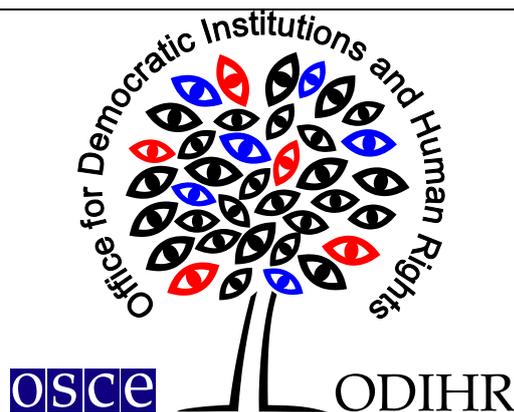


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OPINION ON THE DRAFT AMENDMENTS TO THE ACT ON ESTABLISHMENT OF THE SLOVAK NATIONAL CENTRE FOR HUMAN RIGHTS

**based on an unofficial English translation of the draft amendments
provided by the Slovak National Centre for Human Rights**

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I. INTRODUCTION

1. *On 8 October 2018, the Executive Director of the Slovak National Center for Human Rights sent to the OSCE Office for Democratic Institutions and Human Rights (hereinafter “OSCE/ODIHR”) a request for a legal review of the Amendments to the Draft Act of the National Council of the Slovak Republic on Establishment of the Slovak - National Centre for Human Rights (hereinafter “the Draft Amendments”).*
2. *On 18 October 2019, the OSCE/ODIHR responded to this request, confirming the Office’s readiness to prepare a legal opinion on the compliance of these draft amendments with OSCE commitments and international human rights standards.*
3. *On 27 November 2018, the OSCE/ODIHR was sent amendments to the Draft Amendment which were subsequently translated by the Slovak National Center for Human Rights into English.*
4. *This Opinion was prepared in response to the above request.*

II. SCOPE OF REVIEW

5. The scope of this Opinion covers only the Draft Amendments, submitted for review. Thus limited, the Opinion does not constitute a full and comprehensive review of the entire legal and institutional framework regulating the functioning of National Human Rights Institutions (hereinafter “NHRIs”) in Slovakia.
6. The Opinion raises key issues and provides indications of areas of concern. In the interests of conciseness, the Opinion focuses more on those provisions that require improvements rather than on the positive aspects of the Draft Amendments. The ensuing recommendations are based on international standards and practices related to NHRIs. The Opinion will also seek to highlight, as appropriate, good practices from other OSCE participating States in this field.
7. Moreover, in accordance with the Convention on the Elimination of All Forms of Discrimination against Women¹ (hereinafter “CEDAW”) and the 2004 OSCE Action Plan for the Promotion of Gender Equality and commitments to mainstream a gender perspective into OSCE activities, the Opinion analyses the potentially different impact of the Draft Amendments on women and men.²
8. This Opinion is based on an unofficial English translation of the Draft Amendments provided by the Slovak National Centre for Human Rights, which is attached to this document as an Annex. Errors from translation may result.
9. In view of the above, the OSCE/ODIHR would like to make mention that this Opinion does not prevent the OSCE/ODIHR from formulating additional written or oral recommendations or comments on the respective legal acts or related legislation of Slovakia that the OSCE/ODIHR may wish to make in the future.

¹ *UN Convention on the Elimination of All Forms of Discrimination against Women* (hereinafter “CEDAW”), adopted by General Assembly resolution 34/180 on 18 December 1979. Slovakia is a State Party to CEDAW since 23 May 1993.

² See par 32 of the OSCE Action Plan for the Promotion of Gender Equality adopted by Decision No. 14/04, MC.DEC/14/04 (2004), available at <http://www.osce.org/mc/23295?download=true>.

III. EXECUTIVE SUMMARY

10. It is welcomed that the Draft Amendments seek to bring the Act of the National Council of the Slovak Republic on Establishment of the Slovak National Centre for Human Rights in line with the requirements of the Paris Principles. The Draft Amendments contain a number of positive developments in this respect. However, regarding issues such as the NHRI's mandate, its funding and the selection and appointment of its leadership, some adjustments are recommended to bring the Draft Amendments in line with international standards.
11. More specifically, and in addition to what was stated above, OSCE/ODIHR makes the following recommendations to further enhance the Draft Amendments:
 - A. To define the relationship between the SNCHR and the Public Defender of Rights, the division of competences between them and ways in which they should cooperate to ensure that legislation is clear and accessible and overlapping mandates are avoided as far as possible; [pars 24, 22, 26]
 - B. To include opinions and recommendations on legislative proposals and review of existing legislation within the mandate of the SNCHR; [par 28]
 - C. To modify § 1 (3) (a) to ensure that the Centre's investigative functions are not limited to the area of non-discrimination or to include an explicit investigative function covering the Centre's human rights mandate in the list of functions in § 1 (2); [par 31]
 - D. To explicitly state in §1 (2) of the Draft Amendments that human rights violations carried out by private persons and entities are covered by the SNCHR's mandate; [par 34]
 - E. To remove the blanket exclusion of the intelligence services from § 1 (12) of the Draft Amendments ; [pars 36-37]
 - F. To state the obligation to provide the Centre with an appropriate level of funding covering its operations and activities and to specifically provide for a separate budget line for the funding of the SNCHR in the national budget; [pars 38-46]
 - G. To ensure the appointment and selection procedure of the Board is publicly advertised, merit-based, open and transparent, participatory and consultative and that grounds for dismissal are clearly and narrowly defined; [pars 51-60]
 - H. To amend § 3 a (10) of the Draft Amendments to provide for remuneration for all board members, ideally as full-time positions and to state the terms for remuneration of members of the Board and SNCHR staff; [pars 70-71]
 - I. To ensure transitional arrangements prior to the appointment of a new Director and Board and to conduct meaningful public consultations throughout the lawmaking process; [pars 79-81] and;
 - J. To add provisions for functional immunity for leadership and staff of the SNCHR, for acts performed and words spoken or written, undertaken in good faith in their official capacity, during the course of their mandate and after it has ended [par 82].

Additional Recommendations, highlighted in bold, are also included in the text of the opinion.

IV. ANALYSIS AND RECOMMENDATIONS

1. International Standards on National Human Rights Institutions

12. NHRIs are independent bodies with the mandate to protect and promote human rights. They are “a key component of effective national human rights protection systems and indispensable actors for the sustainable promotion and protection of human rights at the country level”.³
13. Internationally recognized rules on the mandates and competencies of NHRIs can first and foremost be found in the United Nations Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights, the so-called “Paris Principles”.⁴ Adopted by the UN General Assembly, these principles set out minimum standards on the establishment and functioning of NHRIs, in terms of pluralism, transparency, guarantees of functional and institutional independence and effectiveness “in order [for an NHRI] to be considered credible by its peer institutions and within the UN system”.⁵ The implementation of the Paris Principles and evaluation of NHRIs against these principles is undertaken by the Global Alliance of National Human Rights Institution’s (hereinafter “GANHRI”) Sub-Committee on Accreditation (hereinafter “SCA”).⁶ The SCA publishes reports on the accreditation applications of states, reviews their status and provides them with status accreditation every five years.⁷ The status of

³ See UN High Commissioner for Human Rights, *Report to the UN General Assembly* (2007), A/62/36, par 15, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N07/461/09/PDF/N0746109.pdf?OpenElement>.

⁴ The UN Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (hereinafter “the Paris Principles”) were defined at the first International Workshop on National Institutions for the Promotion and Protection of Human Rights in Paris (7-9 October 1991), and adopted by UN General Assembly Resolution 48/134 of 20 December 1993, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>.

⁵ UNDP-OHCHR, *Toolkit for Collaboration with National Human Rights Institutions* (hereinafter “UNDP-OHCHR Toolkit”, December 2010), page 242, available at <http://www.ohchr.org/Documents/Countries/NHRI/1950-UNDP-UHCHR-Toolkit-LR.pdf>.

⁶ The Global Alliance of National Human Rights Institutions (GANHRI), formerly known as the International Coordinating Committee for National Human Rights Institutions (hereinafter “ICC”), was established in 1993 and is the international association of national human rights institutions (NHRIs) from all parts of the globe. The GANHRI promotes and strengthens NHRIs in accordance with the Paris Principles, and provides leadership in the promotion and protection of human rights.

⁷ See Article 15 Global Alliance Of National Human Rights Institutions GANHRI Statute (version adopted on 22 February 2018), available at https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/GANHRI%20Statute/EN_GANHRI_Statute_adopted_22.02.2018_vf.pdf. Accreditation is the official recognition that an NHRI meets the requirements of or continues to comply with the Paris Principles. The SCA awards A, B or C Status. Status A means that an NHRI is fully in compliance with the Paris Principles and a voting member in the work and meetings on NHRIs internationally; Status B means that the NHRI does not yet fully comply with the Paris Principles or has not yet submitted sufficient documentation in this respect. Status B NHRIs have observer status in the work and meetings of NHRIs; Status C Institutions do not comply with the Paris Principles. The Slovak National Centre for Human Rights currently has Status B; see Global Alliance of National Human Rights Institutions, Chart of the Status of National Institutions Accredited - Accreditation Status as of 26 January 2018 <https://nhri.ohchr.org/EN/Documents/Status%20Accreditation%20Chart.pdf>; see also ICC Sub-Committee on Accreditation Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA) (March 2014), pages 8-11, available at

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NHRIs may also be reviewed if the legislation regulating them is amended.⁸ The SCA is additionally developing “General Observations”, which clarify and further explain the Paris Principles.⁹

14. The importance that the United Nations ascribe to NHRIs in the promotion and protection of human rights is documented by various resolutions of the UN General Assembly and the UN Human Rights Council.¹⁰ Additionally, the United Nations Development Programme (hereinafter “UNDP”) and the Office of the United Nations High Commissioner for Human Rights (hereinafter “OHCHR”) have published a Toolkit for Collaboration with National Human Rights Institutions. The toolkit explains the various models of NHRIs and provides guidance on how to support NHRIs in the different phases of their existence, from their establishment to supporting their development into more mature NHRIs and re-accreditation efforts.¹¹
15. OSCE participating States, in the Copenhagen Document of 1990, have committed to facilitating “the establishment and strengthening of independent national institutions in the area of human rights and the rule of law”.¹² Other OSCE commitments have further emphasized the important role that NHRIs play in the protection and promotion of human rights, in particular, the Bucharest Plan of Action for Combatting Terrorism, which tasks the OSCE/ODIHR with continuing and increasing “efforts to promote and assist in building democratic institutions at the request of States, inter alia by helping to strengthen [...] ombudsman institutions”.¹³ OSCE commitments also encourage the establishment of NHRIs, such as Ombudsman institutions, to address discrimination

<https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20MARCH%202014%20FINAL%20REPORT%20-%20ENGLISH.pdf>. (hereinafter “2014 ICC Sub-Committee on Accreditation Report”) ; see also UNDP-OHCHR Toolkit, *op. cit.* footnote 5, page 256.

⁸ *Op. cit.* footnote 5, page 241 (UNDP-OHCHR Toolkit).

⁹ The latest revised General Observations of the Sub-Committee on Accreditation, as adopted by the GANHRI Bureau (hereinafter “General Observations”) at its Meeting held in Geneva on 21 February 2018, are available at <http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Documents/SCA%20GENERAL%20OBSERVATIONS%20ENGLISH.pdf>.

¹⁰ See e.g., UN General Assembly, *Resolution no. 70/163 on National Institutions for the Promotion and Protection of Human Rights*, A/RES/70/163, adopted on 17 December 2015, available at http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/163; *Resolutions nos. 63/169 and 65/207 on the Role of the Ombudsman, Mediator and Other National Human Rights Institutions in the Promotion and Protection of Human Rights*, A/RES/63/169 and A/RES/65/207, adopted on 18 December 2008 and on 21 December 2010 respectively; *Resolutions nos. 63/172 and 64/161 on National Institutions for the Promotion and Protection of Human Rights*, A/RES/63/172 and A/RES/64/161, adopted on 18 December 2008 and 18 December 2009 respectively; and *Resolution no. 48/134 on National Institutions for the Promotion and Protection of Human Rights*, A/RES/48/134, adopted on 4 March 1994 – all available at <http://www.un.org/en/sections/documents/general-assembly-resolutions/index.html>. See also the *Resolution no. 27/18 on National Institutions for the Promotion and Protection of Human Rights of the UN Human Rights Council*, A/HRC/RES/27/18, adopted on 7 October 2014, available at http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/27/L.25.

¹¹ *Op. cit.* footnote 5, page 241 (UNDP-OHCHR Toolkit).

