



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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**Committee against Torture**

**Concluding observations on the third periodic report of  
Slovakia**

Addendum

**Information received from Slovakia on follow-up to the  
concluding observations\***

[Date received: 2 August 2016]

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\* The present document is being issued without formal editing.

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## **Information of the Slovak Republic following the recommendations No. 8, No. 11 a), No. 11 b), and No. 11 g) of the UN Committee against Torture**

1. Following the request from the UN Committee against Torture (CAT/C/SVK/CO/3), Slovakia sends information on the implementation of the relevant recommendations of the Committee addressed to the Slovak Republic.

### **Considering recommendation No. 8 of the Committee against Torture:**

2. The Slovak Ministry of Justice ensured the transposition of the Directive of the European Parliament and Council Directive 2012/13/EU on the right to information in criminal proceedings to Slovak law by its preparation and presentation into the legislative process for the Act No. 174/2015 Coll., amending and supplementing the Act No. 300/2005 Coll., the Criminal Code as amended, and on amendments to certain laws (hereinafter referred to as “CC”).

3. With effect from October 1, 2015, the Act No. 174/2015 Coll. complemented the provisions of the Criminal Procedure Code by adding a new paragraph to § 28, paragraph 7, which states: “Under the terms of paragraph 1, a person, who is detained or arrested, also needs to have translated the advice on their rights according to § 34, paragraph 5. If the translation of the advice is not available, the advice will be interpreted; translation of the written advice shall be provided to such person without undue delay”.

4. In this context, a new provision was added to § 34, paragraph 4 of the Criminal Procedure. Such provision relates to informing the accused person, who was detained or arrested, of their rights (“The advice will be properly explained to the accused. The accused, who has been detained or arrested, needs to be advised on their right to urgent medical assistance, their right to inspect the files, the maximum period during which they may be deprived of their liberty until released to the court, and in the case of being taken in custody of their right to notify a family member or another person”) as well a new paragraph 5 of the form and temporal aspects of the advice, which reads: “(5) The law enforcement authorities shall provide the accused, who has been detained or arrested, without undue delay, with instruction of their rights in writing; this shall be noted in the minutes. The accused has the right to retain this advice with them at all times during the deprivation of their liberty”.

5. In the context of § 85, paragraph 5 of the Criminal Procedure, the rules in § 34 of the Criminal Procedure also apply to detained persons, which means that the detained persons (including juveniles) are provided with all fundamental legal safeguards from the outset of their detention in accordance with international standards.

6. The Ministry of Justice (Department of Criminal Law Legislation, Section of Legislation) currently also provides the transposition of the Directive of the European Parliament and Council Directive 2013/48/EU on the right of access to a lawyer in criminal proceedings and in the proceedings of the European arrest warrant and the right to information of third parties after the deprivation of liberty and to communicate with third parties and with the consular authorities after the deprivation of liberty into the criminal law of the Slovak Republic in the form of an amendment to the Criminal Procedure, which was in May 2016 submitted to the inter-ministerial commenting process (transposition deadline is no later than November 27, 2016, with the estimated efficiency of the present amendment to the Criminal Procedure to be established on January 1, 2017).

7. In accordance with the draft of the amendment, the right to notify and communicate with a designated person is adjusted in relation to the persons deprived of liberty (detention, arrest, custody), so even within the institute for detention the person will have the legally

guaranteed right to notify their designated person and communicate with them, if this will not thwart the purpose of the criminal proceedings (in accordance with the above recommendation of CAT).

8. In connection with this amendment, the translation of advice into the nine foreign languages most often spoken by the accused or suspected persons in Slovakia was made by the Presidium of the Police Force from the central level, so that the members of every police department conducting the investigation or summary investigation could without delay provide the aforementioned persons with the relevant advice so there would be no need to assign an interpreter for the rendering of the specified advice separately in each case.

9. The sample was made and included into “Advice of the right of the accused” samples for Police Force investigators and the charged members of the Police Force, as well as the following sample:

10. The “Advice of the right of the suspected person” considering the content and the form corresponding the directive of the European Parliament and Council Directive 2012/13/EU on the right to information in criminal proceedings, which was transposed into the Slovak law.

