Organization for Security and Co-operation in Europe
Office for Democratic Institutions and Human Rights

Information Submitted to the
Office of the United ations High Commissioner for Human Rights
as a Stakeholder in the
Universal Periodic Review of Slovakia

Warsaw, October

OSCE/ODIHR Submission of Information about an OSCE Participating State or Partner for Co-operation under Consideration in the Universal Periodic Review Process

Participating State: Slovakia
UPR Working Group Session and Date of Review: 46th Session, 29 April - 10 May 2024.

Background

1. Slovakia has been a participating State in the Organization for Security and Co-operation in Europe (OSCE) since 1993 when it was admitted as a new participating State, and has thus undertaken and recently reaffirmed a wide range of political commitments in the "human dimension" of security as outlined in relevant OSCE Documents.[1]

2. The OSCE Office for Democratic Institutions and Human Rights (ODIHR) has been mandated by OSCE participating States, including Slovakia, to assist them in implementing their human dimension commitments. ODIHR assistance includes election observation and assessment activities as well as monitoring and providing assessments, advice and recommendations relating to implementation of commitments in the fields of human rights, democracy, tolerance and non-discrimination, and the situation of Roma and Sinti in the OSCE-Area.

3. The present submission provides publicly available country-specific information that may assist participants in the Universal Periodic Review process in assessing the situation in Slovakia and its implementation of past recommendations, as well as to formulate new recommendations that may be relevant to enhancing the enjoyment of human rights and fundamental freedoms in Slovakia.

Legislation reviewed by ODIHR

4. Upon request by authorities of an OSCE participating State, OSCE field operations or OSCE institutions, ODIHR reviews draft or enacted legislation of OSCE participating States on topics relating to the human dimension of security for its conformity with OSCE commitments and other international standards.[2] In 2018-2023, the following relevant legal opinions (on topics other than elections) were issued on legislation or draft legislation of Slovakia:

Draft Amendments to the Act on establishment of the Slovak National Centre for Human Rights[3]

[1] OSCE Office for Democratic Institutions and Human Rights, *Compendium of OSCE Human Dimension Commitments: Volume 1, Thematic Compilation (fourth edition)*, 2023, and *Compendium of OSCE Human Dimension Commitments: Volume 2, Chronological Compilation (fourth edition)*, 2023; OSCE Summit Meeting, Astana 2010, *Astana Commemorative Declaration: Toward a Security Community*, 3 December 2010.

[2] The legal reviews and opinions, often produced in co-operation with the Council of Europe's Commission for Democracy through Law (Venice Commission), are available at www.legislationline.org. Basic information about the constitutional system and human dimension-related legislation of Poland is also available in English on www.legislationline.org.

[3] OSCE/ODIHR Opinion on the Draft Amendments to the Act on Establishment of the Slovak National Centre for Human Rights, 21 January 2019

5. On the 8 October 2018, ODIHR received a request from the Executive Director of the Slovak National Centre for Human Rights 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.

6. ODIHR welcomed that the Draft Amendments sought 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. It was noticed that the Draft Amendments contained 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 were recommended to bring the Draft Amendments in line with international standards. In particular, ODIHR recommended 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 its funding in the national budget. Regarding the mandate, it was recommended to explicitly state that human rights violations carried out by private persons and entities are covered by the Centre's mandate and to ensure that the Centre's investigative functions are not limited to the area of non-discrimination. It was also recommended to ensure that 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.

7. The legal proposals submitted to the National Council of the Slovak Republic have not been approved and the draft amendments failed to pass in June 2019. Moreover, these proposals were highly criticised by non-governmental organisations and other stakeholders taking a part in the respective participatory process (inter-ministerial commenting procedure). There have been no further efforts or legislative work to amend the law and strengthen the mandate and independence of the Centre in compliance with the Paris Principles. The Ministry of Justice has communicated its intention to re-open the process under the new government but no particular steps have been undertaken yet. The Slovak National Centre for Human Rights as of now is accredited with status B by the International Coordinating Committee of National Human Rights Institutions.

Election-related activities

8. ODIHR has observed 9 elections in the country since 1998, most recently the presidential election held on 16 and 30 March 2019 and the parliamentary elections on 29 February 2020.

Presidential election, 16 and 30 March 2019

9. ODIHR deployed an Election Assessment Mission (EAM) to observe the presidential election on 16 and 30 March 2019. The EAM assessed these elections for their compliance with OSCE commitments and other international obligations and standards for democratic elections, as well as with national legislation. The EAM concluded that *"the election was competitive, pluralistic and held with respect to fundamental freedoms"* Voters could choose from a wide range of candidates, who reached out to the electorate through a variety of tools, including a number of debates. Online outlets disseminating intolerant rhetoric and alleging concern over the security of voting played

a substantial role in campaign discourse. The election was conducted in a professional manner, corresponding to a high degree of public confidence in election administration.