¹² See OSCE Copenhagen Document (1990), par 27, available at <http://www.osce.org/odihr/elections/14304?download=true>.

¹³ See *Bucharest Plan of Action for Combatting Terrorism* (2001), Annex to OSCE Ministerial Council Decision on Combating Terrorism, MC(9).DEC/1, 4 December 2001, par 10, available at <http://www.osce.org/atu/42524>.

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against Roma and Sinti¹⁴ and women¹⁵ and to generally combat intolerance and discrimination.¹⁶ Additionally, the OSCE Handbook for National Human Rights Institutions on Women's Rights and Gender Equality, which exemplifies measures and initiatives to strengthen NHRIs' capacity to work on women's rights and gender equality, is a useful resource.¹⁷ At the Council of Europe (hereinafter "CoE") level, Parliamentary Assembly Recommendation 1615 (2003) sets out characteristics which are essential for any Ombudsman institution to operate effectively.¹⁸ The European Commission for Democracy through Law (hereinafter "Venice Commission") also published a Compilation of Venice Commission Opinions concerning the Ombudsman Institution.¹⁹ The European Commission against Racism and Intolerance's (hereinafter "ECRI") General Policy Recommendation No. 2: Equality Bodies to Combat Racism and Intolerance at the National Level (revised version adopted 7 December 2017) is also of relevance.²⁰

16. Within the European Union ("EU"), the 2018 Recommendation on Standards for Equality Bodies by the European Commission is worth noting.²¹ Additional guidance can be found, e.g. in the 2012 Handbook on the establishment and accreditation of National Human Rights Institutions in the European Union published by the European Union Agency for Fundamental Rights (hereinafter "FRA").²²

2. General Comments and Purpose of the Draft Amendments

17. At the outset, NHRI enabling laws should have 'sufficient detail to ensure the NHRI has a clear mandate and independence', and 'should specify the NHRIs role, functions, powers, funding and lines of accountability, as well as the appointment mechanism for, and terms of office of, its members'.²³

¹⁴ See *Annex to OSCE Ministerial Council Decision No. 3/03: Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area*, 1 and 2 December 2003, par 22, available at <http://www.osce.org/odihr/17554>.

¹⁵ See *OSCE Ministerial Council Decision No. 14/04 "2004 OSCE Action Plan for the Promotion of Gender Equality"*, 7 December 2004, par 42, available at <http://www.osce.org/mc/23295>.

¹⁶ See *OSCE Ministerial Council Decision No. 10/07 on Tolerance and Non-Discrimination: Promoting Mutual Respect and Understanding*, 30 November 2007, par 10, available at <http://www.osce.org/mc/29452>.

¹⁷ OSCE/ODIHR, *Handbook for National Human Rights Institutions on Women's Rights and Gender Equality*, 4 December 2012, pages 9 and 78, available at <http://www.osce.org/odihr/97756>.

¹⁸ Parliamentary Assembly of the Council of Europe (PACE), *Recommendation 1615 (2003) on the Institution of Ombudsman*, 8 September 2003, available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=17133&lang=en>; other CoE recommendations of relevance are CoE Committee of Minister, *Recommendation Rec(97)14E on the Establishment of Independent National Institutions for the Promotion and Protection of Human Rights*, 30 September 1997, available at <https://wcd.coe.int/ViewDoc.jsp?id=589191>; PACE, *Recommendation 1959 (2013) on the Strengthening the Institution of Ombudsman in Europe*, adopted on 4 October 2013, available at <http://www.assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=20232&lang=en>.

¹⁹ Available at [http://www.venice.coe.int/webforms/documents/?pdf=CDL-PI\(2016\)001-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-PI(2016)001-e).

²⁰ ECRI General Policy Recommendation No. 2: Equality Bodies to Combat Racism and Intolerance at National Level (7 December 2017), available at <https://rm.coe.int/ecri-general-policy-/16808b5a23>.

²¹ Available at https://ec.europa.eu/info/sites/info/files/2_en_act_part1_v4.pdf.

²² European Union Agency for Fundamental Rights, *Handbook on the establishment and accreditation of National Human Rights Institutions in the European Union (2012)* available at <https://fra.europa.eu/en/publication/2012/handbook-establishment-and-accreditation-national-human-rights-institutions>

²³ *Op. cit.* footnote 9, SCA General Observation 1.1.

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18. As mentioned above,²⁴ the Slovak National Centre for Human Rights (hereinafter “SNCHR” or “Centre”) is currently accredited with B-Status by the SCA. The stated purpose of the Draft Amendments, according to its Explanatory Report is to “establish the compliance of the legal regulation of the Slovak national human rights institution (hereinafter the „NHRI“) with the requirements of the ... Paris Principles...”.²⁵ In particular, the Explanatory Report mentions that the aim of the amendments is for the Centre to achieve A-Status accreditation.

3. Mandate

19. The Draft Amendments provide for a broadened mandate for the Centre, which is explicitly stated in the law, in order to bring the Centre’s legislation more closely into line with the Paris Principles.

3.1 Explicit Human Rights Mandate

20. The SCA, in its 2014 review of the SNCHR, recommended that the Centre seek legislative changes to broaden its mandate²⁶. The UN Human Rights Committee also recommended that the Centre’s law be amended “so as to expand the scope of its mandate and competence to effectively promote and monitor the protection of human rights, including through reporting on national human rights issues to the legislature”.²⁷
21. The explicit inclusion in §1(2) of the Draft Amendments of the ‘promotion and protection’ of human rights is welcome, as it clearly establishes that the Centre is intended to be a Paris Principles’ compliant NHRI. General Observation 1.2 of SCA, states that the protection mandate of NHRIs should include functions such as “those that address and seek to prevent actual human rights violations [including] monitoring, inquiring, investigating and reporting on human rights violations” and **may also include individual complaints handling, including the ability to seek enforcement through the court system of its decision on the resolution of complaints,**²⁸ something that could additionally be considered by the drafters. At the same time, if such functions are included, it would be all the more important to carefully craft legislation to avoid that mandates and responsibilities overlap with those with the Public Defender of Rights (see par 26 *infra*).²⁹
22. § 1 (4) of the Draft Amendments states “[i]n exercising its tasks the Centre cooperates with national and foreign institutions and organisations active in the area of human

²⁴ See fn 7supra.

²⁵ Explanatory Report p. 1.

²⁶ *Op. cit.* fn 7, p. 8 (2014 ICC Sub-Committee on Accreditation Report).

²⁷ Concluding observations on the fourth report of Slovakia, CCPR/C/SVK/CO/4, 22 November 2016, para 9.

²⁸ See also General Observation 2.9: “The quasi-judicial competency of NHRIs (complaints-handling): When an NHRI is provided with a mandate to receive, consider and/or resolve complaints alleging violations of human rights, it should be provided with the necessary functions and powers to adequately fulfil this mandate. Depending on its mandate, such powers and functions might include:... the ability to seek enforcement through the court system of its decisions on the resolution of complaints;”

²⁹

Available

a

<<https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/General%20Observations%201/Forms/Default%20View.aspx>>.

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- rights and in the area of non-discrimination”. While the inclusion of a cooperation aspect is welcome, the Draft Amendments could be strengthened in several ways. The importance of cooperation between NHRIs and civil society organization has recently been highlighted in the Marrakesh Declaration.³⁰ General Observation 1.7. on ensuring pluralism of the NHRI states recommends, inter alia, “[p]luralism through procedures enabling effective cooperation with diverse societal groups, for example advisory committees, networks, consultations or public forums”.³¹ **Including civil society organizations explicitly within the ambit of §1 (4) of the Draft Amendments is recommended.**³² **Additionally, diverse advisory committees as mentioned in General Observation 1.7. consisting of civil society representatives, human rights defenders, but also possibly representatives from the private sector, could add to the pluralism of the institution, increase cooperation and advice the Director and the Board on various issues.**
23. **In this respect and with respect to the mandate and the functions of the SNCHR in general, it would be crucial to define the relationship between the SNCHR and other institutions, in particular, the Public Defender of Rights (the Ombudswoman), the division of competences between them and ways in which they should cooperate. For the sake of accessibility to the public and accountable use of public resources, overlapping of mandates of various entities should be avoided as far as possible. Any individual complaints procedure should ensure that complaints are handled fairly, quickly and effectively through processes which are clear and readily accessible to the public.**³³
24. Also the additional explicit references to the independence of the institution in § 1 of the Draft Amendments are positive for the overall role of the NHRI, as too § 1 (8) of the Draft Amendments, which states that if the SNCHR conducts an investigation, the subject under investigation has an obligation to cooperate with the SNCHR. **However, it would be preferable to include a stronger cooperation clause which does not only cover investigations but sets out a general duty to cooperate in all areas of the SNCHR’s mandate.**³⁴
25. The inclusion of more human rights functions, which are not confined to the area of non-discrimination, is also to be welcomed. For example, the provision in the existing law that the Centre “provides legal assistance to victims of discrimination and manifestations of intolerance” has now been broadened to “provides legal aid” (§ 1 (2) (d) of the Draft Amendments). Similarly, the existing law limited the mandate of the Centre to preparing and publishing ‘reports and recommendations on issues related to discrimination’ whereas it is now broader in providing that the Centre ‘prepares and publishes independent reports and recommendations’ (§ 1 (2) (f) of the Draft

³⁰13th International Conference of International Human Rights Institutions Marrakesh Declaration “Expanding the civic space and promoting and protecting human rights defenders, with a specific focus on women: The role of national human rights institutions” (10-12 October 2018), available at <https://nhri.ohchr.org/EN/ICC/InternationalConference/13IC/Background%20Information/Marrakech%20Declaration_EN_%2012102018%20-%20FINAL.pdf>

³¹ *Op. cit.* fn 9, SCA General Observation 1.7.

³² See also *op. cit.* fn 9, General Observation 1.5 on cooperation with other human rights bodies.

³³ See *op. cit.* fn 9, General Observation 2.10 regarding specifically the handling of complaints by NHRIs, which should a fortiori be applicable to other complaints-handling mechanisms.

³⁴ See e.g. Section 12.1 of UNMIK Regulation NO. 2000/38 on the Establishment of the Ombudsman Institution of Kosovo “12.1 All persons and entities subject to the jurisdiction of the Ombudsperson are obliged to provide the Ombudsperson with preferential assistance.”

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Amendments, meaning that this power also relates to its human rights mandate. **At the same time, as stated above, legislation needs to be carefully crafted to avoid any overlap with the mandate of other institutions, in particular, the Public Defender of Rights.**

3.2 Specific Functions of the SNCHR

26. As regards specific functions, one of the recommendations from the SCA from its assessment of the SNCHR, in 2014, was for the Centre to advocate for changes to its mandate to explicitly include the powers to: a. Submit to the Government opinions, recommendations, proposals and reports on any matters concerning human rights; b. Promote and ensure harmonization of national legislation, regulations and practices with the international human rights instruments to which the State is a party; c. Encourage ratification or accession to international human rights instruments; d. Create awareness of human rights norms through teaching, research and addressing public opinion; and e. Effectively investigate complaints of human rights violations.³⁵
27. §1 (2) (e), (f) and (g) of the Draft Amendments provide the SNCHR with the mandate to submit opinions, recommendations and proposals for legislative as well as non-legislative measures to the government, the National Council and public administration bodies. **It is further recommended for this provision to also explicitly state that the Centre's opinions and recommendations in this area can include opinions and recommendations on the legislative proposals irrespective of who initiates these proposals and review of existing legislation, and that the SNCHR can choose to make such opinions and recommendations publicly available. Including the review of legislation or legislative proposals into the Draft Amendments would be in line with 3 (a) (i) of the Paris Principles.**
28. The mandates to encourage ratification or accession to international human rights instruments and to create awareness of human rights norms through teaching, research and addressing public opinion are explicitly included in the Draft Amendments, which is welcome.³⁶
29. §1 (7) of the Draft Amendments, requiring a response from the government, legislature and public bodies regarding an opinion, recommendation or proposal under §1 (2) (g) (proposals for legislative and non-legislative measures) is welcome, demonstrating commitment on the part of the government to engage with the recommendations of the Centre. It is also in keeping with the Paris Principles and SCA General Observation 1.6. **However, to avoid unduly limiting this provision, the Draft Amendments should be broadened to include the exercise of all of the Centre's relevant functions, not just those in §1 (2) (g) of the Draft Amendments. Further, §1 (7) of the Draft Amendments, should include all relevant aspects of the Centre's mandate that include recommendations to state bodies, particularly §1 (2) (e), (f), (h) and (i).**
30. Additionally, there is no explicit provision for the SNCHR granting investigative functions in relation to its human rights mandate. §1 (3) (a) of the Draft Amendments provides that the Centre may conduct 'independent investigations concerning the area of

³⁵ *Op. cit.* fn 7, p. 8 (2014 ICC Sub-Committee on Accreditation Report).