11. In addition to the above, the necessary supplement to the samples within the meaning of the amendment to the Criminal Procedure were incorporated into the minutes of the detention and deprivation of liberty of the suspect, to the minutes of the detention of the accused, the interrogation of the detained – the suspect, the minutes of the interrogation of the accused, and the interrogation of the accused – a juvenile. All of the above documents were made available on the web site of the Presidium of the Police Force.

**Considering recommendation No. 11 a) of the Committee against Torture:**

12. The specialised department of the Ministry of Interior of the Slovak Republic in the Control and Inspection Service of the Police consists of the Department of Control and Inspection Service of the Ministry of Interior of the Slovak Republic, which is directly subordinated to the Minister of Interior of the Slovak Republic. Materially relevant to the criminal investigation of the police officers is the inspection service of the Department of Control and Inspection Service of the Ministry of Interior of the Slovak Republic (hereinafter referred to as “Department”), whose activities are supervised under law by an independent constitutional body designated to oversee compliance with the law, which is the prosecution.

13. A prompt, impartial, thorough, and effective investigation is a fundamental principle of criminal proceedings, as defined in § 2 of the Criminal Procedure, and the law enforcement authorities are fully committed to complying with these principles in all criminal cases in which they conduct criminal proceedings. The Police Force investigator, respectively the Police Force member in charge included in the Department, proceeds in particular in the criminal justice process according to Act No. 301/2005 Coll., the Criminal Procedure, as amended.

14. The prosecutor shall supervise the legality before the commencement of a prosecution and in the pre-trial proceeding. Any decision issued by the Police Force investigators, respectively the Police Force member in charge in the substance of the matter, is reviewed by the competent prosecution. The prosecution is under the Constitution of the Slovak Republic the authority that protects the rights and legally protected interests of individuals, legal persons, and the state. The prosecution is also entitled by law to cancel the decision, even without a prior judicial remedy.

15. In cases where the prosecutors found during their investigations notifications or statements of the accused persons or witnesses that there was an excessive use of force, including torture and improper treatment by the law enforcement authorities, the principle of officiality is to serve as the base. Such knowledge is immediately forwarded for the purpose of evaluating and adopting further legal measures by the Department. The prosecutions of police officers are supervised by the prosecutors of the district and regional prosecutor's offices and they are given due attention; some of the criminal cases are supervised by the prosecutors of the General Prosecution Office of the Slovak Republic, which provisionally evaluates the criminal proceeding itself.

16. Findings of unethical behaviour or the suspicion that police officers have committed a disciplinary offence obtained by the public prosecutors as part of its activities are referred to the relevant department of the Police Force.

17. With reference to the presumption that state authorities properly and thoroughly comply with their statutory obligations, the control activities of the Office of the Inspection Service of the Department was considered by the prosecution to be sufficient control mechanisms with effective means to correct the error. The Slovak Government, in its Policy Statement of the Government of the Slovak Republic for 2016-2020, is committed to promote the institutional strengthening of the control activities of the armed forces. It will create conditions for the formation of the department of the prosecution, which will maintain special oversight over punishing criminal members of the armed forces. At the same time, the competences of the Committee of the Slovak Parliament for Defence and Security in supervising compliance with the legal procedure of the members of armed forces will be strengthened.

18. The Act No. 73/1998 Coll., on the civil service of members of the Police Force, the Slovak Intelligence Service, the Prison and Court Guard of the Slovak Republic, and the Railway Police, as amended in § 46, regulates the temporary suspension of performance of state service, where such practice is mandatory. It provides the following: "a police officer should be temporarily suspended from the performance of the civil service, if their continued retention in the civil service would threaten an important interest of the state service or course of clarifying the procedure and is reasonably suspected that a) they violated their business obligation, particularly in a gross manner, or b) they committed a crime".

19. To the issue raised in the concluding observations of the Committee against Torture concerning how it is ensured that persons suspected of having committed such acts (allegations of excessive use of force, including torture and ill-treatment by law enforcement authorities) were immediately suspended during the investigation and at the same time were complying with the principle of the presumption of innocence, we present the following:

