PDOR Public Defender of Rights

European Court of Human Rights
Council of Europe
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Application nos.	Our No.	Contact Person	Bratislava
30478/24 2634/25	1694/2026/KVOP xxxxx/2026	……	14.01.2026

Intervention as a third party

Honoured President of the Chamber,

By letter of 04 December 2025 granting leave to intervene, the Court invited written observations from the Public Defender of Rights of Slovakia. These submissions address the substantive and procedural questions under Article 2 and 3, in regard to the case of *Lučanský v Slovakia*, application nos. 30478/24 and 2634/25. Please, allow me to share my findings concerning the **findings on the conditions in detention on remand on the grounds of collusion**. My intervention, content-wise, focuses on four of the questions to the parties, i. e. questions on the substantive and procedural aspects of the Article 2 and 3 of the Convention in this case, marked as questions no. 2 - 5 in the courts request.

The observations are informed by my Office's inquiries into the general legal framework of the detention on remand on the grounds of collusion, by systemic findings presented in the National Preventive Mechanisms reports, and by analysis of relevant Slovak legal provisions.

I. Article 3 — Substantive Limb (Question 4)

In this part of my submission, I am focusing on one main aspects regarding the alleged ill-treatment of the applicant's father, that is supposed to be in contradiction with the requirements laid down by Article 3. Firstly, I will address the general applicable legal framework regarding the detention on remand on the grounds of collusion and after that address some systemic shortcomings regarding the conditions of such detention. Subsequently, I will briefly touch upon the current legal framework, that has undergone significant amendments since the applicant's father suicide.

Execution of detention in the Slovak Republic – standard regime

In the Slovak Republic, detention is carried out under **two basic regimes – a mitigated regime and a standard regime** (**orig. *zmiernený* and *štandardný režim***). Collusive custody (pre-trial detention on collusion grounds) is carried out under the standard regime. The standard-regime unit is the basic regime in which accused persons are placed, unless they have been assigned to the relaxed regime.

Under the standard regime, the conditions for the execution of detention are stricter – accused persons spend most of the day locked in their cells and their movement outside the cell, as well as their participation in leisure or educational activities, is restricted. The daily schedule is strictly set, with a reduced number of contacts with other accused persons and limited access to activities that

would support social interaction, personal development or physical activity. This regime applies in particular to persons who have not met the conditions for assignment to the relaxed regime or who have seriously breached their duties arising from the execution of detention.

During a visit in March 2025[1], the NPM monitoring team observed that such restrictions affect the mental state of accused persons, who are often isolated **not only physically but also socially**. In March 2025, the NPM conducted an unannounced monitoring visit to the Prešov Remand Prison (ÚVV Prešov), where it specifically identified that accused men in the standard regime spent their free time mainly playing cards in their cells or listening to the radio. Access to the recreation/cultural room was only possible on the basis of a written request. Some accused persons appreciated the possibility of access to professional literature, legal texts or the chapel. Outdoor exercise periods were available, but not everyone made regular use of them. Psychological and group activities were perceived positively, though they were not always available. In practice, this means that on **most days accused persons placed under the standard regime spend 23 hours a day in their cells**.

General remarks on collusive custody

For persons in collusive custody, this is compounded by limited contact with the outside world, which is subject to approval by the authorities involved in criminal proceedings. Under the Act on the Execution of Detention, in cases of collusive custody the accused person's right to receive and send mail, to make telephone calls and to receive visits may be restricted if this is necessary in order to achieve the purpose of detention, i.e. to prevent the influencing of witnesses or the tampering with evidence[2]. Such restrictions are ordered by the authority involved in criminal proceedings or by the court which ordered the detention (hereinafter "criminal justice authority" or "CJA").

An accused person in collusive custody may therefore make telephone calls or receive visits only with the consent of the competent authority and, as a rule, in the **presence of an investigator or an authorised member** of the Corps of Prison and Court Guard.

When dealing with persons placed in collusive remand detention, it is particularly important for the institution and its staff to actively contribute to mitigating the negative effects of isolation which this type of detention naturally entails. Even if contact with the outside world may be temporarily restricted for lawful reasons, the **institution should seek ways to alleviate isolation** at least in relation to the internal environment of the prison. Staff should also be trained to identify risks associated with long-term isolation, such as depressive or anxiety states, and to adapt the individual's regime so as to minimise the risk of deterioration of his or her mental health.

