



**International Convention for
the Protection of All Persons
from Enforced Disappearance**

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Committee on Enforced Disappearances

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Agenda item 7

Consideration of reports of States parties to the Convention

**List of issues in relation to the report submitted by Slovakia
under article 29 (1) of the Convention**

Addendum

Replies of Slovakia to the list of issues*

[Date received: 25 September 2019]

* The present document is being issued without formal editing.

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A. General information

Reply to the issues raised in part I, paragraph 1 of the list of issues

1. The State party report was elaborated by the Ministry of Justice of the Slovak Republic (“Ministry of Justice”) in cooperation with the Ministry of Foreign and European Affairs of the Slovak Republic, the Ministry of Interior of the Slovak Republic, Prison Guards Corps, Ministry of Defence of the Slovak Republic, Office of General Public Prosecution of the Slovak Republic, Ministry of Health of the Slovak Republic, Centre for the International Protection of Children and the Institute for the Memory of Nation as relevant institutions having competence and dealing with the topic of enforced disappearances.

2. The participation of civil society organizations on legislation process and drafting of official State report’s is enabled through the process of comment procedure. Information on the start of the comment procedure with all documents related to the prepared State party’s report was submitted to the Slov – lex portal. This portal serves not only as a format for filling a comments on materials, drafts, bills, etc. but also for publishing of new legislation (also in languages of national minorities). It is available to public without any restrictions. The standard comment procedure lasts 15 days during which comments can be submitted. The same applied for the comment procedure of the State party’s report. During the comment procedure, civil society organizations nor the National Centre for Human Rights submitted any comments or objections to the report. The State party’s report was approved by the Government after the comment procedure took place.

3. In respect to the National Centre for Human Rights (“NCHR”), major legislative changes in the proposed government reform concern the formation of the board, transparent and open to public selection procedure of the executive director, more precise definition of competences of the NCHR (including preparation of independent reports, strengthening of participation of the NCHR on preparation of State party’s reports submitted within human rights monitoring mechanisms, express opinions on signing and ratification of human rights treaties). As part of negotiations on the reform, an increased financial support to the NCHR was secured, increasing the budget by 40% and enabling 7 additional employees to be hired. The reform itself however, while adopted by the Government, did not receive support in the National Council of the Slovak Republic (“Parliament”) in June 2019.

B. Definition and criminalization of enforced disappearance (arts. 1–7)

Reply to the issues raised in part II, paragraph 2 of the list of issues

4. Restrictions to human rights and freedoms that can be applied during the time of war, war state, exceptional state of emergency are more precisely regulated (besides the general framework established by the Constitution, see paras. 46–47 of the State party’s report) by the Act no. 227/2002 Coll. on safety of the state in times of war, war state, exceptional state and emergency (“Act on safety of state”). Each of the mentioned situations is regulated by specific provisions providing which human rights and freedoms can be restricted, types of restrictions allowed and maximum time for such restrictions.

5. Time of war is considered as time from declaration of war until peace is concluded and any restrictions to human rights and freedoms can be made just during this period. It is declared by the President of the Slovak Republic if (i) the Slovak Republic has been attacked by a foreign power which declared war or (ii) if a foreign power violated safety of the Slovak Republic without declaring war or (iii) if the international obligations of the Slovak Republic connected to collective safety or arising from an international treaty on collective defence are being carried out.

6. During time of war, the following rights can be restricted:

(a) The inviolability of persons and their privacy by compulsory residence in safety shelters and other similar civil protection facilities or by evacuation to a designated place;

