right to remuneration for work done, sufficient to ensure them a dignified standard of living,
- b) protection against arbitrary dismissal and discrimination at the work place,
- c) labor safety and the protection of health at work,
- d) the longest admissible working time,
- e) adequate rest after work,
- f) the shortest admissible period of paid leave,
- g) the right to collective bargaining.

#### Article 37

(1) Everyone has the right to freely associate with others in order to protect his economic and social interests.

(2) Trade union organizations are established independently of the state. It is inadmissible to limit the number of trade union organizations, as well as to give some of them a preferential status in an enterprise or a branch of the economy.

(3) The activity of trade union organizations and the founding and operation of other associations protecting economic and social interests can be restricted by law, if such measure is necessary in a democratic society to protect the security of the state, public order, or the rights and freedoms of others.

(4) The right to strike is guaranteed. The conditions shall be laid down by law. Judges, prosecutors, members of the armed forces and armed corps, and members and employees of the fire and rescue brigades do not have this right.

#### Article 38

(1) Women, minors, and persons with impaired health are entitled to an enhanced protection of their health at work, as well as to special working conditions.

(2) Minors and persons with impaired health are entitled to special protection in labour relations as well as to assistance in professional training.

(3) Details concerning rights listed in paragraphs 1 and 2 shall be laid down by law.

#### Article 39

(1) Citizens have the right to adequate material provision in old age, in the event of work disability, as well as after losing their provider.

(2) Everyone who is in material need is entitled to assistance necessary to ensure basic living conditions.

(3) Details concerning rights listed in paragraphs 1 and 2 shall be laid down by law.

#### Article 40

Everyone has a right to the protection of health. Based on public insurance, citizens have the right to free health care and to medical supplies under conditions which shall be laid down by law.

#### Article 41

(1) Marriage is a unique union between a man and a woman. The Slovak Republic comprehensively protects and cherishes marriage for its own good. Marriage, parenthood and family are protected by law. Separate protection of children and juveniles is guaranteed.

(2) Special care, protection in labour relations, and adequate working conditions are guaranteed to a woman during the period of pregnancy.

(3) Children born in and out of wedlock enjoy equal rights.

(4) Child care and upbringing are the rights of parents; children have the right to parental care and upbringing. Parents' rights can be restricted and minors can be separated from their parents against their will only by a court ruling on the basis of law.

(5) Parents caring for children are entitled to assistance from the state.

(6) Details concerning rights under paragraphs 1 to 5 shall be laid down by law.

#### Article 42

(1) Everyone has the right to education. School attendance is compulsory. Its period and age limit shall be laid down by law.

(2) Citizens have the right to free education at primary and secondary schools and, depending on their abilities and society's resources, also at higher educational establishments.

(3) Schools other than state schools may be established, and teaching in them provided, only under conditions laid down by law; education in such schools may be provided for a payment.

(4) A law shall lay down conditions under which citizens are entitled to assistance from the state in their studies.

#### Article 43

(1) Freedom of scientific research and in art is guaranteed. The rights to the results of creative intellectual activity are protected by law.

(2) The right of access to the cultural heritage is guaranteed under conditions laid down by law.

### **Part Six**

## **THE RIGHT TO THE PROTECTION OF THE ENVIRONMENT AND THE CULTURAL HERITAGE**

#### Article 44

(1) Everyone has the right to a favourable environment.

(2) Everyone is obliged to protect and enhance the environment and the cultural heritage.

(3) No one may endanger, or damage the environment, natural resources, and the cultural heritage beyond the extent laid down by law.

(4) The state looks after a cautious use of natural resources, protection of agricultural and forest land, ecological balance, and effective environmental care, and provides for the protection of specified species of wild plants and animals.

(5) Agricultural and forest land are non-renewable natural resources and enjoy special protection by the state and society.

(6) The details of the rights and obligations according to paragraphs 1 to 5 shall be laid down by law.

#### Article 45

Everyone has the right to timely and complete information about the state of the environment and about the causes and consequences of its condition.