³⁶ The mandate to encourage ratification or accession to international human rights instruments is included in §1(2)(h), the mandate to create awareness of human rights norms through teaching, research and addressing public opinion is included, in particular, in particularly through §1(2)(b)(c)(e)(f) as well as §1(4) and (5).

non-discrimination'. While a welcome inclusion in relation to the SNCHR's non-discrimination mandate, the language as well as the Explanatory Report, suggest that an investigative function for its human rights mandate is excluded. As noted above, the SCA has previously advised that the NHRI have the power to investigate complaints of human rights violations. It is not clear why this power of the Centre is limited only to the area of non-discrimination. **It is recommended to modify § 1 (3) (a) of the Draft Amendments, to ensure that the Centre's investigative functions are not limited to the area of non-discrimination. Alternatively, an explicit investigative function covering the Centre's human rights mandate should be included in the list of functions in §1(2).**

31. Moreover, the lawmakers could envisage the inclusion of *amicus curiae* briefs within the mandate of the SNCHR. **A clear legal framework in the law in this context should enable the SNCHR to have proper access to files and other documents related to the case prior to submitting amicus curiae briefs and obliging the Supreme or Constitutional Court to deal with the SNCHR's arguments and to respond to them in the written reasoning of the decision. It is worth considering also the right of the SNCHR to appear as an independent third party also in the context of international human rights mechanisms that provide for such, especially the ECtHR³⁷.**
32. **As part of its protection mandate, the SNCHR – through its representatives – should be guaranteed by law free access at any time to all places where individuals deprived of their liberty are or may be detained, without the need for consent from any agency and without prior notification. A detained person should have the opportunity to freely communicate, without any supervision, with representatives of the SNCHR. The law should clearly state that this is not limited to conversations, but that it also covers all other means of communication.**
33. **It is reiterated that according to sections A.1 and A.2 of the Paris Principles, an NHRI should possess “as broad a mandate as possible”. General Observation 1.2 of the SCA, requires that an NHRI mandate shall extend to acts and omissions of both the public and private sectors.³⁸ § 1 (2) of the Draft Amendments, should explicitly state that human rights violations allegedly carried out by private persons and entities are covered by the SNCHR's mandate.**

3.4 Annual Report

34. **§1 (9) of the Draft Amendments, concerning the annual report of the SNCHR would benefit from additional clarity as to whom the Centre's annual report is submitted. This is strongly recommended to be to the parliament, rather than a government ministry. Indeed, it seems from the Explanatory Report that this is the intention of this section. However, this should be stated explicitly in the section of the Draft Amendments. Furthermore, the parliament should consider and debate the annual report. SCA General Observation 1.11 emphasises the importance of preparing and publicising annual reports that include opinions, recommendations and**

³⁷ Article 36 ECHR

³⁸ “An NHRI's mandate should be interpreted in a broad, liberal and purposive manner to promote a progressive definition of human rights which includes all rights set out in international, regional and domestic instruments, including economic, social and cultural rights. Specifically, the mandate should:- extend to the acts and omissions of both the public and private sectors.”

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proposals on human rights issues of concern. It recommends that the enabling law “establish a process whereby its reports are required to be widely circulated, discussed and considered by the legislature”. In particular, “[i]t is preferable for the NHRI to have an explicit power to table reports directly in the legislature rather than through the executive and, in so doing, to promote action on them.”³⁹ The SCA has emphasised the importance of parliamentary consideration in its examination of NHRI practice and⁴⁰ recommended that NHRIs have the explicit power to table reports to the legislature.⁴¹ Therefore, **§ 1 (9) of the Draft Amendments should be amended to clarify that the Centre submits its annual report to the parliament, which should then have an obligation to consider and debate the report. Additionally, the Draft Amendments should specify where within the parliament the report will be debated. As, pursuant to Article 1 (9) it reports “on the observance of human rights including the area of non-discrimination in the Slovak Republic for the previous year”, it would be preferable if it were discussed in parliamentary plenary session rather than only on committee-level. The Draft Amendments could also specify a deadline within which the debate should take place.**

3.5 Exclusion of the Intelligence Services from the Mandate of the SNCHR

35. §1 (12) of the Draft Amendments, explicitly excludes the intelligence services from the mandate of the Centre. The December 2018 amended explanatory note clarifies that this “does not constitute a new legal state” but is a declaration of the current state of the law. The SCA has made it clear that “an NHRI’s mandate should authorize the full investigation of all alleged human rights violations, including those involving the military, police and security officers”.⁴² It considers that while in some cases a NHRI’s mandate may be restricted for national security reasons “it should not be unreasonably or arbitrarily applied and should only be exercised under due process”.⁴³
36. Where exclusions are made, they should be clearly defined and limited in scope to that which is strictly necessary in a democratic society. **The blanket exclusion of the intelligence services as set out in the draft law should be reconsidered. Certain narrowly defined exclusions concerning the Intelligence Services could be possible but have to be justified by objective and precise enough criteria and necessary in a**

³⁹ *Op. cit.* fn 9 SCA General Observation 1.11.

⁴⁰ For example, in its assessment of the NHRI of Finland in October 2014, the SCA recommended a change in procedure in the enabling law to ensure that the parliament had the opportunity to discuss the NHRI’s report, and further, called on the NHRI to provide a consolidated annual report text to the whole parliament and not just a parliamentary committee. The SCA found that “In accordance with Section 12 of the Parliamentary Ombudsman Act, the annual report of the Ombudsman is tabled in Parliament and is discussed in the presence of the Ombudsman. The report of the HRC is presented to the Constitutional Law Committee, to other Committees depending upon the content of the report, and to members of Parliament. However, it is neither tabled nor discussed in Parliament. The SCA is of the view that, as a result of this difference in procedure, Parliament is not provided with a complete account of the work of the FNHRI.” SCA Report, Finland, October 2014, p. 9.

⁴¹ SCA Report, Zambia, SCA November 2016, pp. 59-60.

⁴² SCA Report, Northern Ireland, May 2016, p. 48.

⁴³ *Op. cit.* fn 9 SCA General Observation 2.6; In justifying this provision, it states: “According to section A.2 of the Paris Principles, an NHRI should possess, “as broad a mandate as possible”. To give full effect to this Principle, the SCA recommends that this provision be understood in the widest sense. The mandate of the NHRI should extend to protect the public from acts and omissions of public authorities, including officers and personnel of the military, police and special security forces. Where such public authorities, are excluded from the jurisdiction of the NHRI, this may serve to undermine the credibility of the Institution.”

democratic society. The procedure must provide also a forum with respect to any disputes arising in this field.

4. Funding

37. Section 2 of the Draft Amendments, specifies how the Centre is funded, and the use of funds. Some amendments have been made to the existing law, specifically the removal of reference to ‘an international agreement’ in §2 (2), and clarification of the SNCHR’s legal status under Slovak law. However, this section still lacks sufficient detail and omits some critical aspects of NHRI funding that should be provided for in NHRI enabling legislation.

4.1. Appropriate Levels of Funding

38. Funding provision is vital to the independent functioning of NHRIs. The state is expected to provide the NHRI with an appropriate level of funding for all of its core operations and activities. The SCA considers that: ‘[t]o function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its independence and its ability to freely determine its priorities and activities. It must also have the power to allocate funding according to its priorities. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realisation of the improvement of the NHRI’s operations and the fulfilment of its mandate.’⁴⁴
39. Appropriate funding includes allocation of funding for accessible premises, salaries and benefits to staff, well-functioning communications systems and sufficient resources for mandated activities.⁴⁵ Appropriate funding should be provided to the NHRI even in times of financial constraint. In its justification to General Observation 1.10, the SCA emphasises that ‘[w]hile the provision of “adequate funding” is determined in part by the national financial climate, States have the duty to protect the most vulnerable members of society, who are often the victims of human rights violations, even in times of severe resource constraints.’⁴⁶ The SCA has recommended the downgrading of several A-Status NHRIs due to insufficient state financial support.⁴⁷
40. There has been previous criticism of Slovakia about the level of resources provided to the Centre. In its 2014 recommendations on the Centre, the SCA expressed concern about the Centre’s level of funding. It noted that concern in this regard had also been expressed by a number of UN Treaty Bodies.⁴⁸ These recommendations have been

⁴⁴ *Op. cit.* fn 9, SCA General Observation 1.10.

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*, SCA General Observation 1.10, justification.

⁴⁷ For example, Senegal in 2011, Greece 2016-2017.

⁴⁸ *Op. cit.* fn 7, p. 11 (2014 ICC Sub-Committee on Accreditation Report: “The SCA notes the concerns expressed by the Committee on the Elimination of Racial Discrimination (CERD/C/ SVK/CO/9-10), the Committee on Economic, Social and Cultural Rights (E/C.12/SVK/CO/2) and the Human Rights Committee (CCPR/C/SVK/CO/3) regarding the adequacy of the SNCHR’s funding.”; e.g. The Committee on the Elimination of Racial Discrimination in its 2013 Concluding Observations, stated that it ‘regrets the lack of adequate financial and human resources to empower the NCHR with necessary means in disseminating the Anti-Discrimination Act and assisting victims of racial discrimination (art. 2)... the Committee recommends that the State party strengthen the NCHR’s independence and mandate and provide it with financial and human resources in order to efficiently fight against discrimination.’ Committee on the Elimination of Racial Discrimination, Concluding observations on the ninth to the tenth periodic reports of Slovakia, adopted by the

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repeated in subsequent treaty body Concluding Observations.⁴⁹ This underscores the need for the draft law to make explicit provision that the appropriate level of funding will be provided to the Centre.

41. It is worth noting here that the 2018 proposed EU Commission recommendation on standards for equality bodies requires that “[t]he Member States should ensure that each equality body is provided with the human, technical and financial resources, premises and infrastructure necessary to perform its tasks and exercise its powers effectively. The resources allocated to equality bodies should take into account the competences and tasks allocated. Resources can only be considered adequate if they allow equality bodies to carry out each of their equality functions effectively, within reasonable time and within the deadlines established by national law”.⁵⁰
42. Of additional relevance is that the expanded mandate provided for in §1 of the Draft Amendments requires a corresponding increase in the budget. The SCA has repeatedly stated that when an NHRI is tasked with additional functions, a corresponding increase in funds is essential. For example, it has made this recommendation in relation to additional functions added to the NHRI’s mandate such as responsibility for children’s rights,⁵¹ gender equality,⁵² anti-discrimination,⁵³ data protection,⁵⁴ human trafficking,⁵⁵ and undertaking a national human rights report⁵⁶. This funding should be sufficient to cover the additional functions.⁵⁷ ECRI has made a similar recommendation regarding non-discrimination bodies that expanded mandate must be accompanied by ‘appropriate

Committee at its eighty-second session (11 February–1 March 2013), UN Doc. CERD/C/ SVK/CO/9-10, 17 April 2013, para 15. The Committee reiterated its previous recommendation in 2018, recommending ‘that the State party provide the Slovak National Centre for Human Rights with adequate human, financial and technical resources to enable it to discharge its mandate effectively and independently, both as a national human rights institution and an equality body’. CERD/C/SVK/CO/11-12 (12 January 2018); The Committee on Economic, Social and Cultural Rights in its 2012 Concluding Observations stated that it ‘is also concerned by the insufficiency of the financial and human resources placed at the Centre’s disposal. The Committee recommends that the State party ... endow it with the financial and human resources it needs in order to function in full conformity with the Paris Principles - Committee on the Economic, Social and Cultural Rights, Consideration of reports submitted by States parties in accordance with articles 16 and 17 of the Covenant: Concluding observations of the Committee on Economic, Social and Cultural Rights - Slovakia, UN Doc. E/C.12/SVK/CO/2, 8 June 2012, para 7; The Human Rights Committee in its 2011 Concluding Observations stated that it was concerned that the NHRI ‘has not been provided with adequate resources to carry out its functions. ... The State party should also take concrete measures to ensure that the NCHR is provided with adequate financial and human resources in line with the Paris Principles.’ - Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant: Concluding observations of the Human Rights Committee - Slovakia, UN Doc. CCPR/C/SVK/CO/3, 20 April 2011, para 5. This was reiterated by the Committee in its Concluding observations on the fourth report of Slovakia, CCPR/C/SVK/CO/4, 22 November 2016, para 9.

⁴⁹ See above footnotes 30, 32. See also, Committee Against Torture Concluding observations on the third periodic report of Slovakia 8 September 2015, UN Doc. CAT/C/SVK/CO/3, para. 16.