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- (b) The right of secrecy of private correspondence and secrecy of conveyed messages by censorship and restricting the delivery of certain postal items;
- (c) The freedom of movement and residence by curfew or by allowing residence outside the municipality only after a permit is obtained;
- (d) The freedom of assembly or assembly at public premises can be restricted or prohibited or subject to authorization;
- (e) The exercise of ownership right to immovable property for the purposes of deployment of members of the armed forces (“soldiers”), combat equipment, medical facilities, supply facilities and rescue services, as well as the use of real estate for the purpose of manufacturing, carrying out transport, telecommunications and postal services, health care, veterinary care, social security, educational process and cultural fund protection;
- (f) The exercise of ownership right to movable property
- (i) By restricting or prohibiting the use of motor vehicles, aircraft, helicopters, balloons and vessels for private and business purposes;
- (ii) By ordering handing over of motor vehicles for the needs of the armed forces or public services;
- (iii) By restricting or prohibiting the use of broadcast telecommunications equipment and telecommunications circuits;
- (iv) By ordering handing over of weapons and ammunition to the mandatory custody of armed forces;
- (g) The inviolability of the dwelling for the purposes of accommodating of soldiers, members of the armed forces or evacuated persons;
- (h) The right to freely search and disseminate information, regardless of national borders and freedom of expression in the public;
- (i) The right to freely associate and restrict or prohibit the activities of associations and other civil associations, political parties and political movements and trade unions;
- (j) The right to petition and right to strike can be prohibited;
- (k) The right to education by limitation of classes;
- (l) The freedom to choose a profession and the right to do business by prohibition of carrying out of certain professions or activities;
- (m) The right to collective bargaining, to remuneration for work done, to paid leave for recovery and to adequate rest after work and allow that the maximum working hours can be exceeded;
- (n) The right to judicial protection in civil, commercial and employment matters;
- (o) The right to nature and landscape protection and the right to timely and complete information on the state of the environment;
- (p) The right to access elected and other public functions;
- (q) The right to vote by not declaring elections to the National Council, to the bodies of self-government of municipalities and to the bodies of self-government of higher territorial units and the election of the President in regular election periods;
- (r) The freedom of press and media by prior authorisation issued on the content of press and broadcasting of radio and television, by censorship, and by ensuring access to press and broadcasting of radio and television in order to inform the population;
- (s) By imposing a work duty for the needs of the armed forces or to ensure the supply, maintenance of roads and railways, electricity, gas and heat, the exercise of health care or the maintenance of public order;

(t) By imposing an obligation to darken dwellings and use protective masks and individual chemical packs.

7. Restrictions during the time of war are the most severe ones and with the broadest extent. The other situations (war state, exceptional state and emergency) allow restrictions in a narrower extent and are more limited. Different restrictions, as mentioned in para. 6 are not allowed.

8. War state is a period after declaration of war state until its end or lapse of time for which it was declared or until declaration of war. It is declared by the President of the Slovak Republic but only in cases when the Slovak Republic is under an immediate threat of declaration of war or under an immediate threat of attack from a foreign power without declaring war.

9. Exceptional state may be declared by the President of the Slovak Republic only if there is a terrorist attack or an immediate threat of a terrorist attack; widespread street riots connected with attacks on public authorities, looting of stores and warehouses or other mass attacks on property or other mass violent attacks threatening in substantial manner public order and public security, if they cannot be averted by any action of public authorities and use of legal means is not effective. It can be declared only at the affected or immediately endangered territory and only for the necessary time, maximum for 60 days. This period can be prolonged for another 30 days in case of new circumstances connected to reasons for declaration of exceptional state.

10. Emergency can be declared by the government if there is an immediate threat or when life and health of persons is threatened, even in connection with the emergence of a pandemic, damage to substantial assets due to natural disaster, industrial, transport or other operational accidents. It can be declared only at the affected or immediately endangered territory and for maximum of 90 days.

Reply to the issues raised in part II, paragraph 3 of the list of issues

11. In respect of section 420a (1) of the Criminal Code, the State party submits a more accurate translation. The wording of section 420a (1) of the Criminal Code has not been changed since its adoption in 2011, the translation below is a more precise compared to translation provided in the State party's report.

“Whoever as a representative of the state or a person or a member of a group acting with authorization, with support or tacit consent of the state, arrests, imprisons, abducts or otherwise deprives another person of liberty and consequently refuses to confirm deprivation of liberty or conceals fate or whereabouts of them and thereby makes for them impossible to exercise legal protection, shall be punished by imprisonment of seven to twelve years.”

12. From the point of the Slovak criminal law tradition, the constitutive elements of every criminal offence are subject, mens rea, object (protected right) and objective side (actus reus, consequence and causal nexus). Section 420a (1) of the Criminal Code shall be analysed and interpreted in the following way.

13. Section 420a (1) of the Criminal Code requires a special subject meaning that not every person is eligible to commit the crime of enforced disappearance. This special subject is covered by “representative of the state or a person or a member of a group acting with authorization, with support or tacit consent of the state”.

14. Mens rea in case of the crime of enforced disappearance has to be intentional, under the Slovak legislation it is not possible to commit this crime out of negligence.

15. By objective side of the crime of enforced disappearance all elements have to be concurrently met. For fulfilment of actus reus, disappearance and consequent concealing of fate has to be cumulatively executed. Placing another outside the protection of law, i.e. disabling another person from the possibility of exercising legal protection shall be interpreted as a consequence of a perpetrator's conduct, while causal nexus is the connection between perpetrator's conduct and caused consequences. Consequence has to be

present in order for an act to be characterized as a criminal offence since it is an obligatory part of the constitutive element of a criminal offence – objective side.