### **Part Seven**

#### **THE RIGHT TO JUDICIAL AND OTHER LEGAL PROTECTION**

#### Article 46

(1) Everyone may claim his right in a manner laid down by law in an independent and impartial court and, in cases laid down by law, at another body of the Slovak Republic.

(2) Anyone who claims to have been deprived of his rights by a decision of a public administration body may turn to the court to have the lawfulness of such decision re-examined, unless laid down otherwise by law. The re-examination of decisions concerning basic rights and freedoms may not, however, be excluded from the court's authority.

(3) Everyone is entitled to compensation for damage incurred as a result of an unlawful decision by a court, or another state or public administration body, or as a result of an incorrect official procedure.

(4) Conditions and details concerning judicial and other legal protection shall be laid down by law.

#### Article 47

(1) Everyone has the right to refuse to testify if, by doing so, he might bring on the risk of criminal prosecution of himself or a close person.

(2) Everyone has the right to legal assistance in court proceedings, or proceedings before other state or public administration bodies from the start of the proceedings, under conditions laid down by law.

(3) All participants are equal in proceedings according to paragraph 2.

(4) Anyone who declares that he does not have a command of the language in which the proceedings under paragraph 2 are conducted has the right to an interpreter.

#### Article 48

(1) No one must be removed from his assigned judge. The jurisdiction of the court shall be laid down by law.

(2) Everyone has the right to have his case tried in public, without undue delay, and in his presence and to deliver his opinion on all pieces of evidence. The public can be excluded only in cases laid down by law.

#### Article 49

Only the law shall lay down which conduct constitutes a criminal act, and what punishment, or other forms of deprivation of rights, or property, may be imposed for its commitment.

#### Article 50

(1) Only the court decides on guilt and punishment for criminal acts.

(2) Everyone against whom a criminal proceeding is conducted is considered innocent until the court establishes his guilt by a legally valid verdict.

(3) The accused has the right to be granted the time and opportunity to prepare his defence, and to defend himself either alone or through a defence counsel.

(4) The accused has the right to refuse to testify; this right may not be denied in any way.

(5) No one may be criminally prosecuted for an act for which he has already been sentenced, or of which he has already been acquitted. This principle does not rule out the application of extraordinary remedies in compliance with the law.

(6) Whether any act is criminal is assessed, and punishment is determined, in accordance with the law valid at the time when the act was committed. A more recent law is applied, if it is more favourable for the perpetrator.

### **Part Eight**

#### **COMMON PROVISIONS FOR CHAPTERS ONE AND TWO**

##### Article 51

(1) The rights listed under Article 35, Article 36, Article 37, paragraph 4, Articles 38 to 42, and Articles 44 to 46 of this Constitution can be claimed only within the limits of the laws that execute those provisions.

(2) The conditions and scope of limitations of the basic rights and freedoms during war, under the state of war, martial state and state of emergency shall be laid down by the constitutional law.

##### Article 52

(1) Wherever the term "citizen" is used in Chapters One and Two of this Constitution, this is understood to mean a citizen of the Slovak Republic.

(2) Foreign nationals enjoy in the Slovak Republic basic human rights and freedoms guaranteed by this Constitution, unless these are expressly granted only to citizens.

(3) Wherever the term "citizen" is used in previous legal regulations, this is understood to mean every person, wherever this concerns the rights and freedoms that this Constitution extends regardless of citizenship.

##### Article 53

The Slovak Republic grants asylum to foreign nationals persecuted for upholding political rights and freedoms. Asylum may be denied to those who acted in violation of basic human rights and freedoms. Details shall be laid down by law.

##### Article 54

The law may restrict the right of judges and prosecutors to engage in entrepreneurial and other business activity and the right listed under Article 29, paragraph 2; the right of employees of state administration bodies and territorial self-administration bodies in designated functions listed also under Article 37, paragraph 4; and the rights of members of armed forces and armed corps listed also under Articles 27 and 28, if these are related to the execution of their duties. The law may restrict the right to strike for persons in professions that are vital for the protection of life and health.