These findings point to the need to ensure that, even while respecting the statutory grounds for restricting contact in collusive custody, adequate communication with close family and with legal counsel is maintained, in a manner that minimises the negative effects of isolation and ensures respect for fundamental rights.

Historical context of the current legal framework

At the time when the complainant's father committed suicide in detention, the conditions of collusive custody **were set more strictly than they are now**.[3] In the view of my predecessor, these conditions

[1] Remand prison in Prešov – Report from the Monitoring of the National Preventive Mechanism from 17 till 18 of March 2025, p. 14 – 15. Available at; https://vop.gov.sk/wp-content/uploads/2025/09/Sprava-z-monitoringu-UVV-Presov.pdf.
[2] Law no. 211/2006 coll. on the Execution of Detention (orig. *zákon o výkone väzby*), art. 19, 20, 21.
[3] The change of the regime and the duration of the detention on remand based on the grounds of collusion has been amended by the law no. 308/2021 coll., effective from 15. August 2021 (duration of the detention) and law. no. 339/2022 coll. effective from 1. January 2023 (rules governing the contact with the „outside world").

had the most significant impact on family life. The most serious impact on the private and family life of accused persons in collusive custody stemmed from the regulation of the maximum possible duration of such custody, the specific regime for authorising and carrying out visits, the specific manner of correspondence by an accused person in collusive custody and restrictions on the possibility of making telephone calls.

The legislation did not in any way specifically limit the duration of collusive custody as the strictest form of detention regime. In other words, the strict regime of collusive custody was not offset, for example, by a shorter duration. Its duration was legally limited only by the general maximum limits on detention.

The information available to the Public Defender of Rights at the time of the proposed amendment also showed that **there was no more detailed regulation** of the manner and conditions for the exercise of the CJA's power to authorise visits or telephone calls by an accused person in collusive custody.

From the complaints received by the Public Defender of Rights around the time of the complainant's father's suicide, it appears that criminal justice authorities applied the provisions **interfering with the right to family and private life in a strict manner**. In some cases, accused persons were effectively not allowed to meet their family members for a period of approximately 10 months. In some situations, such a lengthy prohibition of visits was even accompanied by a ban on making telephone calls.

In such situations, accused persons are dependent on correspondence. However, given the special regime for the delivery of written communications of accused persons in collusive custody, in some cases known to me letters were delivered with a delay **of up to one month** because of this special regime.

In other cases, family visits by accused persons were formally authorised, but because the authorisation was delivered late, or was granted only after the date on which the visit was planned to take place, the opportunity for family visits remained **merely theoretical**.

Essentially the same outcome occurred where **a family visit was formally authorised in good time, but the CJA which had reserved its presence at the visit failed to appear**. In all three situations (no decision on the visit, a late decision, failure of the CJA to attend the visit), this practice meant that, even though the visit was not explicitly prohibited, or was even formally authorised, it **did not in fact take place because it was frustrated by the CJA**.

Because of the possible systemic violation of Article 8 of the Convention, the then Public Defender of Rights, **my predecessor Mária Patakyová, therefore called on the Ministry of Justice of the Slovak Republic to amend the relevant legislation**.[4] The Public Defender of Rights did not address the issue of the potential interference with the right to protection against ill-treatment in her letter. The assessment of the intensity of the interference for the purposes of the "minimum level of severity" test is in fact individual in each case, and not in every case of collusive custody would an interference primarily with private and family life also amount to a violation of Article 3. In my view, this applies in particular where detention has been carried out only for a short period of time or the CJA's conduct has been free of undue delays.

<u>Current changes in the legal framework</u>

[4] Letter no. 1629/2021VOP, dated 02. March 2021.

Also further to the letter from my predecessor, amendments have been made to the institution of collusive custody, which removed some of the problematic aspects highlighted in the previous part of my opinion. One of the most significant legislative changes is, in my view, the explicit introduction of a maximum duration of collusive custody, set at **no more than three months**. The exception is where the accused person has influenced witnesses, co-accused persons or experts, or has otherwise obstructed the clarification of facts essential for the criminal proceedings, or where he or she is prosecuted for certain particularly serious offences listed in the Code of Criminal Procedure.