⁵⁰ Commission Recommendation on standards for Equality Bodies, C(2018) 3850 final, (22 June 2018), para 1.2.2(1).

⁵¹ SCA Report, Albania, October 2014 p. 19; SCA Report, Germany, November 2015 pp. 16-17.

⁵² SCA Report, Mongolia, October 2014 pp. 25-26.

⁵³ SCA Report, Ukraine, October 2014 pp. 36-37; SCA Report, Montenegro, May 2016 p. 17.

⁵⁴ SCA Report, Ukraine, October 2014 pp. 36-37.

⁵⁵ SCA Report, Luxembourg, November 2015 pp. 27-28.

⁵⁶ SCA Report, Germany, November 2015 pp. 16-17.

⁵⁷ SCA Report, Costa Rica, November 2016 pp. 18-19.

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additional funding'.⁵⁸ It would not be sufficient for the state to keep funding at current levels with the argument that the Centre has been carrying out some of these functions already, of its own volition.

43. There is no mention in the Draft Amendments, of the appropriate or progressive nature of funding, despite the level of concerns previously raised about funding for the Centre. **It is recommended to modify the Draft Amendments to explicitly state the obligations to provide the Centre with an appropriate level of funding to cover its operations and activities, as per SCA General Observation 1.10.**

4.2. Financial Autonomy

44. Financial autonomy is critical to NHRI independence and needs to be made explicit in the Draft Amendments. According to the SCA, national law should state the source of the funds for the NHRI's budget.⁵⁹ National law should ensure that there is provision for appropriate timing for the release of funding. In managing the money allocated to it, the NHRI should have 'absolute management and control'. The NHRI should also be in a position to present its budget (needs) without interference from a government department.⁶⁰ Government interference in the financial affairs of NHRIs are of particular concern to the SCA. **§ 2 of the Draft Amendments should be amended accordingly to make the financial autonomy of the NHRI explicit.**
45. In particular, § 2 (2) provides that the Centre will be "funded by grants from the public budget of the Slovak Republic". The Explanatory Report indicates that this grant is provided through the Ministry of Finance. This provision does not appear to be in line with the Paris Principles. In its 2014 recommendations, the SCA explicitly referred to this issue in relation to the Centre, noting that 'Government funding should be allocated to a separate budget line applicable only to the NHRI. Such funding should be regularly released in a manner that does not impact adversely in its functions, day-to-day management and retention of staff.'⁶¹ The SCA is clear that NHRIs should be funded by a separate budget line within the national budget that is applicable only to the NHRI.⁶² The use of 'grants' does not appear to meet this requirement as the SCA has specifically commented where 'grants' are used that the NHRI should have a separate budget line in the national budget.⁶³ The SCA has also expressed concern where funding for an NHRI was provided through a government Ministry where the NHRI did 'not appear to have full and independent access, or management and control over their dispersal.'⁶⁴ **To meet the requirements of the Paris Principles, the NHRI should be funded from a**

⁵⁸ CRI(2018)06 ECR General Policy Recommendation No. 2: Equality Bodies to Combat Racism and Intolerance at National Level, Adopted on 7 December 2017, para 28.

⁵⁹ SCA Report, Namibia, November 2016 p. 23 "In accordance with section 9 of the existing Act, the budget of the Ombudsman is paid from moneys appropriated for that purpose. The Act does not specify the source of the funds. The SCA notes that the draft proposed amendments to the Act provide that the budget of the Ombudsman is paid from monies appropriated by government for that purpose. [...] The SCA encourages the Ombudsman to advocate for appropriate amendments to its enabling law in order to ensure the adequacy of the Ombudsman's funding and safeguard its financial independence."

⁶⁰ SCA Report, Cote d'Ivoire, May 2016 p. 13.

⁶¹ *Op. cit.* fn 7, p. 11 (2014 ICC Sub-Committee on Accreditation Report).

⁶² *Op. cit.* fn 9, SCA General Observation 1.10.

⁶³ For example, SCA Report, Bangladesh, March 2015 pp. 14-15; SCA Report, Greece, March 2015, pp. 32-33.

⁶⁴ SCA Report, Mali, March 2012 p. 13. See also, SCA Report, Greece, March 2015 pp. 32-33; SCA Report, Myanmar, November 2015 pp. 12-13.

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separate line within the national budget, and this should be specifically stated in the Draft Amendments.⁶⁵

46. **Additional safeguards against unwarranted cutbacks of the SNCHR's budget which could unduly interfere with the institution's independence are recommended to be considered. According to long-standing recommendations of the OSCE/ODIHR, the Draft Amendments could, for example, include the principle that compared to the previous year, any reductions in the SNCHR's fund allocation need to be objectively justified and should not exceed the percentage of reduction of the budgets of the Parliament or the Government.⁶⁶ A general provision highlighting that the budgetary process should not be used to allocate/reduce funds from the budget in a manner that interferes with the NHRI's independence is also recommended.⁶⁷**
47. Additionally, the NHRI has responsibility to ensure it complies with proper accountability practices to show coordinated, accountable and transparent management of its funds "through regular public financial reporting and a regular annual independent audit". However, accountability requirements should "not compromise the capacity of the NHRI to function independently and effectively".⁶⁸ The Explanatory Report indicates that this is to regulate the financial management of the SNCHR from public sources and donors. § 2 (4) is also potentially of concern in this regard, referencing as it does a 'special regulation' for the control of managing financial resources by the Centre. The Explanatory Report indicates that this relates to regular governmental audit in line with public bodies in Slovakia. While NHRIs can and should be subject to ordinary financial controls – such as audit - in the same way as state bodies, NHRIs must be in control of their operational budget. They should not be subject to interference from a government ministry in their financial affairs. Ministers or other government officials should also not have discretion (on paper or in practice) over the allocation of funds,⁶⁹ or their usage.⁷⁰ **Auditing should be performed by a body of auditors independent of the government.**⁷¹

⁶⁵ See e.g. OSCE/ODIHR Opinion on the Draft Act on the Independent National Human Rights Institution of Iceland (6 February 2017), Key Recommendation I and par 74, available at <http://www.legislationline.org/documents/id/20241>; OSCE/ODIHR Opinion on the Draft Law Amending and Supplementing the Ombudsman Act of Bulgaria, Key Recommendation F and pars 31 and 3, available at <http://www.legislationline.org/documents/id/20552>; OSCE/ODIHR Opinion on the Draft Federal Law on the Support to the National Human Rights Institution of Switzerland (31 October 2017), Key Recommendations A and G and pars 30-34, available at <http://www.legislationline.org/documents/id/21411>.

⁶⁶ Ibid par 88 (OSCE/ODIHR Opinion on the Draft Federal Law on the Support to the National Human Rights Institution of Switzerland); par 76 (OSCE/ODIHR Opinion on the Draft Act on the Independent National Human Rights Institution of Iceland); see also Venice Commission Opinion on the draft Constitutional Law on the Human Rights Defender of Armenia, adopted by the Venice Commission at its 109th Session (Venice, 9-10 December 2016), CDL-AD(2016)033, par 28, available at [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)033-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)033-e);

⁶⁷ See e.g. *ibid* (OSCE/ODIHR Opinion NHRI Switzerland) par 88 and (OSCE/ODIHR NHRI Iceland) par 76; see also Venice Commission, Opinion on the Law on the People's Advocate (Ombudsman) of the Republic of Moldova, adopted by the Venice Commission at its 103rd Plenary Meeting (Venice, 19-20 June 2015), CDL-AD(2015)017, pars 74-75, available at [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2015\)017-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2015)017-e).

⁶⁸ SCA Report, Mali, March 2012 p. 13; SCA Report, Cote d'Ivoire, May 2016 p. 13.

⁶⁹ SCA Report, Ireland, November 2015 p. 10, quotation marks in original

⁷⁰ SCA Report, Cyprus, November 2015 pp. 8-9.

⁷¹ *Op. cit.* fn 9, General Observation 1.10.

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48. The legislation should make the autonomy of the Centre's budget clear. Use of secondary legislation is not preferred, and in this case, given the absence of sufficient provision in the law to ensure the Centre's financial autonomy, would be a cause for concern. The provisions in the law should be improved and any secondary regulation dealing with the utilisation of that budget must also be in line with the Paris Principles. **The Draft Amendments should include provisions clearly setting the principle the financial autonomy for the Centre, in particular that it has direct access to its budget, full control over its use, and is not subject to any government ministry in the use of its funds.**

4.3 Donor Funding

49. § 2 (3) of the Draft Amendments references the Centre 'managing donations' from domestic or foreign legal entities. The SCA expects that NHRIs are funded by the State, particularly for core functions and operations.⁷² Where the NHRI does seek external support for particular activities, this should not affect the allocation from the State budget and the NHRI should not have to obtain government approval for external funding, in keeping with its independence.⁷³ NHRIs should also not require governmental approval to accept foreign donor funding.⁷⁴ However, for the NHRI, donor funding should also not be tied to donor priorities.⁷⁵ **The legislation should clearly state that the Centre may seek and use external donations, and is autonomous in doing so and in the management of such donations. At the same time, the full transparency of any donations needs to be ensured also to protect against external influences that may threaten the Centre's proper implementation of its statutory tasks.**

5. The Leadership

5.1. Appointment and Selection of the Board

50. There are significant changes proposed to the membership of the board of the Centre, and the procedure for appointment and selection. The existing law allows for a 9-member board, 4 of whom are appointed by members of the government. The Draft Amendments change this to provide for a board of 7 members. The Explanatory Report notes that this is at the request of the Centre for reasons including efficiency.
51. On the positive side, the removal of nominations by government, particularly the Speaker of the Council, and Minister of Labour, Social Affairs and Family, is welcome. Efforts to include clearer requirements for board membership, particularly human rights expertise are also to be welcomed. However, there are a number of points where the provisions in the Draft Amendments do not, or does not fully, meet the Paris Principles

⁷² Donor funding should not constitute core funding except in rare circumstances, such as post-conflict situations, where the international community needs to support the NHRI until the state is able to do so; see General Observation 1.10. See also, SCA Report, Haiti, November 2013, pp. 9-10.

⁷³ General Observation 1.10, see also SCA Report, Jordan, November 2016 p. 31; SCA Report, Northern Ireland, May 2016, pp. 46-47.

⁷⁴ SCA Report, Jordan, November 2015 pp. 24-25; SCA Report, Iraq, March 2015 pp. 8-9.

⁷⁵ SCA Report, Denmark, November 2017 p. 42. See also, SCA Report, Malawi, November 2016 p. 32.

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requirements regarding pluralism, the selection and appointment procedure, membership requirements, terms of office and removal.

52. An over-arching issue relating to the membership of the board and staffing of the NHRI is that of pluralism. This is of considerable importance, with the SCA noting that it ‘considers the pluralistic composition of the NHRI to be fundamentally linked to the requirement of independence, credibility, effectiveness and accessibility.’⁷⁶ It is positive that § 3 a (7) of the Draft Amendments, requires that the appointment Committee shall pay ‘due attention to secure independence and pluralistic participation of experts active in the area of human rights or in the area of non-discrimination, reflecting different parts of society.’ However, overall the provisions in the draft law are unlikely to meet the Paris Principles requirements for pluralism. The SCA requires that the board and staff are representative of the national society, with consideration to ensure representation of gender, ethnicity and minority status, including through the equitable participation of women.⁷⁷
53. While the explanatory note to the amended legislation suggests that the proposed appointment criteria are sufficient to meet the SCA requirements on pluralism set out above, this is not the case and indicates a misunderstanding of the nature of pluralism as defined by the SCA. It is through the NHRI’s enabling legislation, particularly regarding selection and appointment of leadership, as well as through NHRI practice, that pluralism is implemented. Pluralism should be explicitly dealt with in the enabling law.⁷⁸ The SCA has previously raised concerns regarding pluralism of the Centre’s board, finding in 2014 that ‘[t]he current arrangements for the appointment of members do not ensure pluralism in the composition of the Administrative Board...The SCA encourages the SNCHR to ensure that its membership and staff complement is representative of the diverse segments of society’.⁷⁹ The provisions proposed in the draft law are likely insufficient to meet the Paris Principles’ requirements. **The principle of pluralistic representation as defined by the SCA should be explicitly included in the requirements for selection and appointment of board members, in the Draft Amendments. If the use of nominating bodies is to be retained (see further, below), at a minimum, provision must be made to require each of these bodies to also ensure pluralism and gender-balance in their selection and nomination process. The pluralism requirement should not be confined just to the decision of the**

⁷⁶ *Op. cit.* fn 9, SCA General Observation 1.7, justification.

