

Ref: CommHR/MOF/sf 052-2025

Mr Richard RAŠI

Speaker of the National Council of the Slovak Republic

Mr Miroslav ČELLÁR

Chairperson of the Constitutional Law Committee

Mr Jaroslav BAŠKA

Vice-Chairperson of the Committee for Public Law and Regional Development

Ms Lucia PLAVÁKOVÁ

Chairperson of the Committee for Human Rights and National Minorities

Strasbourg, 4 April 2025

Dear Speaker, dear Chairpersons and Vice-Chairpersons,

My mandate is to foster the effective observance of human rights in all member states of the Council of Europe. An important part of my work is to engage in dialogue with the governments and parliaments of member states, and to assist them in addressing possible shortcomings in their laws and practices.

On 7 May 2024, I wrote to the National Council of the Slovak Republic in relation to the draft law on non-profit organisations (print no. 245). In that letter, I set out my concern that the provisions of that draft law, including as regards the labelling of civil society organisations as 'organisations receiving foreign funding', were incompatible with human rights standards to which the Slovak Republic is bound.

The bill is still awaiting its second reading. In the meantime, various proposals have been made to amend the draft law. These have included removing the provisions on foreign funding and replacing them with new requirements in relation to lobbying. Further proposals have also aimed at bringing non-profit organisations within the scope of the Freedom of Information Act.

I note that serious concerns about the proposed amendments have been raised by the Slovak National Centre for Human Rights (SNCHR) and the Public Defender of Rights, as well as by civil society, among others.

I recall that, according to the European Court of Human Rights (the Court), any interference with the right to freedom of association (Article 11 of the European Convention on Human Rights, ECHR) should be prescribed by law in a clear and foreseeable manner, be in pursuit of a legitimate aim, and necessary in a democratic society, which includes ensuring any measure is proportionate. Some of the terminology used in proposals, such as the notion of "directly or indirectly influencing" decision-making in the lobbying amendments, lack precision, are of a very wide scope, and give state authorities excessive discretion to determine what this means. This raises issues about the foreseeability of the law.

Furthermore, just as attaching the label 'organisation receiving foreign funding', I am concerned that other designations such as registering civil society organisations as 'lobbying organisations' may have a stigmatising effect on them. Onerous reporting requirements, including the identification of individual donors and details of staff members, may furthermore have a deterrent effect on the operations of such organisations. I note that such elements were key to the Court's [finding](#), in regard of foreign funding, of a violation of the right to freedom of association, in view of the chilling effect on civil society that these entailed. I would add that the fact that some measures target only civil society organisations, and not others potentially carrying out similar activities, may very well make them discriminatory. Additionally, some of the proposals have sought the imposition of high fines for non-compliance with new regulations, which risk being disproportionate. I also note that proposals continue to make reference to the ability of

the Ministry of Interior to dissolve civic organisations, including for administrative infractions. As set out in my previous letter, dissolution can only be applied in cases of bankruptcy, prolonged inactivity or serious misconduct, and may only occur following a decision by an independent and impartial court. All the above raises questions about the proposals being able to meet the requirement of being necessary in a democratic society within the meaning of the ECHR.

As discussions about the draft law on non-profit organisations advance, I respectfully ask the members of the National Council neither to adopt the original bill nor any amendments which are not fully in conformity with the Slovak Republic's obligations under the ECHR. In this regard, I also encourage members of the National Council to take account of Recommendation Rec(2007)14 of the Committee of Ministers of the Council of Europe on the legal status of non-governmental organisations and of the Guidelines on Freedom of Association of the Council of Europe Commission on Democracy Through Law (Venice Commission) and OSCE-ODIHR. It is also particularly important that any further steps towards the regulation of non-profit organisations are taken in close consultation with, and with the participation of, civil society.

More generally, I reiterate the important role of Parliaments in ensuring a safe and enabling environment for civil society, who act as watchdogs in a democratic society. As such, Parliamentarians should refrain from any legislative steps that would infringe on this environment. In the statement I issued following my visit to the Slovak Republic in July 2024, I highlighted the disconcerting pressure experienced by civil society. These pressures have continued, including through repeated verbal attacks by high-level officials. The adoption of a law that fails to meet the above-mentioned standards would only add to this pressure, and thus send a worrying signal about the health of the rule of law and democracy in the Slovak Republic.

I also take this opportunity to express my concern that the SNCHR has faced a backlash following its publication of comments on the draft law and certain amendments. This has included comments by public officials who have disagreed with the SNCHR's analysis, demanding that the institution's leadership resign. In this context, I note that commenting on draft legislation and public engagement on human rights issues are part of the statutory activities of the SNCHR under Act 308/1993 Coll. by which the National Council established it. Furthermore, such activities are key to fulfilling its mandate as a National Human Rights Institution (NHRI), in line with the UN Principles Relating to the Status of NHRIs (the Paris Principles).

I further note that Recommendation CM/Rec(2021)1 of Committee of Ministers on the development and strengthening of effective, pluralist and independent NHRIs emphasises that such institutions are among the pillars of respect for human rights, the rule of law and democracy. It also recalls that NHRIs are both themselves human rights defenders and contribute to the promotion and protection of other human rights defenders. As such, states should ensure that NHRIs can benefit from a safe and enabling environment as set out above, guarantee that NHRIs can operate independently, and take measures to protect and support NHRIs against threats, harassment or any other form of intimidation.

Parliamentarians, as key guarantors of human rights, play a crucial role in upholding the independence and effectiveness of NHRIs. Therefore, I respectfully encourage members of the National Council to speak out in defence of the SNCHR's independence and to acknowledge the clear legitimacy of its engagement with the draft law as well as any proposals made to amend it.

I would be grateful if you could ensure that all members of the National Council, and of your respective Committees, receive a copy of this letter. I stand ready to continue our constructive dialogue on this and other human rights issues in the Slovak Republic.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Michael O'Flaherty', written in a cursive style.

Michael O'Flaherty