In addition, the rules for authorising visits to accused persons have been amended. Even if the CJA fails to appear at a visit at which it has reserved its presence, the visit is to go ahead. In the past, visits were **in practice frustrated in such situations**. Moreover, the CJA may prohibit visits with a close person only if that person is prosecuted in the same criminal case, or where collusive conduct in the accused person's case has been objectively established on the part of that person.

The same changes and mitigation of the regime as for visits have been introduced for telephone calls by accused persons in collusive custody. The rules for exercising the right to make telephone calls are now essentially identical to the rules for receiving visits. No major changes have been made in the area of delivery of written communications of accused persons in collusive custody. Monitoring conducted by the NPM shows that the delivery of written communications via the CJA **takes a longer time**. Accused persons interviewed by NPM staff mentioned delivery times of approximately **two weeks**.[5]

After the amendment and relaxation of the legislation on collusive custody, the Public Defender of Rights has not received complaints from accused persons in collusive custody alleging a lack of contact with the outside world or with their family members. Before the adoption of the amendment that eased the regime of collusive custody, a number of accused persons turned to the Public Defender of Rights; this was one of the sources underlying **the proposal to amend the legislation which the Public Defender of Rights submitted to the Ministry of Justice**. However, I continue to consider **it problematic that accused persons placed in the standard regime often spend 23 hours a day locked in their cell**.

II. Article 2 - Substantive Limb (Question 2)

In this part of my submission, I am focusing on specific measure applied by the prison service in case if an identified risk of self-harm. Additionally, I do also analyse the available statistics of suicide prevention within prisons in Slovakia. I consider **both of these aspects as an important role of the state within the positive obligations under Art. 2 of the Convention**.

Treatment of convicted persons suspected of suicidal tendencies or self-harm

Under the applicable regulations, the Corps of Prison and Court Guard applies a multi-level system of measures aimed at eliminating the risk of self-harm and suicidal behaviour, based on generally binding legal regulations and internal rules. The starting point is the early identification of the risk of suicidal behaviour already upon admission of a person to pre-trial detention or to the execution of a sentence, on the basis of an assessment of his or her behaviour, current mental state and available information from the imprisoned person, the Police Force or judicial authorities.

[5] Remand prison in Prešov – Report from the Monitoring of the National Preventive Mechanism from 17 till 18 of March 2025, pp. 18 – 19. Available at; https://vop.gov.sk/wp-content/uploads/2025/09/Sprava-z-monitoringu-UVV-Presov.pdf.

The level of risk is assessed immediately after admission by a psychologist through a professional interview and a standardised questionnaire. Subsequently, the risk is continuously identified and evaluated throughout the entire period of deprivation of liberty, taking into account the knowledge of prison staff, medical records, findings from specialist examinations and information obtained from the imprisoned person's communication with others, including persons from the outside (civil) environment.

Where an increased risk is identified, the imprisoned person is classified into one of three risk groups, with corresponding differentiated measures – from enhanced monitoring and more frequent interviews, through systematic psychological care and ad hoc checks, to continuous supervision and provision of psychiatric care for persons with a high risk of suicidal behaviour.

The system also includes specialised treatment for persons with mental disorders or other serious psychological problems under Section 79 of Decree of the Ministry of Justice of the Slovak Republic No. 368/2008 Coll., aimed at preventing deterioration of their mental state. According to statements from medical staff, all accused persons who attempt suicide are, on the basis of a doctor's recommendation, escorted to the psychiatric department of the Hospital for Accused and Convicted Persons and Prison for the Execution of Sentences of Imprisonment in Trenčín. After returning from the psychiatric department of that hospital, these persons are subject to enhanced supervision, including monitoring by a psychologist.

The findings of the National Preventive Mechanism from visits carried out in prisons in 2025 are essentially consistent with the declared design of this system. The available documents and findings indicate that the system for the prevention of suicidal behaviour in remand prisons and prisons for the execution of sentences is, at the normative level, conceived as multi-level and comprehensive, with a focus on early identification of risk, its ongoing reassessment and differentiated application of measures according to the degree of risk.