20. The accusation of misconduct for a police officer based on the aforementioned grounds, whereby the wrongful conduct of the police officer, especially grossly, is in violation of their oath of business and professional obligation, force a reconsideration of whether their consequent retention in the employment of the Police Force would be detrimental to the vital interests of the civil service. In the case of the fulfilment of all legal conditions, the relevant supervisor will complete a personnel action for the release of the service of a police officer of the Police Force under the provisions of § 192, paragraph 1, point e) of the Act No. 73/1993 Coll., (the impediment to the commencement of the proceeding may be, for example, an objective time-barred period according to § 192, paragraph 5, of Act No. 73/1993 Coll.). To secure, perform, and evaluate all of the evidence, regardless of whether they stand in favour of or against a police officer suspected of misconduct, falls within the responsibility of the supervisor. In the case of proof of misconduct of the police officer, they shall be discharged from their active service in the

Police Force based on the order of the Minister of Interior, commencing on the date of the receipt of this order. The legal deadline to release a police officer from their service is in this case pursuant to § 192, paragraph 5 of the Act. 73/1993 Coll., six months from the date on which the supervisor was notified of the reason for their dismissal, and no later than one year from the date on which the grounds for dismissal arose. The decision to dismiss must be delivered to the police officer within these deadlines.

21. The responsibility of the supervisor also includes the application of the concept of the temporary deprivation of civil service of a subordinate police officer, which is covered by the provisions of § 46 of the Act No. 73/1993 Coll. Not every reasonable suspicion of breach of professional obligations or of any criminal offence must be addressed by the temporary deprivation of the civil service of a police officer. The obligation of the temporary suspension of the performance of a state service occurs if the police officer is reasonably suspected to have violated their service obligation, in a particularly gross manner, or committed an offence while fulfilling the condition that their continued retention in the civil service would threaten an important interest of state service or the course of clarifying the procedure. Personnel measures consisting of the temporary deprivation of the civil service need to be constantly examined during their duration for these reasons. If the reasons for the temporary suspension of the performance of the state service are diminished, for example the conduct of a police officer is below the social hazards of the offence, such temporary suspension shall be in accordance with § 46, paragraph 6 of the Act No. 73/1993 Coll. terminated. We note that in 2015, 10 police officers were temporarily deprived of their service, which is an increase compared to 2014 when only three police officers were temporarily suspended.

22. During the personnel procedure to dismiss a police officer from their service relationship pursuant to § 192, paragraph 1, point e) of Act No. 73/1998 Coll., the conduct of the police officer is not regarded as conduct showing signs of a crime, but as conduct that is inconsistent with their service oath, respectively with the official duties of police officers, and as such it was also sufficiently proven in the course of carrying out the personnel procedure. The purpose of the personnel procedure is therefore not to govern issues of guilt or innocence, but whether the legal conditions are met for the release of a police officer. In separate personnel procedures (independent of the criminal proceedings), the further retention of a police officer in the service of the Police Force shall be decided. A police officer is not discharged from active service in the Police Force because they commit an identical act, listed in the Criminal Code, but because their unlawful act violates the service oath and service liability in a particularly gross manner, provided that their consequent retention under employment would be detrimental to the vital interests of the civil service. For these reasons, the personnel procedure to dismiss a police officer from the service relationship of members of the Police Force related to the presumption of innocence, which is a fundamental principle of the criminal procedure, does not apply. The above is confirmed by the decision of the judicial system, when in the personnel procedures the courts do not investigate the question of the presumption of innocence.

23. A police officer in the course of their duty is obliged to comply with the Code of Ethics of the Police Force, which, inter alia, orders the members of the Police Force to act while on duty or off duty in accordance with the Slovak Constitution, generally binding legal regulations, and internal regulations of the Ministry of Interior of the Slovak Republic and the European Code of Police Ethics and respect human rights and freedoms, to act in a transparent way, to show decency, respect, tact, and consideration towards all people without distinction in their behaviour towards citizens.

**Considering recommendation No. 11 b) of the Committee against Torture:**

24. For the service management of the Ministry of Interior of the Slovak Republic, the Department annually processes the Criminal Report of the Police Force (“the Report”). The information contained in the Report is based on the documents provided by the inspection services, and in particular from statistical data. The Report analyses the criminal activity of the police officers and compares it with crime from previous periods. The Reports are published on the web site of the Ministry of Interior of the Slovak Republic at: <http://www.minv.sk/?posobnost-inspeknej-sluzby-na-useku-inspeknej-sluzby> (in Slovak).<sup>1</sup>

25. In 2016, the Criminal Report of the Police Force for the period of 2015 in accordance with the Slovak Government Resolution No. 650/2015 was for the first time submitted to the Government of the Slovak Republic, which was received by the Slovak Government for informational purposes.