⁷⁷ SCA General Observation 1.7; According to the SCA, pluralism can be ensured through:

- a) Members of the decision-making body represent different segments of society as referred to in the Paris Principles. Criteria for membership of the decision-making body should be legislatively established, be made publicly available and subject to consultation with all stakeholders, including civil society. Criteria that may unduly narrow and restrict the diversity and plurality of the composition of the NHRI’s membership should be avoided;
- b) Pluralism through the appointment procedures of the governing body of the NHRIs for example, where diverse societal groups suggest or recommend candidates;
- c) Pluralism through procedures enabling effective cooperation with diverse societal groups, for example advisory committees, networks, consultations or public forums; or
- d) Pluralism through staff that are representative of the diverse segments of society. This is particularly relevant for single member NHRIs, such as an Ombudsperson.

⁷⁸ SCA Report, Luxembourg, March 2009 p. 9; SCA Report, Qatar, March/April 2010, p. 15. See also SCA Report, Costa Rica, November 2016; SCA Report, Mexico, November 2016; SCA Report, Namibia, November 2016, p. 43; SCA Report, Philippines, March 2017, p. 30; SCA Report, Nicaragua, November 2017, p. 47.

⁷⁹ *Op. cit.* fn 7, p. 9 (2014 ICC Sub-Committee on Accreditation Report).

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selection committee, which would be limited to selecting from among the candidates already proposed by the nominating bodies.

54. The Draft Amendments include a provision on the appointment process, which shall be done through a committee of the National Council that has responsibility in the ‘area of human rights’. Two proposals are made for each position by the 7 entities entitled to nominate members: the Public Defender of Rights, the Commissioner for Children and Commissioner for Disabilities (a joint nomination), the President of the Slovak Academy of Sciences, the board of directors of the Slovak Bar Association, the Slovak Syndicate of Journalists, one jointly by the Chairman of the Association of Towns and Municipalities of Slovakia and the Chairman of Association of self-governing regions, and the Prime Minister following the proposal of NGOs, using a procedure determined by the Prime Minister. The Explanatory Report gives the rationale for the inclusion of these five nominating entities. The Committee of the National Council then selects one candidate from each of the two proposals (§ 3 a (3) of the Draft Amendments).
55. The absence of any detail on the selection process to be followed by the nominating bodies means that this provision is unlikely to be in compliance with the Paris Principles. Furthermore, the use of nominating bodies here may be problematic as it may not meet the requirements of the process set out under SCA General Observation 1.8 (see below). The SCA previously raised concerns about both of these issues in relation to the SNCHR.⁸⁰
56. The SCA recommended that the Centre advocate for the formalisation of a Paris Principle’s compliant selection process in laws, regulations or binding administrative guidelines.⁸¹ It is unlikely that the provisions proposed in the draft law are sufficient to meet these requirements.
57. The SCA has been robust in its recommendations to NHRIs on the selection and appointment process for NHRI leadership, particularly board members. SCA General Observation 1.8 provides that ‘[i]t is critically important to ensure the formalisation of a clear, transparent and participatory selection and appointment process of the NHRI’s decision-making body in relevant legislation, regulations or binding administrative guidelines, as appropriate. A process that promotes merit based selection and ensures pluralism is necessary to ensure the independence of, and public confidence in, the senior leadership of an NHRI.’⁸² It requires a selection process that is ‘characterized by

⁸⁰ The SCA stated ‘The SCA understands that the administrative board, the decision making body of the SNCHR, is made up of members selected by nine separate appointing authorities, each of which can define its own selection criteria. It is critically important to ensure the formalization of a clear, transparent and participatory selection and appointment process of the NHRI’s decision-making body in relevant legislation, regulations or binding administrative guidelines, as appropriate. A process that promotes merit-based selection and ensures pluralism is necessary to ensure the independence of, and public confidence in, the senior leadership of a NHRI’ *Op. cit.* fn 7, p. 8 (2014 ICC Sub-Committee on Accreditation Report).

⁸¹ *Ibid.*, p. 9.

⁸² The SCA stated that ‘Such a process should include requirements to:

- a) Publicize vacancies broadly;
 - b) Maximize the number of potential candidates from a wide range of societal groups;
 - c) Promote broad consultation and/or participation in the application, screening, selection and appointment process;
 - d) Assess applicants on the basis of pre-determined, objective and publicly available criteria; and
- Select members to serve in their own individual capacity rather than on behalf of the organization they represent.’ *Op cit.* fn 7, SCA General Observation 1.8

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openness and transparency’, and under the control of ‘an independent and credible body and involve open and fair consultation with NGOs and civil society’.⁸³

58. The provisions for the selection and appointment process must be enshrined in law even where the practice meets the Paris Principles requirements,⁸⁴ preferably this should be in the enabling legislation.⁸⁵ Where appointments are made by a committee, such as a parliamentary committee, the process by which names are obtained by that committee still needs to be set out in a legal document.⁸⁶ The SCA has criticized the existing NHRI law of Slovakia for having ‘nine separate appointing authorities, each of which can define its own selection criteria’. The fact of reducing the number of nominating bodies via the Draft Amendments, will not remedy this. Nor will the fact that some of these bodies are independent bodies that form part of the national human rights system. The draft law fails to set out any procedure which the nominating bodies should follow in making their nominations. Additionally, some of the nominating bodies could potentially be subject to investigation by the SNCHR, the very entity they nominate to, in the future, creating a conflict of interest in the nomination process.
59. **The current provisions in the Draft Amendments do not meet the Paris Principles requirements for selection and appointment of members of the board. Ensuring a Paris Principle compliant selection and appointment process is critical to obtaining A-Status. To comply with the Paris Principles, the requirements for the selection and appointment process for board members must be explicitly set out in the legislation. §3a of the Draft Amendments should be significantly changed, setting out a procedure that is publicly advertised, merit-based, open and transparent, and participatory and consultative including with civil society.**

5.2 Composition and Membership Requirements of the Board

60. There are two specific provisions for membership included in § 3 a (4) of the Draft Amendments. The proposed provisions require that to be appointed, a person must have ‘unimpeachable integrity’, and has been for at least for five years active in the area of human rights or in the area of non-discrimination’. ‘Unimpeachable integrity’ in this case, per sub-section 5, means that the person ‘has not been lawfully sentenced for a deliberate crime or crime for which he/she was imposed an unconditional sentence of imprisonment... to be showed [sic] by an extract from the Criminal records’. ‘Active’ is defined in sub-section 6 as ‘a person is considered active in line with para. 4 subpara. b) if he/she is active in public sector, nongovernment sector, in science, research and education or legal profession, mediation and other forms of provision of legal aid.’ An additional requirement is set in sub-section 8 whereby membership is incompatible with ‘a function in a public body or membership in a political party or a political union’ and requiring termination of such position within 30-days of appointment.

⁸³ *Op. cit.* fn 7, SCA General Observation 1.8, justification.

⁸⁴ SCA Report, New Zealand, May 2016, pp. 42-43. SCA Report, Zimbabwe, May 2016 p. 22. See also, SCA Report, Canada, May 2011 p. 12.

⁸⁵ SCA Report, Mauritania, November 2009 p. 4; SCA Report, Belgium, March/April 2010 p. 11; SCA Report, Switzerland, March/April 2010, p. 12; SCA Report, Congo, October 2010, p. 4.

⁸⁶ SCA Report, South Africa, November 2017, p. 31. See also, SCA Report, Denmark, November 2017, pp. 39-40.

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61. NHRI membership requirements should not be unduly restrictive. The requirement of ‘unimpeachable integrity’ is clearly defined in and there are legitimate reasons for the exclusion of certain persons who have obtained a criminal record, particularly where the offence related for example to discrimination or human rights. At the same time, minor violations of an administrative nature, even if regulated by criminal law should not automatically lead to exclusion from candidacy. Additionally, convictions should be legal according to the requirements of international human rights law. . **At the same time, minor violations of an administrative nature, even if regulated by criminal law should not automatically lead to exclusion from candidacy. Additionally, convictions for crimes of a political nature handed down before 1989 should not be considered automatic reasons for dismissal of candidacy. In any case, integrity requirements in the Draft Amendments should be similar to those for other, similar senior positions coupling high public exposure with a necessity for a high level of integrity.**

5.3 Term of Office and Termination of the Board

62. Term of office of board members is for five years, renewable once, and non-substitutable. This term has been increased from three years in the existing law, and is in keeping with SCA requirements for length of terms of office.
63. § 3 (a) 11 of the Draft Amendments provides for termination by expiration of term of office, resignation, death, “by effectiveness of a decision of conviction of a member of the Administrative Board for a deliberate crime or crime in case the court has not ruled on suspension of sentence of imprisonment”, or “recalling of a member of the Board”. § 3 a (12) provides that recall of a member may be done by the rest of the Board for failure to participate in three consecutive meetings without serious justification, hurting the “good name and interests” of the SNCHR by their conduct or statements, for reasons of health, or failure to comply with sub-section 8 of the same.
64. Provisions for dismissal of NHRI board members must be independent and objective, set out in the enabling law, and “similar to that accorded to members of other independent State agencies”.⁸⁷
65. The SCA states that ‘[m]embers may be dismissed only on serious grounds of misconduct or incompetence, in accordance with fair procedures ensuring objectivity and impartiality set out in the national law.’⁸⁸ In this regard, the Draft Amendments may fail to meet the requirements of the Paris Principles. The provision in § 3 a (12) of the Draft Amendments allowing for the board to remove another member for ‘hurting the good name’ of the Centre is likely to be insufficiently clear and defined to comply with

⁸⁷. The SCA requires that:

- The dismissal must be made in strict conformity with all the substantive and procedural requirements as prescribed by law.
- The grounds for dismissal must be clearly defined and appropriately confined to only those actions which impact adversely on the capacity of the member to fulfil their mandate.
- Where appropriate, the legislation should specify that the application of a particular ground must be supported by a decision of an independent body with appropriate jurisdiction.

Dismissal should not be allowed based solely on the discretion of appointing authorities - SCA General Observation 2.1

⁸⁸ *Op. cit.* fn 9, SCA General Observation 2.1, justification.

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the Paris Principles.⁸⁹ It may be noted in this regard that removal from the board (council) of an NHRI ‘as a result of acts or practices that are inconsistent with the obligations associated with membership in the Council’ has previously been by the SCA considered overly vague and open to misuse.⁹⁰ **Therefore, it is recommended to revise § 3 a (12) of the Draft Amendments with a view of clarifying actions or statements potentially leading to such as severe consequences as dismissal. Further, where removal can be made for reasons of ‘incapacity’, such determination should be made by an independent tribunal or medical professional.⁹¹ There should also be a possibility to appeal decisions to an independent body.**

66. According to § 3 aa (4) of the Draft Amendments, the procedure for recalling of Board members and the Executive Director shall be governed by the rules of procedure of the Board, which the board prepares and adopts (§ 3aa (1) (g)). Such an approach may lack sufficient clarity and transparency to comply with the Paris Principles. It also means that the procedure may be open to change during the term of office of members. The absence of a clearly stated procedure in the Draft Amendments, or even of any guiding principles for the removal of members, may not meet the Paris Principles’ requirements for a stable mandate for members. **The Draft Amendments should clarify both the procedure for removal of a member, or at a minimum the principles governing such a procedure to be used by the board, and ensure that the grounds for dismissal are sufficiently defined and confined, avoiding the use of vague terminology. Further, where removal of a board member takes place under this section, the same procedure must be required as if a new board member is being appointed, in line with SCA General Observation 1.8, and § 3 (13) should be amended to specifically include this requirement.**
67. Where a vacancy arises pursuant to § 3 a (13) of the Draft Amendments, another two candidates shall be proposed by the original proposer and that ‘[i]n other cases of termination of the membership under para. 2, this shall be done by the Executive Director.’ **It is not clear what is meant by the reference to the Executive Director, and this may benefit from clarification. Further, as noted above, any filling of vacancies needs to be done in conformity with the Paris Principles requirements for the selection and appointment of members of the board.**
68. **Finally, it is recommended for the draft to mention the right of members of the Board who work in the public sector, to resume a former function after having fulfilled their mandates.**

5.4 Compensation and Full-Time Membership of the Board

69. Under § 3 a (10) of the Draft Amendments, no compensation is provided for Board Members as it is an ‘honorary function.’ However, there is provision for compensation of Member’s costs ‘under a special act’. The SCA considers that NHRI board members

⁸⁹ The Explanatory Report states that this ground ‘must be reasonably substantiated. Focusing to prove the relationship between the behaviour and statements, respectively activities of the board member and harm to the good reputation or interests of the Centre.’

