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Introduction

1. The Slovak Republic was established on the basis of Constitutional Act No. 542/1992 Coll. on the Dissolution of the Czech and Slovak Federal Republic on 1 January 1993. Prior to its establishment the Declaration of the Slovak National Council on the Sovereignty of the Slovak Republic, declaring the sovereignty of the Slovak Republic on the basis of the internationally recognized natural right of nations to self-determination as the basis of a sovereign nation, was adopted. Bratislava is the capital of Slovakia. The Slovak crown is the currency unit.
2. The Slovak Republic is a continental country in the centre of Europe. Slovakia is neighboured by the Czech Republic, Poland, Ukraine, Hungary and Austria. Slovakia is a country with a Christian tradition, the majority of the population (some 68.9 per cent) claim to be of the Roman Catholic confession.
3. The geographic location of Slovakia and its historical development have had a significant impact on the ethnic structure of the population of Slovakia. In addition to the citizens of Slovak origin, citizens claiming Hungarian, Romany, Czech, Ruthenian, Ukrainian, German, Moravian, Silesian, Croatian, Jewish, Polish and Bulgarian nationality live in the Slovak Republic.
4. In the creation of the Slovak Republic, extraordinary attention was paid to providing continuity and stability of the legal system as the essential prerequisite for the stability of State institutions and the observance of human rights. Constitutional laws, acts and other generally binding regulations remained in force after the dissolution of the Czech and Slovak Federal Republic insofar as they did not contradict the Constitution (art. 152, para. 1 of the Constitution of the Slovak Republic). All basic norms guaranteeing democracy, the rule of law, human rights and freedoms, including international conventions to which the Czech and Slovak Federal Republic was a party until its dissolution, have been re-enacted in the legal system of the Slovak Republic.
5. Since 19 January 1993 and with effect from 1 January 1993 the Slovak Republic has been a member of the United Nations. Slovakia is a party to all key United Nations instruments adopted in the area of human rights: the International Covenant on Civil and Political Rights and its two Optional Protocols, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, the Convention on the Rights of the Child and the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. On 30 November 2001, Slovakia signed the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts. The Slovak Republic is ready to take the necessary steps to ratify both Protocols.

I. LAND AND PEOPLE

A. Basic statistical data

6. The table below presents statistical data on the characteristics of the population of the Slovak Republic on the basis of the Population and Housing Census 2001 and from other statistics.

Area	49 036 km ²
Total population	5 379 455 of which: female - 2 766 940 male - 2 612 515
Population density	109.7 inhabitants per sq. km.
Population by nationality	85.8% Slovak 9.7% Hungarian 1.7% Romany 0.8% Czech 0.4% Ruthenian 0.2% Ukrainian 0.1% German 0.05% Polish 0.04% Moravian 0.03% Russian 0.02% Croatian 0.02% Bulgarian 0.01% Serbian 0.01% Jewish 0.1% Other 1.1% Unknown
Population by religion	68.9% Roman Catholic Church 6.9% Evangelic Church of Augustine Affiliation 4.1% Greek-Catholic Church 2.0% Reformed Christian Church 0.9% Orthodox Church 4.2% Other 13.0% Without religious affiliation

Age	18.9% of pre-productive age 62.3 % of productive age of which: female - 48.0% male - 52.0% 18.0 % of post-productive age of which: female - 66.1% male - 33.9%
Economically active persons (preliminary data without working pensioners)	Total 2 665 837 of which: female - 47.7% male - 52.3%
Mortality per 1,000 inhabitants	9.66% (female - 8.8%, male - 10.6%)
Urban population	56.1%
Rural population	43.9%
Mortality rate at birth	0.0%
Gross domestic product (preliminary data)	
- current prices	SK 946.6 billion
- constant prices	SK 689.7 billion
Inflation rate	7.1%
Foreign debt on 31 December 2001	US\$ 11 042 million
Foreign debt per capita	US\$ 2 053 million
(<u>source</u> : National Bank of Slovakia)	
Unemployment rate	18.6 %
(<u>source</u> : National Labour Office)	

B. Administrative and territorial division - higher territorial units

7. Under Act No. 302/2001 Coll. on Self-Government of Higher Territorial Units, the territory of the Slovak Republic is divided into eight self-governing regions. A self-governing region is an independent territorial self-governing and administrative entity of the Slovak Republic. It is a legal entity administering its own property and its own income, guaranteeing and protecting the rights and interests of its inhabitants under conditions stipulated by law. A self-governing region may be given duties and restrictions in matters concerning territorial self-government only by law or on the basis of an international treaty. The bodies of a self-governing region are the Parliament of the self-governing region and the Chairman of the self-governing region.

8. While performing its self-government tasks a self-governing region pursues the comprehensive development of its territory and the needs of its inhabitants. In administering their areas of competence they cooperate with State authorities, other self-governing regions, municipalities and other legal entities. Some tasks of the State administration may be transferred to a self-governing region by law. The self-governing region can cooperate with territorial and administrative units or authorities of other countries performing regional functions, within the scope of its competence. It has the right to become a member of an international association of territorial entities or territorial bodies.

9. In matters of territorial self-government the self-governing regions may issue generally binding by-laws. In matters where the self-governing region performs the tasks of State administration, it may issue by-laws only on the basis of its authorization by law and within the law.

II. GENERAL POLITICAL STRUCTURE

10. The Slovak Republic is a sovereign, democratic State with the rule of law within the meaning of article 1, paragraph 1, of the Constitution of the Slovak Republic. It is bound to no ideology or religion. Within the meaning of article 2, paragraph 1, of the Constitution of the Slovak Republic the State power derives from the citizens, who shall exercise it through their elected representatives or directly. Under the Constitution everyone may do what is not forbidden by a law and no one may be forced to do what the law does not enjoin.

A. The legislative power

11. The National Council of the Slovak Republic (hereinafter "Parliament") is the sole constitutional and legislative body of the Slovak Republic. It consists of 150 members of Parliament elected for a four-year period. Deputies are representatives of the citizens. They exercise their mandates individually and according to their best conscience and conviction, and they are bound by no orders.

12. The minimum age of eligibility for election to the Slovak Parliament is 21 years. The members of Parliament are elected by secret ballot in universal, equal and direct elections. Holding the office of member of Parliament is incompatible with holding the office of judge, prosecutor, ombudsman, officer in the armed forces and officer in the armed corps.

13. The meetings of the Parliament are open to the public. Closed meetings may be held only in cases laid down by the law or when so decided by a three-fifths majority of all members of Parliament. A chairman and deputy chairmen govern and organize the operations of the Parliament. The Parliament has a quorum if more than half of all members of Parliament are present. Consent by more than half of the members of Parliament present is required, unless this Constitution provides otherwise, for a resolution to become valid.

14. The competence of the Slovak Parliament includes mainly:

(a) Adopting the Constitution, constitutional laws and other laws and to supervise their implementation;

(b) Approving treaties of accession by the Slovak Republic to a State union with other States and the repudiation of such treaties by a constitutional law;

(c) Deciding on a petition for declaring referendums;

(d) Before ratification, to approve international treaties on human rights and fundamental freedoms, international political treaties, international treaties of a military nature, international treaties from which the membership of the Slovak Republic in an international organization arises, general international economic treaties, international treaties the implementation of which requires a law, and international treaties which directly confer rights or impose duties on natural persons or legal entities, and at the same time to decide whether they are international treaties under article 7, paragraph 5, of the Constitution;

(e) Establishing ministries and other bodies of State administration;

(f) Debating on the Programme Declaration of the Government of the Slovak Republic, to monitoring the activities of the Government, as well as to debate on votes of confidence on the Government or its individual members;

(g) Approving the State budget, monitoring compliance and approving the final State budgetary accounts;

(h) Debating basic issues of domestic, international, economic, social and other policy;

(i) Electing and removing the Chairman and Deputy Chairman of the Supreme Audit Office of the Slovak Republic and three members of the Judiciary Council of the Slovak Republic;

(j) Resolving to declare war in the event of an attack on the Slovak Republic or when it emanates from obligations under international treaties on joint defence against attack, and after the end of war, to conclude the peace;

(k) Giving assent to deploying the armed forces outside the territory of the Slovak Republic, save in cases under article 119 (p) of the Constitution;¹

(l) Approving the presence of foreign military forces on the territory of the Slovak Republic.