In practice, most of these procedures are formally in place in the prisons and staff have basic mechanisms for detecting risky behaviour. The findings of the National Preventive Mechanism confirm that the initial identification of suicidal risk and its recording are, in general, ensured[6]. This initial intervention serves to provide a basic assessment of the person's mental state, to identify risk factors – including possible suicidal behaviour – and, where appropriate, to recommend further psychological or psychiatric care. At the same time, however, differences persist in the continuity and intensity of preventive measures, which depend to **a large extent on the staffing and professional capacity of individual prisons**.

As a problematic area, the NPM identifies in particular the setting of care for persons with increased or high suicidal risk after their hospitalisation in the Hospital for Accused and Convicted Persons and the Prison for the Execution of Sentences of Imprisonment in Trenčín. In these cases, treatment focuses primarily on adjusting medication, while other forms of **therapeutic or psychosocial**

[6] Reports from the Monitoring of the National Preventive Mechinsm of Remand prisons in 2025:
Remand prison in Prešov, available at: https://vop.gov.sk/wp-content/uploads/2025/09/Sprava-z-monitoringu-UVV-Presov.pdf;
Remand prison in Bratislava, available at: https://vop.gov.sk/wp-content/uploads/2025/12/Sprava-z-monitoringu-NPM-UVV-a-UVTOS-Bratislava.pdf;
Remand prison in Nitra, available at: https://vop.gov.sk/wp-content/uploads/2025/11/Sprava-z-monitoringu-NPM-UVV-a-UVTOS-Nitra.pdf.

intervention are used only to a **limited extent**.[7] After the person returns to the remand prison or prison for the execution of sentences, the management of suicidal risk largely depends on the local conditions and resources of the given prison, which often does not have continuous psychiatric care at its disposal.

While psychologists are usually present in prisons on working days, psychiatric care is available in most prisons **only to a limited extent** – **on several days or hours per week** – which complicates flexible responses to changes in the mental state of imprisoned persons. In the NPM's view, this situation weakens the continuity of care and increases the risk that, after a person returns from hospitalisation, suicidal risk **will not be adequately managed** in a comprehensive and multidisciplinary manner.

Statistical indicators of the effectiveness of suicide prevention in the Slovak Republic

Statistical data of the Corps of Prison and Court Guard for the period 2014 to 2024 show that the incidence of suicide attempts in prisons has long significantly exceeded the number of completed suicides. This ratio has remained essentially stable over the entire period under review, with the number of suicide attempts in individual years ranging from approximately 26 to 55 cases, while the number of completed suicides was generally in single digits.[8]

From the perspective of the procedural status of imprisoned persons, the data clearly show that, in most of the years under review, suicide attempts occurred more frequently among convicted persons than among accused persons. This phenomenon can be associated with the long-term impact of stress factors linked to the execution of a custodial sentence. However, this difference is not consistent in the case of completed suicides. In some years, a **higher number of completed suicides** was recorded **among accused persons**, which points to the particular vulnerability of persons in the initial phase of deprivation of liberty, especially immediately after being remanded in custody.

The overall comparison of suicide attempts and completed suicides confirms that most suicidal acts in prisons are non-fatal, which indirectly points to the existence of intervention mechanisms on the part of prison staff. At the same time, however, repeated year-on-year fluctuations in the number of completed suicides, especially in 2021, underline the need for consistent and systematic application of preventive measures, focusing on early identification of at-risk persons and an adequate response by members of the Corps of Prison and Court Guard.

The occurrence of suicide attempts and completed suicides in remand prisons and prisons for the execution of sentences must also be assessed in the context of the state's positive obligations under Article 2 of the Convention, i.e. the duty to protect the lives of persons deprived of their liberty. The case-law of the European Court of Human Rights has long emphasised that the state bears **a special responsibility for protecting the lives of persons** who are under its effective control, in particular where the public authorities know, or ought to know, of specific risks to life, including suicidal behaviour.

[7] Remand prison in Prešov – Report from the Monitoring of the National Preventive Mechanism from 17 till 18 of March 2025, pp. 11 and 22. Available at; https://vop.gov.sk/wp-content/uploads/2025/09/Sprava-z-monitoringu-UVV-Presov.pdf.
[8] See more in Attachment no. 1 to the intervention as a third party to application nos. 30478/24 and 2634/25.