⁹⁰ Morocco, November 2015, pp. 33-34.

⁹¹ See for example, SCA Report, Malaysia, November 2015 pp. 31-32, SCA Report, Qatar, November 2015, p. 38. There must at least be appropriate medical evidence. See, SCA Report, South Africa, November 2017, p. 32.

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should not serve on a voluntary basis.⁹² Ideally, they should be full-time and remunerated.⁹³ This is the case even where the executive head is full time.⁹⁴ Having full-time, remunerated members is crucial for the independence of the NHRI, in order for it to diligently fulfil its mandate, to ward off corruption and for its public standing and perception. There is no provision for any of the members of the Centre's board to be full-time, as recommended by the SCA General Observation 2.2⁹⁵

70. Even where there may be clear rationale for having part-time members, the SCA still recommends the inclusion of full-time remunerated members.⁹⁶ Whether commissioners are part-time or full-time should be set out in the enabling law.⁹⁷ The Explanatory Note makes it clear that members are to be unpaid and to have other employment. Further, it seems that the members are not even intended to be part-time, but rather to only participate in board meetings. It is likely that the absence of any full-time members, or substantially engaged part-time members will be questioned by the SCA, as will the unremunerated nature of membership. Furthermore, where board members remain employed by another entity, it should be explicitly provided for in the law that they serve in their individual capacity.⁹⁸ In these cases, professional activity must not conflict with their posts as board members and should be subject to the approval of the board. **To meet the requirements of the Paris Principles, § 3 a (10) of the Draft Amendments, should be amended accordingly to provide for remuneration for all board members, ideally as full-time positions. The terms for remuneration of members of the Board should be stated clearly in the law. Similarly, the law should contain general regulations concerning the remuneration of the SNCHR's employees.**

5.5 The Director

71. In contrast to the low-level of detail provided for the procedure for the selection and appointment of Board Members, significant detail on the procedure for the selection and appointment of the Executive Director is included in the Draft Amendments. This is also true for the detail and level of scrutiny for the appointment of the Executive Director as compared to the lack of consultation or public engagement in the selection of the Board Members. It is welcome that the term of office is five years, renewable once, as this will help to ensure a stable mandate, as will clarity on the level of salary attached to the position.

⁹² SCA Report, Jordan, November 2015 p. 23; SCA Report, Luxembourg, November 2015 p. 26.

⁹³ SCA Report, Malaysia, November 2015 p. 30. See also, SCA Report, Bahrain, May 2016 p. 8; SCA Report, Zambia, November 2016 p. 57, SCA Report, Denmark, November 2017 p. 42.

⁹⁴ SCA Report, Belgium, May 2018, p. 11.

⁹⁵ 'The enabling law of the NHRI should provide that members of its decision-making body include full-time remunerated members. This assists in ensuring:

a) the independence of the NHRI free from actual or perceived conflict of interests;

b) a stable tenure for the members;

c) regular and appropriate direction for staff; and

d) the ongoing and effective fulfilment of the NHRI's functions.' – *Op. cit.* fn 9, SCA General Observation 2.2

⁹⁶ SCA Report, Greece, May 2016 p. 35.

⁹⁷ SCA Report, Northern Ireland, May 2016 p. 45.

⁹⁸ SCA General Observation 1.8.

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72. The Draft Amendments requires that the Executive Director has completed second degree university education (Masters level) and fulfils requirements for appointment to membership in the Board under § 3a (4) of the Draft Amendments. As well as being of unimpeachable integrity and at least five years activity in human rights or non-discrimination (per §3(4)). The above comments on the subject of **on ‘unimpeachable integrity’ in relation to Board Members are also valid here (see par 61 supra).**
73. Pursuant to § 3 (b) (6) of the Draft Amendments, the Executive Director may be terminated upon conviction of a crime, as well as pursuant to the grounds set out in § 3 (b) (7).⁹⁹ According to § 3 aa (4) of the Draft Amendments, the procedure for recalling of the executive director shall be governed by the rules of procedure of the Board, which the Board prepares and adopts (§ 3 aa (1) (g) of the same).
74. The removal provisions at present are unlikely to meet the requirements of the Paris Principles. The SCA’s dismissal requirements in relation to Board Members (see above) can be considered as applicable to the head of the NHRI also, with the SCA using the term ‘senior leadership’ of the NHRI in relation to selection and appointment, and dismissal, thus including the senior executive leadership. The process for dismissal should be set out in the enabling law.¹⁰⁰ In particular, the four provisions noted above appear to be insufficiently precise and open to potential misuse. § 3b (7) (a) and (b) of the Draft Amendments are open to broad interpretation. These vague provisions, coupled with a lack of clarity on the procedure for recalling the Executive Director, which shall be governed by the rules of procedure of the Board, means that this section is potentially problematic and does not provide the required security of tenure. The presence of stricter voting requirements by the Board introduced in the December amendment does not rectify this issue. **§ 3b (7) of the Draft Amendments should be changed to set out the procedure by which the Executive Director can be recalled, or at a minimum the principles governing such procedure. The grounds for recall by the Board should be clearly defined and confined - § 3b (7) (a) and (b) of the same, require reconsideration here. A process of appeal of a decision under this section to another independent body should be included to improve the guarantees of a stable mandate for the Executive Director.**
75. While a transparent and open process is welcome, several aspects of the appointment procedure contained in the Draft Amdments, are unusual for the appointment of a public official to an executive position: that the interview is public § 3bb (1), that ‘anyone can raise justified reservations against applicants’ § 3ba (7), and that the scoring sheets of members of the selection committee shall be published on the website § 3ba (7). As regards § 3 ba (7), it is not clear what the result of a ‘reservation’ will be, and who can make such reservations. The Explanatory Report indicates that the committee is required to request a statement of the applicant regarding the reservation. This provision is unclear could negatively impact the fairness of the procedure and disproportionately

⁹⁹ 1. The grounds include:

- For ‘serious’ violation of duties
- Where the Executive Director ‘hurts [the] good name or interests of the Centre by his/her statements or conduct’
- For reasons of health where health condition ‘does not permit due performance of duties’ for at least 6 months.
- Failure to fulfil the obligation under 3(b)(4) regarding conflict of interests due to other functions or because the director ‘started to conduct a function or activities incompatible with the function’ of director. he/she no longer meets compatibility requirements under para. 3(8)

¹⁰⁰ SCA Report, Norway, March 2017, p. 15.

increase the workload of the committee and of the applicant and it is recommended to formulate this provision not in a mandatory manner so that the committee “can” consider to request a statement of the applicant regarding a reservation. The possibility of anonymous reservations being made is also of concern. **If this provision is to be kept, more precision is required to clarify how it will operate in practice, and how it is in keeping with the Paris Principles requirements of independence. Any reservations voiced against candidates should not be made anonymously.**

76. **The mere fact of making the interview viewable by the public is unlikely to meet the Paris Principles requirements for a consultative process. While the lawmakers should ensure transparency of the process, the Paris Principles do not require an interview to be viewable to public. According to General Observation 1.8, the process of appointment/election of the head of the NHRI should be based on broad consultations and/or participation in the application, screening, selection and appointment process. This may be achieved through various methods allowing representatives of civil society organization and media to observe the process. One element of public scrutiny could also be the vetting of successful candidates by a Parliamentary Committee prior to being appointed.**
77. Pluralism should also be taken into account in the criteria for selection of the Executive Director by the Board. The SCA previously recommended to the Centre “to ensure that its membership and staff complement is representative of the diverse segments of society”.¹⁰¹ **Reconsideration of the provisions in § 3 ba, of the Draft Amendments should be given, particularly as to the precise nature and purpose of the ‘reservations’, bearing in mind the requirements for independence of the Centre. Pluralism should be included as a requirement for selection of candidates in § 3 bb of the Draft Amendments.**

5. Lawmaking Process

78. The SNCHR, pursuant to the SCA’s periodic review process for NHRIs, is due for re-accreditation in 2019.¹⁰² The stated aim of the Draft Amendments is for the SNCHR to fully comply with the Paris Principle and obtain A-Status. The upcoming review might be one motivating factor for the timing of the Draft Amendments. However, the Draft suggests the new act would enter into force by 1 May 2019. The draft further seems to suggest that the current executive director’s term of office will expire on 30 April 2018, and that of the Board on 30 June 2019. **It is unclear whether transitional arrangements are in place before the new Director and Board are appointed under the revised legislation. This move may breach the Paris Principles’ requirements that the executive should not be able to remove NHRI leadership or board members from office and should be seriously considered by the drafters.**
79. Further, given the importance of the proposed amendments, the haste with which this law is proposed to be enacted may require reconsideration. OSCE commitments require States to adopt legislation as “as the result of an open process reflecting the will of the people, either directly or through their elected representatives”.¹⁰³ At the same time, a

¹⁰¹ *Op. cit.* fn 7, p. 9 (2014 ICC Sub-Committee on Accreditation Report).

¹⁰² Periodic re-accreditation is mandated by Article 15 of the GANHRI Statute.

¹⁰³ See par 18.1 of the Moscow Document (1991), available at <http://www.osce.org/fr/odihr/elections/14310>

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meaningful consultation presupposes that any comments received are duly taken into consideration during the subsequent revision of the draft legislation. Pursuant to the Recommendations on Enhancing the Participation of Associations in Public Decision-Making Processes (2015), state authorities are encouraged to develop a mechanism whereby decision-makers shall report back to those involved in consultations by providing, in due time, meaningful and qualitative feedback on the outcome of public consultations, including clear justifications for including or not including certain comments/proposals.¹⁰⁴ Moreover, to guarantee effective participation, consultation mechanisms must allow for input at an early stage and throughout the process, meaning not only when the draft is being prepared by relevant government entities but also when it is discussed before the Parliament (e.g., through the organization of public hearings).¹⁰⁵ **Throughout the lawmaking process, these commitments and recommendations should be adhered to.**

80. As a general point, where NHRI laws are amended, an open, transparent and consultative process should be undertaken. **It is recommended that consultation take place between the SNCHR, the relevant government office responsible for developing the Draft Amendments, civil society, the Office of the High Commissioner for Human Rights' unit responsible for NHRIs, and the European Network of NHRIs (ENNHRI). It may be noted that where an NHRI's legislation is in the process of being amended, SCA re-accreditation may be delayed at the request of the NHRI.**

6. Issues not Addressed in the Draft Law

6.1 Functional Immunity

81. There is no reference in the Draft Amendments, to protection from criminal and civil liability for official actions and decisions undertaken in good faith (functional immunity) for the board members or staff. This was an explicit recommendation of the SCA in its previous comments on the Centre.¹⁰⁶ SCA General Observation 2.3 requires that such protection be given to members and staff of the NHRI as “[e]xternal parties may seek to influence the independent operation of an NHRI by initiating, or by threatening to initiate, legal proceedings against a member of the decision-making body or a staff member of the NHRI. **For this reason, members and staff of an NHRI should be protected from both criminal and civil liability for acts undertaken in good faith in their official capacity. Such protections serve to enhance the NHRI's ability to engage in critical analysis and commentary on human rights issues, safeguard the independence of senior leadership, and promote public confidence in the NHRI.**”¹⁰⁷ This immunity should also include baggage, correspondence, and

¹⁰⁴ Recommendations on Enhancing the Participation of Associations in Public Decision-Making Processes (from the participants to the Civil Society Forum organized by the OSCE/ODIHR on the margins of the 2015 Supplementary Human Dimension Meeting on Freedoms of Peaceful Assembly and Association), Vienna 15-16 April 2015, par 16 (e), <<http://www.osce.org/odihr/183991>>.

¹⁰⁵ See e.g., OSCE/ODIHR, Guidelines on the Protection of Human Rights Defenders (2014), Section II, Sub-Section G on the Right to Participate in Public Affairs, <<http://www.osce.org/odihr/119633>>.

¹⁰⁶ *Op. cit.* fn 7, p. 10 (2014 ICC Sub-Committee on Accreditation Report).

¹⁰⁷ SCA General Observation 2.3; In its justification, it notes that “[i]t is now widely accepted that the entrenchment of these protections in law is necessary for the reason that this protection, being one that is similar to that which is granted to judges under most legal systems, is an essential hallmark of institutional

means of communication belonging to the SNCHR. Therefore, it is recommended to revisit the draft law with a view to include provisions for functional immunity for acts performed and words spoken or written undertaken in good faith in their official capacity, during the course of their mandate and after it has ended should be added for the leadership and staff of the SNCHR.