15. The members of Parliament work in various committees in the Parliament. The National Council Committee for Human Rights and Nationalities deals with human rights issues.

B. The executive power

1. The President

16. The Head of the Slovak Republic is the President. The President represents the Slovak Republic externally and internally and he/she ensures the regular operation of constitutional bodies by his or her decisions. The President is elected by the citizens of the Slovak Republic for a period of five years by secret ballot in direct elections. Any citizen of the Slovak Republic eligible to be elected to the Parliament being at least 40 on the day of elections can be elected President. The same person may be elected President for not more than two consecutive terms.

17. The most important powers of the President include:

- (a) Representing the Slovak Republic externally;
- (b) Negotiating and ratifying international treaties;
- (c) The right to submit to the Constitutional Court a motion to decide on the conformity of a negotiated international treaty, which requires consent by the Parliament, with the Constitution or with a constitutional law;
- (d) Receiving, appointing and recalling heads of diplomatic missions;
- (e) Convening the opening session of Parliament;
- (f) The right to dissolve Parliament under article 102, paragraph 1 (e), of the Constitution;
- (g) Signing laws;
- (h) Appointing and removing the Prime Minister and other members of the Government of the Slovak Republic, charging them with direction of ministries and accepting their resignation; recalling the Prime Minister and other ministers in cases defined in articles 115 and 116 of the Constitution,
- (i) Appointing and recalling principal officials of central bodies and higher State officials, and other officials in cases laid down by a law;
- (j) Appointing and recalling rectors of universities and university professors,
- (k) Appointing and promoting generals,
- (l) Conferring decorations, unless another authority has been delegated by the President to do so;
- (m) Remitting and mitigating sentences imposed by criminal courts in criminal proceedings;

- (n) Expunging sentences in the form of individual pardon or amnesty;
- (o) Declaring referendums;
- (p) The right to return to Parliament an act with comments up to 15 days from the delivery of an adopted act;
- (q) Informing the Parliament of the state of the Slovak Republic and of major political issues;
- (r) The right to request of the Government of the Slovak Republic and of its members information necessary for the accomplishment of the tasks of the President;
- (s) Appointing and removing judges, the President and the Vice-President of the Constitutional Court of the Slovak Republic;
- (t) Appointing and removing judges, the President and the Vice-President of the Supreme Court of the Slovak Republic, the General Prosecutor and three members of the Judiciary Council of the Slovak Republic; accepting the oath of judges.

18. The President is also the supreme commander of the armed forces. He/she declares war on the basis of a decision by the Parliament when the Slovak Republic is attacked or when it results from obligations under international treaties on common defence against attack, and the President concludes peace. Upon a proposal by the Government, the President may order the mobilization of the armed forces, declare a state of war or a state of emergency and their termination.

19. The President presents to the Parliament a report on the state of the Slovak Republic and on major political affairs.

2. The Government

20. The Government of the Slovak Republic is the supreme body of the executive power. It is composed of the Prime Minister, deputy prime ministers and ministers. The Government directly reports to the Parliament with respect to the exercise of its functions and the Parliament may take a no-confidence vote any time.

21. The current Slovak Government has four deputy prime ministers: the Deputy Prime Minister for Economic Affairs, the Deputy Prime Minister for Legislation, the Deputy Prime Minister for European Integration and the Deputy Prime Minister for Human Rights, Minorities and Regional Development.

22. The Government is a collective body and its most important powers include deciding on draft laws, regulations of the Government, the Programme of the Government and its fulfilment, fundamental measures to ensure the economic and social policy of the country, the draft State budget and the final State budgetary accounts.

23. The Government also decides on fundamental issues of domestic and foreign policy, on submitting draft laws or other important measures to public discussion, on asking for a confidence vote, on granting amnesty in cases of offences, on appointing and removing other State officials in cases provided for by law and three members of the Judiciary Council of the Slovak Republic. The Government decides on a proposal to declare a state of war, to order the mobilization of the armed forces, to declare a state of exception and to end it, to declare a state of emergency and to end it, to send the armed forces outside the territory of the Slovak Republic to give humanitarian assistance, for military exercises or peace monitoring missions, on consent to the presence of foreign armed forces in the territory of the Slovak Republic, on consent to the transit through the territory of the Slovak Republic of foreign armed forces, on deploying the armed forces outside the territory of Slovakia to fulfil obligations resulting from international treaties on common defence against attack for a period not longer than 60 days; the Government informs the Parliament of such decisions immediately.

24. Under the Constitution the Government also decides on international treaties of the Slovak Republic when the President of the Slovak Republic has transferred their negotiation to the Government, on consent to the transfer of the negotiation of international treaties to the individual members under article 102, paragraph 1 (a), of the Constitution, and on lodging a petition with the Constitutional Court for a decision on the conformity of a negotiated international treaty requiring consent of the Parliament with the Constitution and constitutional laws.

C. The judicial power

1. The courts

25. In the Slovak Republic independent and impartial courts administer justice. Justice is executed at all levels separately from other State bodies. The system of courts is composed of the Supreme Court of the Slovak Republic and other courts (district and regional courts).

26. Courts decide in civil and criminal matters. The courts also review the lawfulness of decisions made by bodies of public administration and the lawfulness of decisions, measures or other interventions by bodies of public power, if the law so provides. The courts decide in chambers provided the law stipulates that a single judge shall decide in the matter.

27. Judges perform their office as their occupation. Holding the office of judge is incompatible with a post in any other public authority body, with a State service relationship, with an employment or a similar labour relation, with an entrepreneurial activity, with a membership in the governing or control body of a legal person which performs an entrepreneurial activity or with other economic or gainful activity other than the administration of his or her own property or scientific, pedagogical, literary or artistic activity, and with membership in the Judiciary Council of the Slovak Republic. Judges cannot be members of a political party or a political movement.

28. In the exercise of their offices judges are independent and bound in their decision-making only by the Constitution, constitutional laws, laws and international treaties. The amendment to the Constitution implemented by Constitutional Act No. 90/2001 Coll., some parts of which

came into effect on 1 July 2001, introduced significant changes in the appointment procedure for judges. Under the new legislation judges are no longer elected by the Parliament upon a proposal by the Government; judges are appointed and removed by the President of the Slovak Republic upon the proposals submitted by the Judiciary Council of the Slovak Republic. Under the amendment to the Constitution judges are appointed without any time limitations; thus, the four-year probationary period for judges has been removed. Under article 145, paragraph 2, of the Constitution, a citizen of the Slovak Republic who is eligible for election to the Parliament, has attained the age of 30 years and has a university education in law may be appointed a judge. The President of the Slovak Republic appoints the President and Vice-President of the Supreme Court of the Slovak Republic from the Supreme Court judges for a period of five years upon a proposal by the Judiciary Council. The same person may be appointed President and Vice-President of the Supreme Court for not more than two consecutive periods.