16. The provision of section 420a (1) of the Criminal Code covers both, “fate” and “whereabouts”. Both of the situations are directly mentioned (see submitted new translation, para. 11).

17. The term “acquiescence” in its meaning established by international law is not defined nor part of the Slovak legal system. The difference between acquiescence and tacit consent in the international law is not distinguished in the Slovak legislation or by the Slovak legal tradition. The only term known in the Slovak legislation for not interfering or not reporting when an unlawful actions occurs, is tacit consent. Given the need for interpretation of any legal acts in accordance with their spirit, purpose, the Constitution and the International Convention for the Protection of All Persons from Enforced Disappearance (“Convention”) (in the monist system having supremacy over the national legislation),¹ the term “tacit consent” shall cover also acquiescence.

Reply to the issues raised in part II, paragraph 4 of the list of issues

18. In general, section 28 (1) of the Criminal Code states

“An act otherwise criminal is not a criminal offence if the act is exercise of rights or obligations arising from generally binding legal regulations, from a court decision or another public authority, from the fulfilment of work duties or other tasks..”

19. Pursuant to section 28 (2) of the Criminal Code the exemption granted in section 28 (1) of the Criminal Code does not cover acts that can be prosecuted as the crime of enforced disappearance. Therefore any acts amounting to the crime of enforced disappearance will be prosecuted even if they were carried out under superior orders.

20. Conduct of military personnel is regulated by act no. 281/2015 Coll. on state service of professional soldiers (“Act on professional soldiers”). Section 132 of the Act on professional soldiers stipulates that soldier is obliged to refuse to carry out commander’s military order if by carrying out of the order a criminal offence or other offence would be committed. Soldier is furthermore obliged to immediately inform a superior of the commander who issued such order about the situation. If soldier deems that commander’s instruction contravenes the Constitution, biding EU legislation, acts, military oath, Ethical Code of professional soldiers, military or service regulations or other internal regulations, s/he is obliged to inform his/her commander. If commander demands fulfilment of the issued order, it has to be confirmed in writing and afterwards soldier is bound to execute the order. Confirmation in writing is not required in case of danger of delay.

21. Fulfilment of orders is part of service discipline therefore refusal to carry out an order without any legal ground can be subject to disciplinary measures. Such measures may include issuing of disciplinary order under section 140 of the Act on professional soldiers (if it is beyond any doubt that subordinate soldier violated legal obligations and duties) which can be appealed against within 7 days after its delivery to the subordinate soldier. Upon appeal, the disciplinary order is cancelled and commander is obliged to start disciplinary proceedings. A disciplinary order imposing a disciplinary measure (e.g. written reprimand, pay reduction up to 15% of salary for a maximum period of 6 months) can be issued in disciplinary proceedings. Available remedy against a disciplinary measure is an appeal delivered to the commander who issued the disciplinary measure in a period of 7 days. Commander is obliged to forward the appeal to an appellate body within 7 days after its delivery together with the disciplinary measure and his/her standpoint on the appeal. An appellate body establishes within 7 days a commission to review the appeal. An appellate commission reviews the appeal, if necessary suggests the original disciplinary proceedings to be supplemented by additional evidence or relevant information or any defects to be removed. An appellate commission shall within 7 days of its establishment deliver its standpoint to the appellate body and the appellate body is obliged to decide on the appeal within 7 days after receiving commission’s standpoint. The appellate body can uphold

¹ See State party’s report, paras. 8, 27, 61.

disciplinary measure, change or cancel the issued disciplinary measure. There is no remedy available against decision of the appellate body.

22. In general, similar procedure is available to police officers. Under section 242 of the Act no. 73/1998 Coll. on state service of members of Police Force (“Act on police officers”), a police officer can file an appeal against disciplinary measure imposed by superior officer within 15 days after its delivery. An appellate body is a superior officer to the officer who imposed disciplinary measure. Against decision of an appellate body is available application for retrial.

23. For independence of prosecutors and refusal to carry out an order see also reply to issues raised in part III, paragraph 7. Similarly to military and police officers, prosecutors are obliged to fulfil orders issued by superior prosecutor, however they are obliged to refuse to carry out any order that violates the Constitution, legislation or if by carrying out of the order a criminal offence or other offence would be committed. Refusal to carry out an order without any legal ground can be subject to disciplinary measures. Proceedings on disciplinary measures are regulated by sections 187 – 217d of the Act no. 153/2001 Coll. on Prosecution (“Act on prosecution”).