26. Critical statistics in the reports are evaluated annually and compared, providing basic information on the implementation of tasks in the field of the inspection services in particular:

- Allegations of the police officers
- Number of offences

27. At the same time, these basic statistics provide information on trends in the crime and criminal activity of the police forces and allow for a year-on-year comparison of observations.

Table No. 1

**Number of convictions of police officers and crime in the period 2010-2015**

	2010	2011	2012	2013	2014	2015
Allegations of the police officers	151	125	135	146	112	121
Number of offences	183	171	186	187	129	145

28. Table No. 1 in the evaluation of 2015 shows that 121 police officers were charged with 145 criminal offences. Of 145 crimes committed by the police officers in 2015, 53 crimes were categorised as abuse of authority under § 326 CC – Table No. 2.

Table No. 2

**Selected statistical data on the number of cases of ill-treatment and the excessive use of force by the police officers for the years 2010 to 2015**

	2010	2011	2012	2013	2014	2015
Crimes of abuse of authority under § 326 of CC total	67	49	68	65	36	53
Crimes of abuse of authority under § 326 of CC in connection with the use of excessive violence	6	5	6	6	3	6

<sup>1</sup> Information about Department of Control and Inspection Service in English at <http://www.minv.sk/?postup>.

29. Of the 53 crimes of abuse of authority under § 326 of CC in 2015, in 2015, 6 cases of the criminal of abuse of authority in connection with the use of excessive violence were recorded. 9 police officers were criminally charged of 6 crimes of abuse of authority in connection with the use of excessive violence by § 326 of CC.

30. In terms of the breakdown by gender of the victims, all 6 were male victims. In terms of the breakdown by age of the victims, there were two victims ages 30 to 40 years, three victims ages 40 to 50 years, and one victim age 50 to 60 years.

31. The racial, ethnic origin, and nationality of the victims of crime is unrecognised. Valid legislation in the field of protection of personal data, namely the Act No. 122/2013 Coll., on the protection of personal data and on amendments to certain laws, as amended, pursuant to § 13, paragraph 1, prohibits the processing of personal data revealing racial or ethnic origin, and other provisions of the cited Act contains no exemption for law enforcement purposes. Therefore, these data are not processed in criminal proceedings by the national authorities.

**Considering recommendation No. 11 g) of the Committee against Torture:**

32. Based on the priorities of the framework document on human rights of the *National Strategy for the Protection and Promotion of Human rights in the Slovak Republic*, the new Slovak government committed itself in its policy statement to strengthening its activities and institutional structures to prevent and eliminate the radicalisation of society in the form of extremism, racism, xenophobia, anti-Semitism, and aggressive nationalism.

33. On the occasion of the International Day in Support of Victims of Torture the following statement by Lucia Žitňanská, Deputy Prime Minister and Minister of Justice SR, and Miroslav Lajčák, Minister of Foreign and European Affairs of the Slovak Republic was published on 25 of June 2016 in Slovak<sup>2</sup> and in English:<sup>3</sup>

34. The Government of the Slovak Republic, as well as the Government Council of the Slovak Republic for Human Rights, National Minorities and Gender Equality, strongly and publicly condemns torture, maltreatment and other cruel, inhuman or degrading treatment or punishment. The ban on torture, inhuman or degrading treatment is guaranteed, besides by the Constitution of the Slovak Republic, also by international instruments that take precedence over the law of the Slovak Republic.

35. The Slovak Republic consistently meets its commitments under implementation of international and European human rights conventions, including the Convention Against Torture, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and the Universal Periodic Review by the United Nations Human Rights Council.

36. The International Day in Support of Victims of Torture has been commemorated on 26 June since 1997 as a result of the decision adopted by the General Assembly of the United Nations Organization. As Kofi Annan, former UN Secretary-General said, this day is an opportunity for the whole world to reiterate that torture and other forms of cruel treatment are unacceptable and must not be tolerated.

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<sup>2</sup> The Slovak version of the statement was published on the web sites of the Ministry of Justice of the Slovak Republic and the Ministry of Foreign and European Affairs of the Slovak Republic.

<sup>3</sup> The English version of the statement was published on the web site of the Ministry of Foreign and European Affairs of the Slovak Republic.