29. The Judiciary Council consists of 18 members: the President of the Supreme Court of the Slovak Republic, who is at the same time the President of the Judiciary Council; 8 members are elected and removed by the judges of the Slovak Republic; 3 members are elected and removed by the Parliament, the President of the Slovak Republic and the Government, respectively. The term of office of the members of the Judiciary Council is five years and the same person may be re-elected or appointed for not more than two consecutive periods. An approval by the majority of all its members is needed to have its resolution adopted. The competence of the Judiciary Council includes:

(a) Submitting to the President of the Slovak Republic proposals for candidates for appointment as judges and proposals for the removal of judges;

(b) Deciding on assignments and transfers of judges;

(c) Submitting to the President of the Slovak Republic proposals for the appointments of the President and Vice-President of the Supreme Court of the Slovak Republic and proposals for their removal;

(d) Submitting to the Government of the Slovak Republic proposals for judges to act for the Slovak Republic in international judicial bodies;

(e) Electing and removing members of the disciplinary chambers and electing and removing its presidents;

(f) Presenting comments on the draft budget of the courts of the Slovak Republic when the State budget is being drafted;

(g) Other competences when a law so provides.

30. Under article 147 of the Constitution the President of the Slovak Republic removes a judge, or has an obligation to remove a judge upon a proposal of the Judiciary Council:

(a) On the basis of a final condemning judgement for wilful criminal offence; or

(b) When the judge has been convicted of a criminal offence and the court did not decide probationary suspension of the prison sentence; or

(c) On the basis of a decision by a disciplinary chamber for an activity which is incompatible with the discharge of the functions of a judge; or

(d) When his/her eligibility for election to the Parliament has terminated.

31. Under article 147, paragraph 2, of the Constitution the President of the Slovak Republic may remove a judge if his/her long-term health condition does not, for at least one year, allow him to perform his/her duties as a judge, or he/she has attained the age of 65 years.

32. The legal system of the Slovak Republic distinguishes between appointment to the office of judge by the President of the Slovak Republic and the appointment by the Minister of Justice of judges to court functions, in particular the offices of president and vice-president of the regional and district courts under section 39 of Act No. 335/1991 Coll. on Courts and Judges as amended (hereinafter "Courts and Judges Act"). State administration of the courts is ensured through these court officials to the extent determined by Act No. 80/1992 Coll. on the Seats and Districts of Courts of the Slovak Republic, State Administration of Courts, Processing of Complaints and Elections of Lay Judges, as amended. These court officials leave their offices upon their own request, in compliance with section 50 of the Courts and Judges Act. Under this provision a court official may also be relieved of the office by the body that appointed him/her, i.e. the Minister of Justice.

33. The creation of judicial councils as bodies of self-government of courts at regional courts, the Higher Military Court and the Supreme Court of the Slovak Republic acting as advisory bodies to the presidents of these courts in the performance of State administration tasks has undoubtedly contributed to the strengthening of the principle of independence and impartiality. Judicial councils act to protect the rights and justified interests of judges and within the scope of this law they present their opinions on the individual aspects (e.g. temporary assignment of a judge, evaluation of judges, selection procedures to fill judicial vacancies, review of written statements and property declarations, etc.) that have a bearing on the adoption of other decisions. If they fail to give the necessary opinions or decisions, the procedures continue without them with the exception of cases concerning the assignment of judges to the Supreme Court, the transfer of judges to other courts or appointment to a higher judicial office.

34. Under the valid legal system of the Slovak Republic judges are independent in the performance of their office and they are bound only by the Constitution and the constitutional law, international treaties under article 7, paragraphs 2 and 5, of the Constitution, the finding of the Constitutional Court of the Slovak Republic, and under the conditions provided for by law and the legal opinion of a court of a higher instance. The Judges and Courts Act stipulates the principle of judicial immunity, i.e. judges may be prosecuted or detained for acts committed while performing their office or in relation to it only with the approval of the body that appointed or elected them. Judges may be prosecuted or detained only with the consent of the Constitutional Court of the Slovak Republic. The last amendment to the Constitution (Constitutional Act No. 90/2001 Coll. amending the Constitution of the Slovak Republic) and also the Judges and Lay Judges Act strengthened the status of judges by stipulating the principle

of non-transferability of judges except with the consent of the judge or when this is done on the basis of a decision by a disciplinary chamber. These legal provisions also regulate the principle of incompatibility, in other words, they enumerate the incompatibility cases and stipulate the principle of the apolitical position of judges, i.e. the obligation on the part of the appointed judge to give up membership in a political party or political movement prior to taking the oath.

2. The Constitutional Court

35. The Constitutional Court of the Slovak Republic is the judicial body vested with the protection of constitutionality. The Constitutional Court is composed of 13 judges appointed for a period of 12 years by the President of the Slovak Republic upon a proposal by the Parliament. A citizen of the Slovak Republic eligible to be elected to the Parliament, who is at least 40 years of age and has an education in law at an institution of higher learning and at least 15 years of practice in a legal profession, can be appointed a judge of the Constitutional Court. The same person cannot be repeatedly appointed a judge of the Constitutional Court.

36. A judge of the Constitutional Court cannot be a member of a political party or a political movement. Judges of the Constitutional Court perform their office as an occupation. Holding this office is incompatible with holding an office in another body of public power, the civil service, employment or similar labour relation, business, membership in a governing or supervisory body of a legal entity pursuing business or other economic or gainful activity except for the administration of his/her own property or a scientific, teaching, literary or artistic activity.

37. The Constitutional Court decides:

(a) On the conformity of laws with the Constitution, constitutional laws and international treaties to which the Parliament expressed its assent and which were ratified and promulgated in the manner laid down by law;

(b) On the conformity of negotiated international treaties that need the assent of the Parliament with the Constitution or constitutional laws;

(c) On the conformity of government regulations, generally binding regulations of ministries and other central State administration bodies with the Constitution, with constitutional laws, with international treaties to which the Parliament expressed its assent and which were ratified and promulgated in the manner laid down by a law, and with laws;

(d) On the conformity of generally binding by-laws of municipalities and higher territorial units issued in matters concerning territorial self-government and to ensure the tasks of self-government resulting from the law, with the Constitution, with constitutional laws, with international treaties approved by the Parliament and ratified and promulgated in the manner laid down by law and with laws, save that another court shall decide on them;

(e) On the conformity of generally binding regulations of local bodies of State administration and generally binding by-laws of the bodies of territorial self-government pursuant to article 71, paragraph 2, with the Constitution, with constitutional laws, with international treaties promulgated in the manner laid down by law, with laws, with government

regulations and with generally binding regulations of ministries and other central State administration bodies, save that another court shall decide on them;

(f) On the conformity of the matter of a referendum to be declared on the basis of a petition by citizens or a resolution by the Slovak Parliament under article 95, paragraph 1, of the Constitution with the Constitution or constitutional laws;

(g) Jurisdictional disputes between central bodies of the State administration, save that the law stipulates that decisions in such disputes shall be made by another State body;

(h) On complaints of natural persons or legal entities when they object to infringement of their fundamental rights or freedoms, or human rights and fundamental freedoms resulting from an international treaty ratified by the Slovak Republic and promulgated in the manner laid down by a law, save that another court shall decide on the protection of these rights and freedoms;

(i) On complaints of bodies of territorial self-government against unconstitutional or unlawful decisions or against other unconstitutional or unlawful interventions in matters of self-government, save that another court shall decide on the matter.

38. The Constitutional Court interprets the Constitution or constitutional laws in contentious matters. The Constitutional Court also decides on complaints objecting to verification or non-verification of the mandate of a member of Parliament, on the constitutionality and lawfulness of the elections for President of the Slovak Republic, parliamentary elections and elections to the territorial self-government bodies, complaints objecting to the results of referendums and popular votes on recalling the President of the Slovak Republic, and decisions to dissolve or suspend the activity of a political party or political movement.

39. The Constitutional Court decides on impeachment of the President of the Slovak Republic by the Parliament in cases of intentional breach of the Constitution or treason. In the event that the President is unable to perform the duties of his or her office for more than six months, the Constitutional Court of the Slovak Republic declares that the post of the President has become vacant. The Constitutional Court also decides on conformity with the Constitution or constitutional laws of a decision to declare a state of exception or state of emergency and other decisions resulting from it.