6.2 Staffing

82. The Draft Amendments do not contain any provisions regarding the staff of the Centre. There are a number of provisions that should be reflected in the draft law in order to ensure Paris Principle compliance with regard to staffing. These are set out by the SCA in General Observation 2.4.¹⁰⁸
83. The European Commission in its 2018 proposed recommendation on standards for equality bodies specifies that ‘Member States should ensure that the equality bodies’ staff is sufficiently numerous and adequately qualified in terms of skills, knowledge and experience, to fulfil adequately and effectively each of the equality bodies’ functions.’¹⁰⁹
84. **The Draft Amendments should specify that the Centre is entitled to determine its staffing structure and hire its own staff through an open, transparent, merit-based selection process, with due regard for pluralism, gender-balance and necessary skills. Staffing should not be on the basis of secondment from the civil or public**

independence.’; The Venice Commission has similarly underscored the need for functional immunity for independent human rights bodies, for example in its opinion on the draft law on the Protector of Human Rights of Montenegro “[n]ot only the Protector and his/her Deputies, but also his/her staff should have immunity “from legal process in respect of words spoken or written and acts performed by them in their official capacity.” Such immunity shall continue to be accorded even after the end of the Protector’s mandate or after the members of staff cease their employment with the Protector’s institution. This immunity should also include baggage, correspondence and means of communication belonging to the Protector” CDL-AD(2009)043 – Opinion on the draft amendments to the law on the Protector of Human Rights and Freedoms of Montenegro, adopted by the Venice Commission at its 80th Plenary Session (Venice, 9-10 October 2009), §§12, 27 and 29; The ECRI has similarly stated that: ‘persons holding leadership positions should benefit from functional immunity, be protected against threats and coercion and have appropriate safeguards against arbitrary dismissal or the arbitrary non-renewal of an appointment where renewal would be the norm.’ - CRI(2018)06 ECRI General Policy Recommendation No. 2: Equality Bodies to Combat Racism and Intolerance at National Level, Adopted on 7 December 2017, available at <https://rm.coe.int/ecri-general-policy-/16808b5a23>.

¹⁰⁸ ‘NHRIs should be legislatively empowered to determine the staffing structure and the skills required to fulfil the NHRI’s mandate, to set other appropriate criteria (for example, to increase diversity), and to select their staff in accordance with national law. Staff should be recruited according to an open, transparent and merit-based selection process that ensures pluralism and a staff composition that possesses the skills required to fulfil the NHRI’s mandate. Such a process promotes the independence and effectiveness of, and public confidence in, the NHRI. A fundamental requirement of the Paris Principles is that an NHRI is, and is perceived to be, able to operate independent of government interference. The SCA highlights that this requirement should not be seen to limit the capacity of an NHRI to hire a public servant with the requisite skills and experience. However, the recruitment process for such positions should always be open to all, clear, transparent, merit-based and at the sole discretion of the NHRI. Where an NHRI is required to accept staff assigned to it by the government, and in particular where this includes those at the highest levels in the NHRI, it brings into question its capacity to function independently. NHRIs must be provided with sufficient resources to permit the employment and retention of staff with the requisite qualifications and experience to fulfil the NHRI’s mandate. Such resources should allow for salary levels, and terms and conditions of employment, equivalent to those of other independent of State agencies.’ See *op. cit.* fn 9, General Observation 2.4.

¹⁰⁹ Commission Recommendation on standards for Equality Bodies, C(2018) 3850 final, (22 June 2018), para 1.2.2(2).

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service. Staff terms and conditions and salary schemes should be set in line with other independent state bodies. To comply with requirements on funding, the Centre should be provided with sufficient staff to fulfil its mandate and operations.

85. Finally, the Draft Amendments should make it compulsory to adopt, as a separate document, the Code of Ethics binding the members of the Board as well as all the staff of the Centre and other cooperating persons.

[END OF TEXT]

ANNEX:

Draft

Act No. 308/1993 Coll.
Act of the National Council of the Slovak Republic on Establishment of the Slovak National Centre for Human Rights
(as amended by acts no. 136/2003 Coll., 365/2004 Coll., 269/2007 Coll., 85/2008 Coll., 176/2015 Coll., .178/2018 Coll.)

National Council of the Slovak Republic has adopted the following act:

§ 1

- (1) The Slovak National Centre for Human Rights (hereinafter referred to as the “Centre”) with its seat in Bratislava is hereby established.
- (2) The Centre performs tasks in the area of protection and promotion of human rights and fundamental freedoms (hereinafter referred to as “human rights”) and the principle of equal treatment pursuant to a special law¹⁾ (hereinafter referred to as “non-discrimination”). For this purpose, the Centre:
 - a) monitors and evaluates the observance of human rights and non-discrimination,
 - b) conducts independent researches and surveys,
 - c) prepares and organises educational activities and participates at informational campaigns,
 - d) provides legal aid,
 - e) upon request or based on its own initiative issues independent expert opinions and publishes them at its website,
 - f) prepares and publishes independent reports and recommendations,
 - g) upon request or based on its own initiative submits the government of the Slovak Republic, the National Council of the Slovak Republic and public administration bodies independent opinions, recommendations and proposals for legislative and non-legislative measures,
 - h) supports ratification or accession to international human rights treaties and conventions and oversees implementation of international treaties on human rights and fundamental freedoms,
 - i) may contribute to reports of the Slovak Republic on implementation of its obligations under international human rights treaties or resulting from membership of the Slovak Republic in international organisations, and submits its own reports
 - j) provides library services.
- (3) In the area of non-discrimination, the Centre also:
 - a) upon request or based on its own initiative conducts independent investigations concerning the area of non-discrimination,
 - b) upon request adjudicates adoption of provisions § 7 para. 1 of the Antidiscrimination Act

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- c) publishes at its website information on temporary countervailing measures under § 8a para. 4 of the Antidiscrimination Act,
 - d) files legal actions pursuant to § 9a of the Antidiscrimination Act.
- (4) In exercising its tasks the Centre cooperates with national and foreign institutions and organisations active in the area of human rights and in the area of non-discrimination.
- (5) For the purposes of educational activities and information campaigns under para. 2 subpara. c), the Centre co-operates with experts in the relevant field and with public.
- (6) For the purposes of this Act, legal aid in the area of human rights and non-discrimination under para. 2 subpara. d) means
- a) legal advice, including consultancy services,
 - b) assistance in out-of-court settlements, including through intermediating resolution through mediation^{1a)},
 - c) representation of a party in an antidiscrimination dispute^{1b)}.
- (7) The Government of the Slovak Republic, the National Council of the Slovak Republic and public administration bodies are within their jurisdiction obliged to submit the Centre its statement concerning the independent opinion, recommendation or proposal addressed to it by the Centre under para. 2 subpara. g) within 30 days upon delivery.
- (8) Within independent investigation under para. 3 subpara. a), the inspected subject is, in line with conditions laid down in special laws, obliged to provide the Centre's employee necessary cooperation and allow him/her to see the documentation, records and other materials needed for effective independent investigation. An employee of the Centre conducting independent investigation is bound by confidentiality concerning the facts that came to his/her knowledge in connection to its conduct. A report from the independent investigation shall be published at the website of the Centre.
- (9) Annually, by 31 May, the Centre submits a report on the observance of human rights including the area of non-discrimination in the Slovak Republic for the previous year and publishes it, at the same time, at its website.
- (10) Courts, prosecution, other state bodies, bodies of territorial self-government, bodies of interest self-government and other public institutions are obliged to provide the Centre, upon its request, information on the observance of human rights within 30 days upon the receipt of the Centre's request.
- (11) Subjects adopting temporary countervailing measures are obliged to provide the Centre upon its request information on the adopted temporary countervailing measures under § 8a para. 4 of the Antidiscrimination Act within 30 days upon delivery of the request.
- (12) The mandate of the Centre does not cover the intelligence services.

§ 2

- (1) The Centre is an independent legal entity.²⁾ It is not entered in the Companies Register.

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- (2) The activity of the Centre is funded by grants from the public budget of the Slovak Republic.
- (3) Apart from financial resources under para. 2, the Centre also manages donations from domestic of foreign legal entities or natural persons or other public resources.
- (4) The control of financial management of the Centre is subject to special regulation.³⁾ Government audit office imposes and claims taxes, penalties and fines for violation of financial discipline during management of Centre's financial resources^{3a)}
- (5) The Centre is not a trustee of the state assets under a special law.⁴⁾

§ 3

The main bodies of the Centre are the Board and the Executive Director.

§ 3a

Composition and Membership of the Board

- (1) The Board consists of seven members. The members of the Board are:
 - a) one member appointed by the Public Defender of Rights,
 - b) one member jointly appointed by the Commissioner for Children and the Commissioner for Persons with Disabilities,
 - c) one member appointed by the President of the Slovak Academy of Sciences,
 - d) one member appointed by the board of directors of Slovak Bar Association
 - e) one member appointed by Slovak Syndicate of Journalists
 - f) one member appointed jointly by the Chairman of the Association of Towns and Municipalities of Slovakia and Chairman of Association of self-governing regions
 - g) one member appointed by the Prime Minister of the Slovak Republic following a proposal of non-governmental organisation; the procedure of submitting a proposal to appoint a member of the Board is determined by the Prime Minister of the Slovak Republic.
- (2) Each of the subjects under para. 1 shall submit a Committee of the National Council of the Slovak Republic responsible for the area of human rights (hereinafter referred to as the "respective committee") a proposal of two candidates for a member of the Board.
- (3) The respective committee elects one candidate for a member of the Board from each pair proposed under para. 2 and informs the subjects under para. 1 in writing without undue delay. A subject under para. 1 then appoints the candidate elected by the respective committee from the pair of candidates proposed by this subject to serve as member of the Board.
- (4) A person can be appointed as member of the Board if he/she:
 - a) has unimpeachable integrity,
 - b) has been for at least five years active in the area of human rights or in the area of non-discrimination.
- (5) For the purposes of this act, a person is considered to have an unimpeachable integrity under para. 4 subpara. a) if he/she has not been lawfully sentenced for a deliberate crime or crime for which he/she was imposed an unconditional sentence of imprisonment. The

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unimpeachable integrity is to be showed by an extract from the Criminal Records⁵⁾. Information of the third sentence is to be immediately sent by the Centre in electronic form to General Prosecutor's office for the purpose of delivering an extract from the Criminal Records.

- (6) A person is considered active in line with para. 4 subpara. b) if he/she is active in public sector, non-government sector, in science, research and education or legal profession, mediation and other forms of provision of legal aid.
- (7) Within election, the respective committee pays due attention to secure independence and pluralistic participation of experts active in the area of human rights or in the area of non-discrimination, reflecting different parts of society.
- (8) Membership in the Board is incompatible with a function in a public body or membership in a political party or a political union. A member of the Board is obliged to terminate such function or membership within 30 days since his/her appointment.
- (9) Term of office of a member of the Board is five years; it starts from the day of appointment. A subject that appointed the member under para. 1 delivers a written notice of appointment to the Centre without undue delay. The same person can be appointed as a member of the Board for not more than two consecutive terms. Membership in the Board is not substitutable.
- (10) Membership in the Board is an honorary function. A member of the Board is entitled to compensation of costs related to the performance of his/her function under a special act.⁶⁾
- (11) The membership in the Board is terminated
 - a) by expiration of the term of office of a member of the Board,
 - b) by resignation of a member of the Board,
 - c) by recalling of a member of the Board,
 - d) by effectiveness of a decision of conviction of a member of the Administrative Board for a deliberate crime or crime in case the court has not ruled on suspension of sentence of imprisonment, or
 - e) by death or declaration of death of a member of the Board.
- (12) A member of the Board shall be recalled by the Board in case
 - a) he/she fails to participate in three consecutive meetings of the Board without giving serious justification,
 - b) he/she hurts or hurt good name and interests of the Centre by his/her conduct or statements,
 - c) his/her health condition does not permit due performance of duties resulting from the membership for a long period of time, at least for three consecutive months,
 - d) he/she failed to fulfill the obligation under para. 8, or
 - e) he/she no longer fulfills the requirement of incompatibility under para. 8.
- (13) The Board notifies a subject who appointed the recalled member of Board about the recall without undue delay and requests that this subject proposes two candidates for

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a new member of the Board under para. 2. In other cases of termination of the membership under para. 2, this shall be done by the Executive Director.