The analysed data show that although most suicidal acts in prisons are non-fatal, repeated fluctuations in the number of completed suicides, **especially the marked increase in 2021**, indicate a continuing vulnerability of the system for protecting life in certain periods or in relation to certain groups of imprisoned persons. Particular attention must be paid to persons immediately after they have been remanded in custody, as well as to persons with identified mental health difficulties or an increased risk of suicidal behaviour.

From this perspective, the multi-level system of preventive measures applied by the Corps of Prison and Court Guard should be assessed positively, as noted in reports from NPM monitoring in 2025, in particular the mandatory identification of the risk of suicidal behaviour upon admission to remand detention or execution of a sentence, ongoing monitoring of the mental state of imprisoned persons and a differentiated approach according to the degree of identified risk. These measures are in line with the requirements arising from the case-law of the ECtHR, according to which the state must have an appropriate legislative and administrative framework, as well as effective practical mechanisms for preventing threats to life.

At the same time, the statistical data suggest that the mere existence of formal measures may not always be sufficient if they are not accompanied by their consistent and uniform application in practice. The fact that in some years with a lower number of suicide attempts there was an increased number of completed suicides highlights the need for continuous evaluation of the effectiveness of the measures adopted, particularly in terms of the timeliness of the response, the intensity of supervision and the availability of professional psychological and psychiatric care.

From the perspective of the National Preventive Mechanism, it is therefore appropriate to stress the need for systematic strengthening of preventive measures, with a **focus on early identification of risk, consistent documentation of relevant information on the mental state** of imprisoned persons, and the provision of appropriate care for persons with increased or high suicidal risk, in line with the state's positive obligations to protect the right to life.

III. Article 2 and 3 - Procedural Limb (Question 3 and 5)

Both I and my predecessors **have long pointed to the unsatisfactory legal framework for reviewing the disproportionate use of coercive means** by members of the Police Force. The main criticism of the existing system concerns the existence of hierarchical, collegial, departmental and economic ties between the Police Force, the Ministry of the Interior and the Bureau of the Inspection Service. I have therefore repeatedly stressed the need for a **comprehensive reform of the Bureau of the Inspection Service** so that it provides guarantees of independence of investigations in line with the criteria for effective investigations under Articles 2 and 3 of the Convention.

However, I view the situation differently in the case of investigations of the conduct of members of the Corps of Prison and Court Guard. In the Slovak Republic, the prison system falls within the remit of the Ministry of Justice, and the Corps of Prison and Court Guard is a financially autonomous entity with its own budget. The Bureau of the Inspection Service falls within the remit of the Ministry of the Interior. Members of the Corps of Prison and Court Guard cannot simply become staff of the Bureau of the Inspection Service, and in my view there are no other evident links between the two institutions.

In the case of investigations by the Bureau of the Inspection Service into the conduct of members of the Corps of Prison and Court Guard, I therefore do not see the existence of such hierarchical, collegial, departmental or financial ties as would undermine the independence of the investigation.

IV. Conclusion

The information gathered during my activities illustrates that regimes of pre-trial detention based on collusion grounds inherently carry **a heightened risk of social and sensory isolation, with potential adverse effects on the mental health and family life of detained persons**. Historical practice in the Slovak Republic shows that, where the duration and degree of restrictions on contact with the outside world are not sufficiently circumscribed, **there is a real risk of significant interference with rights protected under the Convention**.

At the same time, subsequent legislative developments demonstrate that such risks **can be mitigated through clearer statutory limits on the duration** of restrictive regimes and more precise rules governing visits, telephone contact and correspondence.

As regards the protection of life and the prevention of suicide in detention, my letter indicates that the Slovak authorities have established a multi-level normative framework aimed at early identification and management of suicidal risks, combined with differentiated measures according to the degree of risk identified. The statistical data suggest that these mechanisms may contribute to limiting the number of completed suicides, although fluctuations in some years and the variability of implementation between individual establishments underscore the importance of effective, continuous and adequately resourced application in practice. Particular attention appears necessary in respect of persons in the initial phase of deprivation of liberty and those with pre-existing or newly emerging mental health difficulties.

In my submission, the issues identified in this case are not isolated but form **part of wider systemic challenges in ensuring effective protection against ill-treatment**.

These observations are offered to assist the Court's analysis of the **general issues** raised under Article 2 and 3.

Sincerely,

Róbert Dobrovodský
Public Defender of Rights