III. GENERAL LEGAL STRUCTURE WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

40. Fundamental rights and freedoms in the Slovak Republic enjoy constitutional protection. The most important legal document providing for fundamental human rights and freedoms is the Constitution of the Slovak Republic (Constitutional Act No. 460/1992 Coll. as amended) which came into effect on 1 October 1992.

41. Constitutional rights and freedoms stipulated in the Constitution are based on the Charter of Fundamental Rights and Freedoms implemented with Constitutional Act No. 23/1991 Coll. General provisions of the Constitution establish equal status of all persons in dignity and rights,

in particular in article 12, paragraphs 1 and 2, providing: “All human beings are free and equal in dignity and in rights. Fundamental rights and freedoms cannot be denied, alienated, prescribed or ablated. In the territory of the Slovak Republic fundamental rights and freedoms are guaranteed to everyone regardless of their gender, race, colour, language, faith, religion, political or other conviction, national or social origin, membership of a national or ethnic group, descent or other status. No one shall be aggrieved, discriminated against or favoured on any of these grounds.” This provision provides a positive enumeration of grounds on which persons may not be discriminated against and/or ensures the equal status of all persons. Article 13 of the Constitution further determines that the scope of fundamental rights and freedoms can be regulated by law under conditions given by the Constitution and also that legal restrictions imposed on fundamental rights and freedoms apply to all cases complying with the determined conditions, i.e. to everyone without any differentiation.

42. Fundamental human rights and freedoms granted in the Constitution apply to everyone, i.e. also to aliens unless under article 52 of the Constitution they are granted only to the citizens, which is to be understood as nationals of the Slovak Republic. In most cases the citizens of the Slovak Republic are only granted rights linked with the creation of State power. This article also states that the term “citizen” used in all legal provisions so far shall be understood as any person when it concerns rights and freedoms granted by the Constitution, regardless of citizenship.

43. The limits of fundamental rights and freedoms can be regulated only by an act under the conditions stipulated by the Constitution. Legal restrictions on fundamental rights and freedoms must apply to all cases complying with the determined conditions. When limiting fundamental rights and freedoms their essence and purpose should be taken into account. These restrictions may be used only for the stipulated purpose.

A. Protection of human rights and fundamental freedoms in the Constitution

44. The Constitution of the Slovak Republic guarantees mainly these fundamental rights and freedoms:

(a) **Fundamental human rights and freedoms** - the right to life, prohibition of the death penalty, inviolability of the person and his/her privacy, the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, personal freedom, a maximum period of detention of an accused or suspect of 48 hours, a maximum period for a judge to decide about the detention of an accused person of 48 hours and in especially serious criminal offences 72 hours, a person charged with a criminal offence may be arrested only on legal grounds and for the period of time stipulated by law and on the basis of a court decision, pre-trial detention can be imposed only on the grounds and for the period provided by law and determined by the court, a person may be received into institutional health care or kept in institutional health care only in cases stipulated by law, the mental condition of an accused person may only be examined on the basis of a written court order, the prohibition of forced labour or forced service, the right to maintain one’s human dignity, good repute and to have one’s name protected, the right to protection against unjustified interference with private and family life, the right to protection against unjustified collecting, disclosing and/or abuse of data about one’s person, proprietary rights, the inviolability of the home, secrecy of correspondence, secrecy of transported

information and other documents and protection of personal data, freedom of movement and stay, freedom of thought, religious confession and faith, prohibition of forcing to perform military service in case of conscience and/or religious objections;

(b) **Political rights** - freedom of expression and the right to information, the press is not subject to a permission procedure, prohibition of censorship, active and passive voting rights (the right to vote, and citizens have access to the elected and public offices under equal conditions), the right to assemble, the right to free association, the right to participate in the administration of public affairs, the right to resistance;

(c) **The rights of national minorities and ethnic groups** - the right to develop their own culture, the right to receive and disseminate information in the mother tongue, the right to association in national associations, the right to establish and keep educational and cultural institutions, the right to education in their language, the right to use their language in official communications, the right to participate in tackling issues concerning them;

(d) **Economic, social and cultural rights** - the right to free choice of profession and training for it and also the right to pursue a business and to carry out other gainful activity, the right to work, the right to adequate material welfare of citizens when they cannot work for reasons beyond their control, the right of employees to fair and satisfactory working conditions, in particular the right to wages for performed work, protection from arbitrary dismissal and discrimination at work, protection of health and safety at work, the setting of maximum working hours, adequate rest after work, the minimum admissible length of paid vacation, the right to collective bargaining, the right to free association with others to protect one's economic and social interests, the right to strike, the right to adequate old age and work disability material security and also material security in case of loss of the breadwinner, the right to health protection, citizens' right to free health insurance based on health care, the right to education, freedom of scientific research and of the arts, protection of marriage, parenthood and family, special care of children and juveniles, special care of pregnant women, protection in labour relations and corresponding working conditions, equal rights of children born in marriage and out of wedlock, the right of parents taking care of children to the assistance provided by the State;

(e) **The right to the protection of the environment and cultural heritage** - the right to a favourable environment, the right to early and complete information about the environmental situation and about the reasons and consequences thereof;

(f) **The right to judicial and other legal protection** - the right to claim one's rights before an independent and impartial court and/or other body of the Slovak Republic, the right to have the lawfulness of a decision by a public administration body reviewed by a court, the right to compensation for damage caused by an unlawful decision of a court, other State authority or public administration body or a wrong official procedure, the right to refuse to make statements against oneself or close persons in case of threat of criminal prosecution, the right to legal assistance in proceedings before a court, other State authority or public administration body from the commencement of the proceedings, equality of the parties to the proceedings, the right to an interpreter, the right to a lawful judge, the right to a public hearing of the case without undue delay and in the presence of the accused person, lawful criminal prosecution, the right to express

oneself with regard to all taken evidence, the right of the accused to a defence, the right of the accused to deny statements, a ban on retroactivity, the principle of non bis in idem, presumption of innocence.

B. Direct invocability of the provisions of human rights instruments in national courts

45. Adoption of new Constitutional Act No. 90/2001 Coll. amending the Constitution of the Slovak Republic has introduced a new understanding of the application of international treaties in the framework of national law. Under article 154c, paragraph 1, of the Constitution continuity of application of adopted international human rights and fundamental freedoms treaties ratified by the Slovak Republic and promulgated in the manner provided for by law before 1 July 2001 has been ensured. These continue to be a part of its legal system and they have priority over a law when they ensure a broader scope of constitutional rights and freedoms. Essentially, the Slovak Republic succeeded to most key international conventions after the dissolution of the former Czech and Slovak Federal Republic and became a State party to them. Under the original article 11 of the Constitution - the so-called reception clause - international human rights treaties have priority over the laws of the Slovak Republic when they guarantee a broader scope of constitutional rights and freedoms, if they were ratified by the Slovak Republic and promulgated in the manner provided for by law. This article regulated the relationship between national and international law in a way that some international human rights treaties were superior to the laws of the Slovak Republic.

46. As stated above, the adoption of the quoted law changed the existing legal provisions concerning the legal status of international treaties in the Slovak legal system. Selected categories of international treaties (art. 7, para. 5, of the Constitution) from those international treaties that the Parliament must assent to before ratification by the President of the Slovak Republic (art. 7, para. 4) concluded after the amendment to the Constitution came into effect have priority over the laws of the Slovak Republic and in the hierarchy of legal standards they rank among the Constitution of the Slovak Republic and constitutional laws and laws. This category also includes all international treaties on human rights and fundamental freedoms. In view of the above it is necessary to add that the quoted constitutional law repealed article 11 of the original Constitution of the Slovak Republic.