§ 3aa

Mandate of the Board

(1) The Board:

- a) elects from its members and recalls Chairperson and Deputy Chairperson of the Board,
- b) recalls a member of the Board under § 3a para. 12,
- c) performs the selection procedure for the Executive Director under § 3ba and § 3bb,
- d) recalls the Executive Director under § 3b para. 7,
- e) if the tenure of the Executive Director terminates (§ 3b para. 6), the Board mandates other employee of the Centre to perform duties of Executive Director until selection of a new Executive Director under § 3ba and § 3bb; the scope of mandate is decided by resolution of the Board,
- f) adopts the Statute of the Centre,
- g) prepares and adopts the rules of procedure of the Board,
- h) adopts the proposal of the budget of the Centre,
- i) adopts the plan of activities of the Centre,
- j) adopts the strategic plan of the Centre,
- k) discusses the report on the observance of human rights including the area of non-discrimination in the Slovak Republic,
- l) adopts annual activity report of the Centre,
- m) adopts annual clearance of accounts of the Centre and the annual report on the economy of the Centre.

(2) The Board meets the quorum if the absolute majority of all members is present. To reach a valid adoption of a decision, an approval of the absolute majority of all Board members present is required. A valid adoption of a decision under para. 1 subparas. a) to e) requires absolute majority of all Board members, with the exception of appeals order under § 3a para. 12 subpara. b) and § 3b para. 7 subpara b), which requires an approval by the majority of two-thirds of all Board members.

(3) Details on internal management of the Centre shall be governed by the Statute of the Centre.

(4) Procedure of convening the meetings of the Board and its proceedings, including of recalling Board members and recalling Executive Director, shall be governed by the Rules of Procedure of the Board.

§ 3b

Executive Director

(1) Activities of the Centre are managed and controlled by Executive Director. Executive director is appointed to the office by the Chair of the Board based on results of the selection procedure. Tenure of Executive Director is five years and starts upon appointment to the office. The Executive Director, whose tenure terminates, remains in the office until appointment of the new Executive Director. A person can be reappointed as Executive Director for not more than two consecutive terms of office.

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- (2) Executive Director is a statutory body of the Centre. A person can be appointed as Executive Director if he/she has completed second degree university education and fulfils requirements for appointment to membership in the Board under § 3a para. 4.
- (3) A function of Executive Director is incompatible with a function in a public body or other paid function, membership in a political party or political union, business activities or other paid employment except from managing his/her own assets, assets of his/her minor child, assets of a person with limited legal capacity and except from performing science, pedagogic, literary and artistic activities.
- (4) If Executive Director performs a function or activities under para. 3 when he/she is appointed, he/she is obliged to terminate such function or activities or undertake legally prescribed acts leading to their termination within 30 days from his/her appointment.
- (5) Executive Director accounts to the Board for
 - a) operation of the Centre and fulfilment of its tasks,
 - b) due economy and bookkeeping of the Centre,
 - c) fulfilment of decisions of the Board,
 - d) preparation of the report on the observance of human rights including the area of non-discrimination in the Slovak Republic,
 - e) preparation of the annual activity report of the Centre,
 - f) preparation of the annual clearance of accounts of the Centre and the annual report on the economy of the Centre for the previous year.
- (6) The function of Executive Director shall terminate due to
 - a) expiration of tenure of Executive Director,
 - b) resignation of Executive Director,
 - c) repeal of Executive Director on grounds under para. 8,
 - d) entering into effect of a decision of conviction of Executive Director for a deliberate crime or crime in case the court has not ruled on suspension of sentence or imprisonment, or
 - e) death or declaration of death of Executive Director.
- (7) Executive Director can be repealed based on the following grounds
 - a) he/she seriously violated duties of Executive Director,
 - b) he/she hurts or hurt good name or interests of the Centre by his/her statements or conduct,
 - c) his/her health condition does not permit due performance of duties resulting from the function of Executive Director for a long period of time at least for six consecutive months,
 - d) he/she failed to fulfil the obligation under para. 4, or
 - e) he/she no longer meets compatibility requirements under para. 3(8) Executive Director submits the Board
 - a) proposal of the Statute of the Centre,
 - b) proposal of the budget of the Centre for a calendar year,
 - c) proposal of the plan of activities of the Centre for a calendar year,
 - d) proposal of the strategic plan of the Centre,
 - e) report on the observance of human rights including the area of non-discrimination in the Slovak Republic,
 - f) annual activity report of the Centre,
 - g) clearance of accounts of the Centre and annual report on economy of the Centre.

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- (9) Executive director is entitled to a salary in an amount equal to a salary of a member of the National Council of the Slovak Republic plus lump sum allowances related to execution of the function in an amount equal to daily subsistence allowance and other reimbursements related to performance of the office of a member of the National Council of the Slovak Republic with permanent residence in Bratislava región. ⁷⁾

§ 3ba

Invitation to selection procedure for a position of Executive Director

- (1) Selection procedure on the function of Executive Director under § 3b para. 1 is called by the Board. The Board is obliged to call the selection procedure at the latest
- a) 60 days prior to termination of tenure of the Executive Director,
 - b) within 30 days upon termination of performance of the function of Executive Director under § 3b para. 6 subparas. b) to e).
- (2) Date of selection procedure shall be set up by the Board so that it takes place at the latest 60 days since performance of the office of Executive Director was ceased .
- (3) Initiation to selection procedure shall be published at the website of the Centre and, upon decision of the Board, also through publicly accessible means of mass communication.
- (4) Call for selection procedure shall contain
- a) name of the function appointed by selection procedure,
 - b) requirements under § 3b para. 2,
 - c) brief description of the process of the selection procedure,
 - d) list of documents to be submitted under para. 5,
 - e) deadline and location for submitting application for inclusion in the selection procedure and other documents under para. 5,
 - f) date and place where the selection procedure will be held.
- (5) Applicant for the function of Executive Director is required to submit
- a) written application to be included in the selection procedure,
 - b) project of management and development of the Centre for the upcoming term of office of Executive Director,
 - c) curriculum vitae and
 - d) certified copy of a diploma on completion of university education of second grade (master level).
- (6) The Board shall publish at the website of the Centre
- a) curricula vitae of the applicants after the deadline laid down under para. 4 subpara. e), at the latest 10 days prior to the date of selection procedure,
 - b) and at the latest on the day of selection procedure also projects of management and development of the Centre submitted by the applicants.
- (7) Anyone can raise justified reservations against applicants by the day of the selection procedure. The Selection Committee shall seek statement of applicants concerned by the raised reservation. The Selection Committee is not bound to consider anonymous reservations.

§ 3bb

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Process of the selection procedure for the position of Executive Director

- (1) Selection procedure shall consist of an oral interview including presentation of an applicant and his/her project of management and development of the Centre. The aim of the selection procedure is to assess expert and personal requirements of applicant for the function of Executive Director. The selection procedure is public, taking into account capacity of a place where it is held.
- (2) Selection procedure is conducted by the Board, which has the status of Selection Committee. The Board meets quorum when a majority of its members is present. The Board elects the chair of the Selection Committee from its members.
- (3) During the selection procedure, each member of the Selection Committee scores the applicants thereby creating his/her own ranking list of participants in the scoring sheet. He/she marks the ranking of successful applicants, marks the unsuccessful applicants and reasons his/her ranking of applicants in the scoring sheet.
- (4) Members of the Selection Committee hand in their scoring sheets to the Chair of the Selection Committee who conducts the final rankings of successful applicants in the presence of other members of the Board and concludes the names of unsuccessful applicants. An applicant is unsuccessful if more than half of members of the Selection Committee marks him/her as unsuccessful.
- (5) Order of successful applicants is established by summing up of positions of the applicants. In case that two or more applicants tie, the order is decided by a separate vote. In case the tie is not eliminated, the order is decided by the Chair of the Selection Committee drawing lot.
- (6) If the Board does not select Executive Director based on results of the selection procedure due to the reason that no applicant fulfils requirements under § 3b para. 2 or no applicant is successful in the selection procedure, the Board initiates new selection procedure so that it is held within 60 days upon termination of the previous unsuccessful selection procedure.
- (7) Entrusted member of the Board shall prepare minutes of the selection procedure, which shall be signed by the Selection Committee. If some of the Board members refuses to sign the minutes, this should be noted directly in the minutes together with reasons for refusal. The Board is responsible for publication of the minutes and scoring sheets of Board members at the website of the Centre within 10 working days since the selection procedure was held.
- (8) The Board informs the applicants on the results of selection procedure in writing within 10 working days since the selection procedure was held.
- (9) Details on selection procedure for Executive Director shall be regulated by the Rules of Procedure of the Board.

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- (1) The terms of office of members of the Administrative Board established under existing regulations shall expire by calling of the first meeting of the newly appointed members of the Administrative Board under Article 3a paragraph 1. The members of the Administrative Board shall be appointed by the persons mentioned in Article 3a paragraph 1 by 1 July 2003 at the latest; their appointment shall be notified in writing to the Justice Minister of the Slovak Republic. Non-governmental organizations shall submit the Prime Minister of the Government of the Slovak Republic a proposal of appointing a member of the Administrative Board by 15 June 2003.
- (2) The first meeting of the new Administrative Board shall be called upon by the Minister of Justice of the Slovak Republic so that it would take place within 30 days after the expiry of the date for appointing members of the Administrative Board under paragraph 1. In case the absolute majority of members of the Administrative Board is not appointed by the time specified in paragraph 1 above, the first meeting of the new Administrative Board shall be called by the Minister of Justice of the Slovak Republic so that it would take place within 30 days after receiving the notification of appointment of the absolute majority of members of the Administrative Board under paragraph 1.
- (3) The tenure of the Executive Director appointed under the existing regulations shall expire by electing a new Executive Director; under the present Act, the Administrative Board shall elect a new Executive Director within 30 days after its first meeting.

§ 3d

Preliminary Provisions on the Amendment Effective from 1 July 2007

Terms of office of the members of the Administrative Board appointed under the existing regulations shall expire after three years from their appointment.

§ 3da

Preliminary Provisions on the Amendment Effective from 1 May 2019

- (1) Tenure of the Executive Director fulfilling this role by 30 April 2019 shall terminate upon expiration of his tenure in line with regulations effective by 30 April 2019. The Executive Director fulfilling this role by 30 April 2019 is not bound by the provision of §3b para. 3 and 4.
- (2) Terms of office of a member of the Board serving his or her office by 30 April 2019 shall terminate on 30 June 2019. Members of the Board appointed by 30 April 2019 are not bound by the provision of § 3a para. 8.
- (3) First members of the Board in compliance with §3a para. 1 effective by 1 May 2019 will be appointed before 30 June 2019
- (4) The first meeting of the newly appointed Board shall be called upon by the Executive Director so that it takes place within 30 days upon the expiry of the date for appointing members of the Board under para. 2.
- (5) First report on Human rights adherence including the scope of discrimination under §1 para. 9 shall be submitted by the Centre to the National Council of the Slovak Republic

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before 31 May 2020 and in the same timeframe the Centre shall publish the report on their webpage. Before 30 April 2019 the Centre shall publish on their webpage a report on adherence to human rights and equal treatment principle in Slovak republic in 2018 under provisions effective by 1 May 2019.

§ 3e

This Act implements binding legal acts of the European Union listed in the Annex.

§ 4

This Act shall enter into force on 1 January 1994.

Michal Kováč m. p.
Ivan Gašparovič m. p.
Vladimír Mečiar m. p.

Annex

to the Act No. 308/1993 Coll.

LIST OF IMPLEMENTED BINDING ACTS OF THE EUROPEAN UNION

1. Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (Special edition O. J., chapter 20/volume 1; O. J. L 180, 19. 7. 2000).
2. Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (Special edition O. J., chapter 5/volume 4; O. J. L 303, 2. 12. 2000).
3. Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services (O. J. L 373, 21. 12. 2004).
4. Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) (O. J. L 204, 26. 7. 2006).
5. Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC (O. J. L 180, 7. 7. 2010).
6. Directive 2014/54/EU of the European Parliament and of the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers (O. J. L 128/8, 30. 4. 2014).

References

- 1) Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and Protection from Discrimination and amending and supplementing certain acts (the Anti-discrimination Act) as amended.
- 1^a) Act No. 420/2004 Coll. on Mediation and supplementing certain acts as amended.
- 1^b) § 307 to 315 of the Rules of Civil Litigation.
- 2) § 18 para. 2 subpara. d) of the Civil Code.

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- ^{2a)} Act No. 523/2004 Coll. on Budget Rules of the Public Service and amending and supplementing certain acts as amended.
- ³⁾ Act of the National Council of the Slovak Republic No. 39/1993 Coll. on Supreme Audit Office of the Slovak Republic as amended.
Act No. 357/2015 Coll. on financial control and auditing and amending and supplementing certain acts.
- ⁴⁾ Act of the National Council of the Slovak Republic No. 278/1993 Coll. on State's Assets Management as amended.
- ⁵⁾ Act No. 330/2007 Coll. on Criminal Records and amending and supplementing certain acts as amended.
- ⁶⁾ Act No. 283/2002 Coll. on Compensation of Travel Costs as amended.