10. ODIHR prepared a Final Report which included 20 recommendations to further improve the electoral process related to legislation and its implementation.[4] Among these are the following five priority recommendations:[5]

- Full independence of the State Election Commission (SEC) should be ensured and its administrative and financial capacity strengthened;
- To promote independence and impartiality of the campaign finance oversight, consideration should be given to entrust the competence in campaign finance control to an independent institution;
- Defamation should be decriminalized and a reasonable ceiling for damages should be introduced in the civil label cases;
- To ensure the long-term pluralism of media, the authorities could strengthen the public broadcaster through an adequate financing and enhance its independence;
- The Elections Act should be amended to introduce explicit mechanisms and legal procedures for resolution of election disputes within adequate timeframes.

Parliamentary elections, 29 February 2020

11. Following an invitation from the authorities of Slovakia and in accordance with its mandate, ODIHR established a Limited Election Observation Mission (EAM) to observe the 29 February 2020 parliamentary elections. The mission assess the election process in terms of its compliance with OSCE commitments and other international obligations and standards for democratic elections, as well as national legislation. Observers, in particular, looked into the legal framework for the elections, the administration of elections, conduct of the campaign and campaign finance rules, as well as media environment and media coverage of the elections. The EAM concluded that "elections were held in an environment where a plurality of contestants competed under equitable conditions where fundamental freedoms were respected. Voters were provided with ample and diverse information enabling them to make an informed choice. The election administration overall ensured an orderly process, including on Election Day."

12. The Final Report published on 15 May 2020 included 21 recommendations, of which 7 were priority recommendations:[6]

- To ensure the stability of the legislation, electoral reforms should be undertaken well in advance of elections, through open and inclusive consultations with all election stakeholders;
- Sufficient institutional capacity of the SEC to perform its duties should be ensured. The competences and activities of the Ministry of Interior and SEC should be clearly delineated;
- Restrictions on the right to stand as candidates, including those based on criminal conviction, disability and residency should be reviewed in line with international

[4] The Final Report of the ODIHR EAM to Slovakia, 15 May 2020.
[5] In paragraph 25 of the 1999 OSCE Istanbul Document, OSCE participating States committed themselves "to follow up promptly the ODIHR's election assessment and recommendations".

[6] The Final Report of the ODIHR EAM to Slovakia, 15 May 2020.

obligations and standards;

- Consideration could be given to vesting the authority for campaign finance oversight with an independent institution endowed with adequate capacity and resources.
- To protect media freedom, defamation should be decriminalized and the provisions for the right of reply for politicians and public officials repealed;
- The legislation should provide more clarity to guarantee the resolution of election-related disputes within expedited timeframes. In addition, election administration bodies could consider producing standard operating procedures for handling complaints, including by Precinct Election Commissions on Election Day, emphasizing the requirements for publication of reasoned decisions;
- Legislative measures could be considered and greater practical efforts undertaken to facilitate voting by persons with disabilities, including through ensuring the accessibility of polling stations and development of accessible information materials and of assistive tools.

Tolerance and non-discrimination issues, including incidents of and responses to hate crime

13. OSCE participating States have made a number of commitments to promote tolerance and non-discrimination and specifically to combat hate crime, and ODIHR supports states in their implementation of those commitments.[7] In this context, ODIHR produces an annual report on hate crime[8] to highlight the prevalence of hate crimes and good practices that participating States and civil society have adopted to tackle them. ODIHR also assists participating States design and draft legislation that effectively addresses hate crimes; provides training that builds the capacity of participating States' criminal justice systems and the law-enforcement officials, prosecutors and judges that staff them; raises awareness of hate crimes among governmental officials, civil society and international organizations; and supports the efforts of civil society to monitor and report hate crimes.

14. In respect of the 2021 Hate Crime Report and ODIHR's key observations,[9] ODIHR recognizes Slovakia's recent efforts to understand unreported hate crimes by conducting a victimization survey, as well as to regularly report hate crime data to ODIHR. However, based on the available information, it observes that law enforcement agencies have not recorded the bias motivations behind hate crimes. In addition, ODIHR observes that Slovakia would benefit from developing its victim support system to ensure effective access to justice, assistance, and protection for hate crime victims.

15. With regard to support for hate crime victims specialized hate crime victim support is provided as part of the general victim support system in Slovakia. Under Slovakia's legislation, victims of hate crime have the status of particularly vulnerable victims, and

[7] OSCE participating States have committed to strongly condemn racial and ethnic hatred, xenophobia, discrimination, anti-Semitism and intolerance against Muslims, Christians and other religions, and have committed to address these phenomena in all their forms (Copenhagen Document, 1990). Since 2003, the OSCE participating States have established a normative framework of OSCE Ministerial Council (MC) decisions to reflect their commitments to address these phenomena: MC Decisions 4/03, 12/04, 10/05, 13/06, 10/07 and 9/09. Additionally, a number of OSCE human dimension commitments recognize the vital importance of participating States' realization of their binding human rights obligations under international treaties, such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

[8] http://hatecrime.osce.org.