47. Under the new provision the President or the Government may lodge a motion for a decision on the conformity of such negotiated international treaties with the Constitution or constitutional laws with the Constitutional Court of the Slovak Republic before presenting the negotiated treaty for debate to the Parliament. This is the so-called preventive constitutionality check. The purpose of this provision is to avoid potential contradictions or conflicts between the application of national law and the provisions of an international treaty.

C. Exercising rights stipulated in international human rights treaties before national courts

48. As already mentioned above, under article 7, paragraph 5, of the Constitution international human rights treaties as such are a part of the national legal system and a binding source of law for national entities if they were ratified and promulgated in the manner provided

for by law. On the basis of this provision of the Constitution international human rights treaties have been incorporated into the national legal system. This means that the citizens of the Slovak Republic have the possibility to invoke the rights stipulated in these treaties directly and national authorities have the obligation to apply them directly. In the Slovak legal system international human rights treaties that are a part of the Slovak legal system have a supra-legislative power, i.e. they are placed somewhere between constitutional laws and the laws over which they take priority. If the constitutional rights and freedoms and/or human rights and freedoms stipulated in an international human rights treaty that is a part of the Slovak legal system are not respected in practice or are violated, e.g. by wrong application of a legal provision, it would be possible to invoke the right to judicial and other protection in the meaning of article 46 of the Constitution.

D. Judicial, administrative and other bodies that have competence in the human rights area

1. The prosecutor

49. The role of the prosecution authority is to protect the rights and interests protected by law of natural persons, legal entities and the State. Under Act No. 153/2001 Coll. on the Prosecution Authority (hereinafter the “Prosecution Authority Act”) the Prosecution Authority has the obligation to take measures in the public interest to prevent violations of lawfulness, to determine and remove violations of lawfulness, to restore violated rights and to attribute responsibility for the violations. When exercising its competence it has the obligation to make use of all legal means to ensure consistent, effective and timely protection of rights and interests protected by law of natural persons, legal entities and the State.

50. Organizationally, the Prosecution Authority is an independent hierarchic single system of State bodies in which prosecutors act on the principle of subordination and superiority. The Prosecution Authority is composed of: the General Prosecution Office of the Slovak Republic, regional prosecution offices, the Higher Military Prosecution Office, district prosecution offices and military district prosecution offices. The Prosecutor General of the Slovak Republic (hereinafter “Prosecutor General”) directs the activities of prosecution offices. The President of the Slovak Republic appoints and removes the Prosecutor General upon a proposal by the Parliament.

51. Prosecutors commence prosecution against persons suspected of committing crimes, oversee observance of the lawfulness of pre-trial procedures and in places where persons deprived of personal liberty or persons who have their personal freedom restricted on the basis of a court or other competent State authority decision are detained. Prosecutors also exercise their competence in proceedings before courts: they represent the State in proceedings before courts when a special law so provides and they oversee the observance of lawfulness by public administration bodies to the extent provided for in the Prosecution Authority Act. They participate in the preparation and execution of preventive measures to prevent violations of laws and other generally binding regulations and also in removing the causes of and conditions for crime, in preventing and fighting crime and in the drafting of legislation. Prosecutors also perform other tasks if a special law or international treaty promulgated in the manner stipulated by law so provide.

52. In criminal proceedings prosecutors lodge indictments and ensure the enforcement of the rights of the victim to the extent provided for in a special law. Prosecutors have the right to visit locations where pre-trial detention, sentences of deprivation of liberty, disciplinary sentences of the military, protective medical treatment, institutional medical treatment or institutional education and raising on the basis of a court decision are served, as well as police cells. They can look into documents linked with deprivation or restriction of personal liberty, speak with persons kept in these locations in the absence of other persons, verify whether the decisions of and measures taken by the bodies running these locations are in conformity with the laws and other generally binding regulations, and ask for explanations, files and decisions concerning deprivation or restriction of personal liberty of the persons detained in these places from the employees of the bodies running them.

53. In civil proceedings the prosecutor is authorized, if so provided by law, to file a motion to open civil court proceedings, to enter opened civil court proceedings, to represent the State before the court, and to file appeals against a decision in civil court proceedings.

54. Prosecutors also oversee the observance of laws and of other generally binding regulations by public administration bodies to the extent provided for by law by filing a prosecutor's protest, a prosecutor's notice and a motion to open proceedings before a court according to special laws. A General Prosecutor's petition to open proceedings on compliance of legal provisions before the Constitutional Court is also a legal means of overseeing the observance of laws and of other generally binding regulations by public administration bodies.

2. General courts

55. If the constitutional rights and freedoms and/or rights stipulated in international human rights treaties binding for the Slovak Republic fail to be respected in practice, or if they are violated, e.g. by wrong application of a legal provision, the provisions of Part II, section 7, of the Constitution, "Right to Judicial and Other Legal Protection", in particular article 46, which stipulates that "everyone may claim his or her rights by procedures laid down by a law before an independent and impartial court or, in cases provided by a law, before other public authority of the Slovak Republic", apply. Under paragraph 2 of article 46 any person who alleges the denial of his or her rights by a decision of a public administration body may come to court to have the lawfulness of the decision reviewed, unless otherwise provided by a law. However, review of decisions concerning fundamental rights and freedoms may not be excluded from the competence of the courts.

56. Article 47, paragraph 3, of the Constitution guarantees equality of status of all parties to the proceedings before courts, other State bodies or public administration bodies from the commencement of the proceedings. The principle of equality of parties to the proceedings is again regulated in article 7, paragraph 1, Act No. 335/1991 Coll. on Courts and Judges, as amended, in the meaning of which everyone is equal before the law and court, and in section 18 of the Civil Procedure Code which provides for equal status of parties in civil court proceedings. Everyone has the right to act before the court in his/her mother tongue. The court has the obligation to ensure equal opportunities to everyone to exercise their rights. The principle of equality of parties to the proceedings is consistently applied also in criminal proceedings.

57. Article 48, paragraph 2, of the Constitution states that every person has the right to have his/her case heard in public without undue delay and in his/her presence and to have an opportunity to present opinions on the evidence taken. Under section 10, paragraph 2, of the Criminal Procedure Code the public may be excluded from main trial and public hearings on appeal only when a public hearing would present a threat to secrecy protected under a special law, disturb the proceedings, or the moral or security or other important interest of witnesses.

58. In article 142, paragraph 3, the Constitution stipulates that “judgements are rendered in the name of the Slovak Republic and always in public”.

(a) Civil matters

59. Only courts are competent to protect relationships falling under civil law. The basic formal source of civil procedural law is Act No. 99/1963 Coll., the Civil Procedure Code, as amended (hereinafter the “Civil Procedure Code”). The Civil Procedure Code stipulates the rules of procedure for the court and the parties to civil court proceedings in such a way that fair protection of the rights and justified interests of all parties to the proceedings is ensured. Everyone who claims that his/her rights have been put in jeopardy or violated has the right to seek protection before a court and, thus, can lodge a motion with the court to seek rectification of the illegal situation in compliance with the provisions of the Civil Procedure Code.

60. The right to judicial protection is typically enforced with a motion to open proceedings. In general, the level of effectiveness in claiming judicial protection of a subjective right in civil proceedings is determined by the fact that it is a violation of or threat to a right falling under civil law and its protection falls under the competence of a court. Under section 79, paragraph 1, of the Civil Procedure Code the proceedings start with a motion, which must satisfy the requirements prescribed by law. Proceedings are open as of the day the court receives the motion to open proceedings or when a resolution is issued that proceedings shall start without a motion. The motion is filed with the court that has substantive and territorial jurisdiction. The competence for proceedings in the first instance is, as a matter of principle, with the competent district court. Regional courts decide as courts of first instance only in enumerated cases.

61. Provisions of the Civil Procedure Code regulate the conditions under which a regular remedy or extraordinary remedy against a ruling may be filed. A regular remedy - appeal - is filed against a ruling of the court that has not become final provided it is not excluded by law. Regional courts or the Supreme Court of the Slovak Republic, in cases where the first instance court was a regional court, act as appeal courts. The decision by the court of second instance is final and there is no remedy available for challenging it. Under conditions complying with the requirements of the law such a decision may be challenged with extraordinary remedies, which are appellate review, reopening of proceedings and extraordinary appellate review. Parties may challenge a final decision by an appellate court with an appellate review provided it is admissible under the law. The Prosecutor General of the Slovak Republic files an extraordinary appellate review on the basis of a petition by a party to the proceedings, i.e. a person who is affected by a court decision or a person damaged by the decision of the court, when the Prosecutor General finds that a final decision of the court violates the law and when protection of rights and interests protected by law of natural persons, legal entities and the State makes it necessary and this protection cannot be achieved by other legal means. A served judgement that cannot be

challenged with an appeal is final and its verdict is binding for the parties and all bodies. A motion to reopen proceedings as an extraordinary remedy can be made use of only in cases enumerated by law.²

(b) Administrative matters

62. The Constitution stipulates that any person who alleges that his or her rights have been violated by a decision of a public administration body may file a motion with the court to have the lawfulness of the decision reviewed, unless otherwise provided by a law. However, review of decisions concerning fundamental rights and freedoms may not be excluded from the competence of the courts. On the basis of this constitutional right the amendment to the Constitution supplemented article 142, paragraph 1, of the Constitution under which the courts also review the lawfulness of decisions made by bodies of public administration and the lawfulness of decisions, measures or other interventions by bodies of public power, if the law so provides. This area is regulated in Part V of the Civil Procedure Code under administrative judiciary.

63. In administrative judiciary the courts review on the basis of complaints or appeals the lawfulness of decisions made by bodies of public administration, State administration, territorial self-government and bodies of self-government and other legal entities insofar as the law vests them with decision-making on rights and duties of natural persons and legal entities in public administration. Decisions made by administrative bodies are decisions issued by them in administrative proceedings and also other decisions that give rise to, change or cancel entitlements and obligations of natural persons or legal entities. Regional courts have the substantive competence to review such decisions and in cases enumerated by law it is the Supreme Court of the Slovak Republic (section 246, paragraph 2, of the Civil Procedure Code). District courts review decisions on offences. No appeal is admissible against court decisions with the exception of the extraordinary appellate review and the cases enumerated in the Civil Procedure Code (sect. 250, para. 2).

(c) Criminal matters

64. Act No. 141/1961 Coll., the Criminal Procedure Code, as amended, regulates the procedures of criminal proceedings. Under section 2, paragraph 1, of the Criminal Procedure Code no one can be prosecuted as accused on other than legal grounds and in any other manner than that provided for under that law. The principle of prosecution on legal grounds only ensues from the wording of article 17, paragraph 2, of the Constitution. Act No. 140/1961 Coll., the Penal Code, as amended, stipulates the characteristics of crimes and the categories of sentences.

65. Criminal prosecution before a court is possible only on the basis of an indictment filed by the prosecutor. The prosecutor has the obligation to prosecute all crimes he learns of; exceptions are admissible only according to the law or under a promulgated international treaty. The principle of presumption of innocence, according to which any person against whom criminal proceedings are opened should be presumed innocent until proven guilty by a final condemning judgement of a court, is strictly observed. The person against whom criminal proceedings are held must be instructed at every stage of the proceedings of the rights allowing him/her a defence and to choose defence counsel, and all criminal justice agencies must allow the accused the

exercise of his/her rights. Under section 33, paragraph 3, of the Criminal Procedure Code the criminal justice agencies must, at any moment, advise the accused of his/her rights and give him/her the possibility to fully exercise them.

66. First instance proceedings are held before district courts. First instance proceedings are held before regional courts in cases of crimes where the law provides for a sentence of deprivation of liberty of not less than eight years or where an exceptional sentence may be imposed or in cases enumerated in section 17 of the Criminal Procedure Code and when the lower threshold of the sentence is less.

67. The criminal justice agencies act ex officio unless the Criminal Procedure Code provides otherwise. They must handle criminal cases in the speediest possible way and they must consistently observe the civil rights guaranteed by the Constitution. They act in such a way as to have the facts of the case duly established to the extent necessary for their decision-making. They give the same attention to clarifying circumstances against the accused as to circumstances in the accused's favour, and they take evidence from both sides without waiting for motions by the parties. The accused's confession does not relieve the bodies active in criminal proceedings of their obligation to investigate all circumstances of the case.

68. Within the meaning of the provisions of section 220, paragraph 1, of the Criminal Procedure Code the court can only decide on the act identified in the points of the indictment. Under paragraph 2 the court may take into account only the facts that were presented at the main trial in its decision and consider only evidence taken during the main trial. The court is not bound by the legal opinion on the crime presented in the indictment. The court decides either in the form of a judgement or in the form of a penal order where the law explicitly so provides; in other cases the court decides in the form of a resolution provided the law does not stipulate otherwise.

69. An appeal is the remedy against a decision of a court of first instance. An appeal is filed with the court whose decision is being appealed within eight days from the delivery of the copy of the judgement. An appeal has a suspensive effect. A complaint is an appeal against a resolution. It is filed with the body whose resolution is complained of within three days from the notification of the resolution, with the exception of a complaint against a resolution on not taking into custody (section 74, paragraph 2, of the Criminal Procedure Code). The Criminal Procedure Code recognizes two extraordinary remedies - complaint on points of law (section 266 et seq. of the Criminal Procedure Code) and a motion to re-open the proceedings (section 277 et seq. of the Criminal Procedure Code). The Criminal Procedure Code specifies in an exact way by whom and under what conditions the mentioned remedies may be filed.

3. The Constitutional Court

70. The Constitutional Court of the Slovak Republic decides on complaints of natural persons or legal entities when they object to infringement of their fundamental rights or freedoms, or human rights and fundamental freedoms resulting from an international treaty ratified by the Slovak Republic and promulgated in the manner laid down by a law, unless another court shall decide on the protection of these rights and freedoms.

71. When the Constitutional Court agrees with the complaint then its ruling determining a violation of the rights or freedoms mentioned above by final decision, measure or other intervention sets aside such decision, measure or other intervention. When the violation of rights or freedoms was caused by inactivity, the Constitutional Court may order the one violating these rights or freedoms to act in the case. The Constitutional Court may also return for additional proceedings, prohibit continuing to violate fundamental rights and freedoms resulting from an international treaty ratified by the Slovak Republic and promulgated in the manner provided for by the law or, when possible, order that the one violating the rights or freedoms restore the pre-violation state. The Constitutional Court may grant the one whose rights were violated adequate compensation with its decision satisfying the complaint. No appeal can be lodged against a decision made by the Constitutional Court.

72. A constitutional complaint is not admissible when the applicant has failed to exhaust ordinary remedies granted by the law to protect his/her interests. However, the Constitutional Court will not refuse to accept a constitutional complaint when the requirement of having exhausted all remedies fails to be met in cases where the significance of the complaint goes beyond the applicant's personal interest. When the Constitutional Court satisfies the complaint it will specify in its findings which fundamental right or freedom and which provision of the Constitution or constitutional law was violated and what conduct resulted in this violation, and it will set aside the challenged decision. When the Constitutional Court sets aside the decision then the body that decided in the case at first instance has the obligation to hear the case again and to decide. In these proceedings the court is bound by the legal opinion of the Constitutional Court. Act No. 38/1993 Coll. on the Organization of the Constitutional Court of the Slovak Republic, proceedings held before it and on the status of its judges, as amended, regulates proceedings before the Constitutional Court.

73. In cases of human rights and fundamental freedoms violations when all domestic remedies have been exhausted there is also the possibility to lodge an application either with the United Nations treaty bodies (Human Rights Committee, Committee on the Elimination of Racial Discrimination, Committee against Torture, Committee on the Elimination of Discrimination against Women) or with the European Court of Human Rights within six months from the final decision provided all domestic remedies were exhausted.