[9] Findings on the information available to ODIHR on hate crimes in a particular participating State in relation to OSCE commitments are presented as Key Observations. There are, in total, 13 Key Observations linked to OSCE participating States' commitments in the area of addressing hate crime. This methodology has been in place since the 2020 Hate Crime Report.

are therefore entitled to specialized help and support which is in line with the EU Victims' Rights Directive. [10]

16. Slovakia has implemented ODIHR's Training Against Hate Crime for Law Enforcement (TAHCLE) programme since 2017 and the Prosecutors and Hate Crime Training (PAHCT) programme since 2018. In 2018, the Ministry of Interior co-organized with ODIHR and the EU Agency for Fundamental Rights (FRA) a workshop on understanding and improving hate crime recording and data collection, based on ODIHR's Information Against Hate Crimes Toolkit (INFAHCT). The workshop resulted in a set of recommendations to relevant state authorities. There is a high degree of hate crime specialization in both police and prosecutor structures [11].

17. ODIHR's 2020 publication "OSCE Human Dimension Commitments and State Responses to the COVID-19 Pandemic"[12] reported that, as the coronavirus is widely considered to have spread from China to other countries, intolerance and discrimination was significantly directed towards people of, or perceived to be of, Asian descent in the early phase of the pandemic.

18. ODIHR also reported that emergency measures introduced by authorities across the OSCE region to contain the spread of the pandemic appeared to frequently affect minority communities in a disproportionate manner. Heavy-handed law enforcement raids, meant to monitor the implementation of restrictive pandemic-related policies, disproportionately affected minority communities, including instances of police violence, including in Slovakia. In addition, in Slovakia, Roma communities were frequently accused of violating public order and pandemic-related measures, as well as spreading Covid-19.

19. ODIHR's recommendations to Slovakia on this basis of this publication include:

- Condemn any form of discrimination and hate crime and abstain from any statement or action that exacerbates vulnerabilities;
- Respond swiftly to hate crimes, including those motivated by gender or sex, to record and investigate them so that the perpetrators can be brought to justice and adequate penalties imposed. Support victims as they report their experiences, and ensure the availability of all necessary psychological, social and legal support for victims, including through close co-operation with civil society. Relevant authorities should also publicly condemn any such acts and ensure that perpetrators are brought to justice
- Consider, where states have not done so, providing the possibility to report hate crimes online and allowing third-party reporting to police by civil society groups and equality bodies;
- Assess and improve relevant mechanisms for hate crime recording and data collection, including gender disaggregated data and assess the existing current victim support systems;
- Ensure that the consequences of the current pandemic, including the economic crisis, do not affect states' capacities to provide support to victims of hate including through appropriate funding to non-state actors and civil society

[10] National frameworks to address hate crime in Slovakia | HCRW (osce.org)
[11] Slovakia | HCRW (osce.org)
[12] Organization for Security and Co-operation in Europe, *OSCE Human Dimension Commitments and State Responses to the Covid-19 Pandemic*, Warsaw, 17 July 2020,

organizations;
- Build law enforcement and justice sector capacities to recognize and effectively investigate hate crimes and to ensure that specialized training, focused on hate crime victims and their needs, is provided for officials and civil society organizations within the victim support structures;
- Enact policies, through inter-agency co-operation, to address hate crimes in a comprehensive manner;
- In collaboration with civil society, celebrate and harness the strength of diversity within the country, including through awareness-raising programmes, as a means of overcoming current and forthcoming social and economic challenges of the pandemic.

Roma and Sinti Issues

20. The OSCE Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area (Action Plan) provides ODIHR a mandate, which comprises among other things assistance to participating States in meeting the OSCE commitments on Roma and Sinti. Such commitments extends to the areas of public policy, non-discrimination, socio-economic issues, education, and public and political participation, and the rights of Roma and Sinti in crisis and post-crisis situations.

21. In line with its mandate, ODIHR analysed the human rights situation of Roma and Sinti during the COVID-19 pandemic. To that end, ODIHR noted that states, including Slovakia have not taken sufficient measures to address surges in racism and discrimination against Roma. Moreover, some actions related to quarantine and similar limitations were applied disproportionately in relation to Roma communities. Police and security forces displayed differential treatment in respect to Roma that included random and unjustified checks, abusive behaviours including towards children, use of tear gas, and entering private household and physically abusing Roma residents. ODIHR also flagged increased negative portrayal of Roma by mass media and expressed concerns over deteriorating socio-economic situation of this community.

22. ODIHR's recommendations:

- Ensure that the challenges which arose during the pandemic are addressed properly and that the specific needs of Roma communities affected by COVID-19 are considered at the policy levels;
- Put in place measures to promote and protect human rights while actively countering racism and discrimination against Roma people;
- Ensure that Roma communities have equal access to socio-economic rights.