4. The Ombudsman

74. In the meaning of article 151, paragraph 1, of the Constitution, the Ombudsman³ is an independent body which participates in the protection of the fundamental rights and freedoms of natural persons and legal persons with regard to the proceedings, decision-making, actions or omissions of public administration bodies when those proceedings, decision-making, actions or omissions are inconsistent with the legal system or with the principles of a democratic State and the rule of law, to the extent and in manner laid down by law.

75. Within the meaning of section 3 of Act No. 564/2001 Coll. on the Ombudsman (hereinafter the "Ombudsman Act"), the Ombudsman's jurisdiction applies to the bodies of State administration, territorial self-government and legal entities and natural persons who decide on the rights and duties of natural persons and legal entities in the field of public administration. The law also specifies which bodies do not fall under the scope of the Ombudsman.

76. Anyone believing that his/her fundamental rights and freedoms were violated in contradiction to the legal system or the principles of a democratic State and the rule of law in the proceedings, decision-making, actions or omissions of public administration bodies can seek relief from the Ombudsman. Natural persons may use their mother tongue in communications with the Ombudsman while the costs of interpreting are borne by the State. Under section 13, paragraph 1, of the Ombudsman Act, the Ombudsman acts upon a petition by a natural person or legal entity or his/her own initiative. The petition must be clear as to the issue concerned and the result sought by the petitioner. The Ombudsman reviews the petition: when the Ombudsman determines that the content of the petition makes it a remedy under regulations on proceedings in administrative or judicial matters, or a complaint or remedy in administrative justice or a constitutional complaint, he/she will immediately inform the petitioner of this finding and will instruct him/her about the proper procedure. When the Ombudsman determines that a person is unlawfully being held in a place where detention, a sentence of deprivation of liberty, disciplinary sentences of soldiers, protective medical treatment, or protective education and raising is served or in a police cell, he/she will inform the competent prosecutor immediately and the administration of the place and the person concerned.

77. When the petition concerns reviewing a final decision by a public administration body or when the Ombudsman concludes that a decision by the public administration body is in contradiction with the law or other generally binding regulation, he will transfer the case to the competent prosecutor for handling, or he/she will take other measures while informing the petitioner. The same may also be done with a petition that includes proposals of measures that fall under the scope of the Prosecution Authority. The prosecutor has the obligation to inform the Ombudsman of the measures taken to correct unlawfulness, with prescribed time limits.

78. The Ombudsman will file the petition when the matter concerned does not fall under his/her competence or when prescribed elements were not furnished or made more accurate within the given time limit. The Ombudsman may also file the petition when he/she finds that the matter concerned is being heard by a court and there are no delays in proceedings or when a court has already decided in the matter, or when more than three years have elapsed from the measure or event concerned on the day of delivery of the petition, or when the petition is manifestly unfounded, anonymous, or it is a petition concerning a case already handled by the Ombudsman and the new petition presents no additional facts.

79. When the Ombudsman does not follow the procedure given in paragraphs 76-78, he/she will inform the petitioner of having accepted the petition. When the findings concerning the petition fail to prove any violation of fundamental rights and freedoms, the Ombudsman will inform in writing the petitioner and the public administration body of the challenged procedure, decision, action or omission about the result.

80. When the findings concerning the petition prove a violation of fundamental rights and freedoms, the Ombudsman will inform in writing the petitioner and the public administration body of the challenged procedure, decision, action or omission about the result. The public administration body has the obligation to inform the Ombudsman of its position as to the results of the petition's handling and of measures adopted within 30 days from the delivery of the proposal of measures. When the Ombudsman does not agree with the position of the public administration body or when he/she considers the adopted measures insufficient, he/she will

inform the body superior to the challenged public administration body or, where there is no such body, the Government of the Slovak Republic. The Ombudsman Act regulates the details of the procedure for handling petitions filed by natural persons and legal entities.

81. While exercising his/her functions, the Ombudsman cooperates with the competent bodies of public administration, the prosecution authority, foundations, civic associations, professional organizations, civic initiatives and other entities active in the field of the protection of fundamental rights and freedoms.

E. System of compensation and rehabilitation of victims

82. Under article 47, paragraph 3, of the Constitution everyone has the right to compensation of damage caused by an unlawful decision of a court, other public authority, or body of public administration, or by improper official procedures. A special legal provision, namely Act No. 58/1969 on Liability for Damage caused by a Decision of a State Body or its improper Official Procedure, regulates the area of compensation for damage.

83. Those who are parties to the proceedings or who suffered damage by an unlawful decision issued in these proceedings have the right to compensation of damage caused by an unlawful decision. Entitlement to compensation for damage caused by an unlawful decision can be granted only when a party to the proceedings has exploited the possibility of lodging a regular appeal against an unlawful decision as long as it is not a case deserving special consideration. The entitlement to damages cannot be invoked until the competent body, on the grounds of unlawfulness, has issued its final decision setting aside the decision that caused the damage. The court is bound by the decision on damages of this body. This law also regulates the area of liability for damage caused by a decision on custody or sentence.

84. The provisions of the Criminal Procedure Code offer several means of ensuring that detention is not ordered or prolonged without grounds. If this were exceptionally to happen, the person undergoing such detention has the right to damages.

85. When the damage was caused by a crime, section 43 et seq. of the Criminal Procedure Code provides that the person is entitled to claim compensation for damage caused by the crime from the perpetrator and he/she has also the right to file a motion that the court impose the obligation to compensate the damage in its judgement. This motion cannot be filed when an entitlement has already been decided in civil or other appropriate proceedings.

86. Compensation for damage is also regulated in Act No. 255/1998 Coll. on the Compensation of Damage of Persons Injured by Violent Criminal Offences. According to this act a person whose health has been injured by a wilful violent criminal offence is provided with a one-time financial compensation. Damage to health is any harm to health caused by the criminal offence of a third person. Injured persons are also bereaved persons who were financially supported by the victim. Compensation for damage is paid to the injured person. He/she has to be a citizen of the Slovak Republic or must have permanent residence in the territory of the Slovak Republic, if he is without citizenship, and the damage to health has to have been caused on the territory of the Slovak Republic under conditions laid down by this act. The compensation for damage is provided on the basis of the application of the injured person to the

Ministry of Justice of the Slovak Republic. It is important to add that the injured person does not have any vested right to this compensation and he/she will not be provided with this compensation if he/she has already been compensated in some other way.

87. Under the Civil Code, a person who has suffered unjustified interference with the right to have one's person protected can claim before a court to have the consequences of such interference removed and to be given adequate satisfaction. If the satisfaction is deemed not to be sufficient, especially with respect to substantial detriment to the dignity of a natural person or his/her status in society, the victim (natural person) also has the right to financial compensation for non-proprietary damage. The court will determine the amount of damages, taking into account the seriousness of the damage suffered and the circumstances under which the right was violated.

F. National institutions and agencies with responsibility for guaranteeing respect for human rights

1. National Council Committee for Human Rights and Nationalities

88. The National Council Committee for Human Rights and Nationalities operates within the framework of the Parliament. The Committee has established the Commission for the Rights of the Roma Minority as its advisory body and its members are not only members of Parliament but also selected representatives of the Roma minority. The Committee is an initiative-taking and monitoring body of the Parliament. Its main task is to debate draft laws allocated to it by the Parliament.

2. Deputy Prime Minister for Human Rights, Minorities and Regional Development

89. In 1998 the Government of the Slovak Republic created the post of Deputy Prime Minister for Human Rights, Minorities and Regional Development to coordinate the Government's activities in this field. At the same time, he/she covers the Section for Human Rights and Minorities of the Office of the Government of the Slovak Republic, the scope of which includes human rights and the rights of persons belonging to minorities, ethnic groups, churches and religious societies, NGOs, minority organizations and regional development groups. He/she has the responsibility for comprehensive, creative, conceptual, methodological, expert, analytical, advisory and initiative-taking activities with national scope, taking into account the foreign policy orientation of the Slovak Republic.

3. Council of the Government of the Slovak Republic for National Minorities and Ethnic Groups

90. In 1999 the Council of the Government of the Slovak Republic for National Minorities and Ethnic Groups, which is an advisory initiative-taking and coordinating body of the Government of the Slovak Republic in the field of State national minority policy, was constituted. All national minorities living in the Slovak Republic are represented on it. The Deputy Prime Minister for Human Rights, Minorities and Regional Development is the Chairman of the Council; the Minister of Culture is the Deputy Chairman. The Council has 24 members, of whom 14 are members of national minorities and representatives of these

minorities, representatives of State administration (at the level of State secretaries) and the Chairman of the National Council Committee for Human Rights and Nationalities. Representatives of NGOs are also invited to the meetings (they have no voting rights). The Council, inter alia, prepares, debates and submits to the Government summary reports on the situation of and conditions created for citizens belonging to national minorities and ethnic groups and on the preservation of their identity, and proposes and recommends to the Government potential solutions. The Council prepares opinions on draft laws and government regulations affecting the citizens belonging to national minorities for the Government, and debates and proposes on its own initiative the allocation of State funds to the culture of national minorities. Council meetings are convened at least four times a year and, when needed, an extraordinary meeting of the Council is called.

4. Plenipotentiary of the Government of the Slovak Republic for Roma Communities

91. In February 1999 the Government of the Slovak Republic created the post of Plenipotentiary of the Government of the Slovak Republic for Roma Affairs. In March 2001 the incumbent changed and in September 2001 the Charter and organizational structure of the office changed. In December 2001 an Inter-ministerial Commission for Roma Communities Affairs was established as an advisory body to the Government of the Slovak Republic and it is chaired by the Plenipotentiary. The Plenipotentiary proposes, coordinates and supervises activities aimed at resolving Roma communities' affairs, proposes and, after approval by the Government, implements systemic solutions to achieve equality for the Roma minority. The Plenipotentiary oversees the observance of fundamental rights and freedoms guaranteed by Constitution and the laws of the Slovak Republic and international treaties. The Government of the Slovak Republic appoints and removes the Plenipotentiary. The Secretariat of the Plenipotentiary is incorporated into the organizational structure of the Office of the Government of the Slovak Republic. To give the Plenipotentiary of the Government support in the region of East Slovakia, mainly with collecting information in the field and evaluating the effectiveness of individual governmental measures, a branch office of the Secretariat of the Plenipotentiary of the Government for Roma Communities was opened in Prešov in October 2001.

5. Minority Cultures Section at the Ministry of Culture of the Slovak Republic

92. Other institutional mechanisms in the field of human rights include the Minority Cultures Section at the Ministry of Culture of the Slovak Republic which was established in December 1998 and the Department for National Minority Education at the Ministry of Education of the Slovak Republic.

6. Joint commissions

93. On the basis of international bilateral agreements with Hungary, Ukraine and Germany, the Slovak Republic established the following joint commissions the scope of which also includes human rights and the rights of persons belonging to national minorities: Joint Slovak-Hungarian Commission for National Minority Issues; Joint Slovak-Ukrainian Commission for National Minority, Education and Scientific Relations Issues; German Commission for Issues of Bilateral Cooperation in the Area of Culture, Education and Sciences.

94. In addition, the Government of the Slovak Republic pursues active cooperation with non-governmental organizations in this field.

IV. INFORMATION AND PUBLICITY

95. The Constitution of the Slovak Republic, constitutional laws, other laws of the National Council of the Slovak Republic, regulations of the Government of the Slovak Republic, and decrees, ordinances and orders of ministries and central bodies of State administration of the Slovak Republic, other bodies of State administration when so provided in a special law, and decisions of the Constitutional Court of the Slovak Republic on non-conformity between legal provisions and international treaties are published in the Collection of Laws of the Slovak Republic (Act No. 1/1993 Coll. on the Collection of Laws, as amended).

96. The Slovak Republic, as a member State of the Council of Europe and a State party to the Convention for the Protection of Human Rights and Fundamental Freedoms, opened the Information and Documentation Centre of the Council of Europe in 1993. On the basis of the resolution of the Council of Europe Committee of Ministers, a memorandum of understanding between the Government of the Slovak Republic and the Council of Europe concerning the status of the Information Office of the Council of Europe, which is now continuing the activities of the original Centre, was signed in January 2001. The programme of activities includes information activities, running the Council of Europe library (where all its publications and public documents are available), and publishing selected Council of Europe documents in the Slovak language.

97. In 1994 the Slovak National Human Rights Centre was established under Act No. 308/1993 Coll. on the Establishment of the Slovak National Human Rights Centre. The main mission of the Centre is to support the development of an effective human rights protection system in Slovakia. The Centre develops, inter alia, documentation, information and monitoring activities. International human rights documents and other United Nations documents are available in the Centre.

98. The texts of all implementation reports of the Slovak Republic under the United Nations human rights conventions, the list of members of the United Nations treaty bodies, a list of web sites with information on human rights protection, and a list of international human rights conventions binding upon the Slovak Republic are available on the web site of the Ministry of Foreign Affairs of the Slovak Republic.

99. Information on the activities of the Deputy Prime Minister for Human Rights, Minorities and Regional Development of the Slovak Republic is available on the web site of the Office of Government of the Slovak Republic.

100. Under Act No. 211/2000 Coll. on Free Access to Information and on the Amendment of some Laws, natural persons and legal entities have the right of access to information available to State authorities and municipalities. Information is made available on simple request. This law

regulates restriction of access to information in special cases. Within the meaning of this law, citizens of the Slovak Republic may address State authorities with a request also to make information in the area of human rights and fundamental freedoms accessible.

Notes

¹ Article 119 (p) of the Constitution states: “The Government shall decide as a body on sending the armed forces outside of the territory of the Slovak Republic when it regards the performance of obligations resulting from international treaties on joint defence against attack for a maximum period of 60 days; the Government shall announce this decision without undue delay to the National Council of the Slovak Republic.”

² A motion to reopen proceedings can be filed when:

(a) There are facts, decisions or evidence that could not be used in the original proceedings for reason beyond the control of the party concerned if this can result in a more favourable decision in the matter for the party; or

(b) Evidence that could not be taken in the original proceedings can be taken if this can result in a more favourable decision in the matter for the party; or

(c) The case was decided to the party’s detriment as a consequence of a crime committed by the judge.

³ Any citizen of the Slovak Republic who is eligible to be elected a member of Parliament and is at least 35 years old on the day of the elections, has full legal capacity, is a person of integrity, has an education, has the capabilities, experience and moral stature guaranteeing that he/she will perform the functions of Ombudsman duly, who is not a member of a political party or political movement, has permanent residence in the territory of the Slovak Republic and agrees to be elected Ombudsman can be elected Ombudsman. The Ombudsman is elected by the Parliament from among candidates proposed by at least 15 members of Parliament for a term of five years. The same person may be elected Ombudsman for not more than two consecutive terms of office. Holding the office of Ombudsman is incompatible with holding the office of President, member of Parliament, member of the Government, president of a central body of State administration, President or Vice-President of the Supreme Audit Office, judge of the Constitutional Court, prosecutor, officer of the Slovak Intelligence Service, officer of the Police Force and other armed forces and an office in a public administration body. While holding the office the Ombudsman must not perform any other paid office, pursue business activities or perform other gainful activity with the exception of the administration of his/her own property or the property of his/her minor children or scientific, literary and artistic activities provided such activity does not disturb the performance of the office and the dignity of the office and is of no risk to the confidence in the Ombudsman’s impartiality and independence.