24. Committee established by the General Prosecution and consisting of three members decides on disciplinary measures for prosecutors. During the disciplinary proceedings, prosecutor is allowed to represent herself/himself or appoint a representative. A hearing shall be conducted within 30 days upon the start of disciplinary proceedings. Disciplinary committee can impose disciplinary measures such as a written reprimand or salary reduction. Under section 211 of the Act on prosecution, a remedy available to prosecutor is an appeal that has to be submitted within 15 days after delivery of the disciplinary committee’s decision. An appellate disciplinary committee consists of five members and can uphold, change or cancel the disciplinary committee’s decision. Application for retrial as an extraordinary remedy is available against the decision of the appellate disciplinary committee.

C. Judicial proceedings and cooperation in criminal matters (arts. 8–15)

Reply to the issues raised in part III, paragraph 5 of the list of issues

25. Persons with restricted personal liberty, especially children and persons belonging to other vulnerable groups are from the beginning of custody or preliminary detention provided protection as well as access to legal help. Safeguards are provided for contact with family members or other persons of choice and consular offices. A detained person is informed about their rights under relevant legislation when being apprehended, arrested or detained and upon placement to the custody or at the start of serving prison sentence. The information obligation is fulfilled on several occasions and the relevant legislation in force sets strict rules providing guarantees to full enjoyment and exercise of rights.

26. Police officer informs a detainee about their rights immediately after being apprehended or arrested. The information obligation of police officers is regulated by the Code of Criminal Procedure, the Act no. 171/1993 Coll. on Police Force (“Police Force Act”) and by the order of the President of Police Force no. PPZ-OKS3-2019/001693-209. This order also provides for obligation of police officers to record any detention to an administrative toolkit.

27. Police officer informs a detainee about their right to choose a lawyer and consult with her/him any matter without presence of a third person. The appointed lawyer has right to be present during an interrogation. If an apprehended or arrested person is a foreigner, police officer specifically informs them about their right to inform the consular office of their citizenship state about their whereabouts. Foreigner has right to (i) communicate with a consular office, (ii) be visited by a consular officer and (iii) legal representation provided by a consular office. Exercise of these rights shall be consistent with the legislation of the Slovak Republic.

28. Under section 34 of the Code of Criminal Procedure, if a detained person is accused from committing an offence, upon their request, law enforcement authorities shall contact a

family member or other person as requested and provide information on whereabouts of a detained person, except in cases when such information may frustrate clarification and investigation of the case. If a minor (child) is apprehended, police officer shall without any delay inform their legal representative, a body of social-legal protection of children and social curatorship or a legal guardian.

29. An accused who was apprehended or arrested has the right to communicate, no more than twice during the restriction of personal liberty, by phone with a person designated by her/him, provided that this communication does not endanger the purpose of the criminal proceedings and does not exceed 20 minutes.

30. Pursuant section 6 (4) of the act no. 221/2006 Coll. on custody (“Act on custody”) and in accordance with section 7 (5) of the act no. 475/2005 Coll. on serving of prison sentence (“Act on prison sentence”) every person shall be informed about their rights and duties upon admission to custody or for serving of prison sentence. All the information is provided in writing and shall include also information on length of restriction of personal liberty and protection of persons in custody, possibilities for release and practicalities in respect of contacting lawyer, family members or other persons. Specific information is provided to foreign citizens or stateless persons, e.g. on their right to contact consular or diplomatic staff of state of their citizenship.

31. From the moment of admission to the custody or serving of prison sentence, a person restricted on personal liberty has the right to communicate with lawyer in private by means of telephone (20 minutes every day without any interference or monitoring of phone calls; as of 1st of March 2019 a detained person is upon admission given credit of 2 euros for phone calls), written communication (a detained person has right to send and receive communication in writing without any limitations and interceptions; if a detained person lacks financial resources, 2 letters per month are sent on expenses of prison) and personal contact (without any restrictions or interceptions; during work days usually between 7 AM to 6 PM and on Saturday between 7 AM and 3 PM).

32. A detained person has the right, from the moment of admission, to stay in contact with family members or other persons by means of telephone (at least twice a month for at least 20 minutes), written correspondence (without any restrictions on the amount of sent and received letters; excluding communication with lawyer, a detained person can once in three months or in case of juveniles once in month receive a package with personal belongings such as photographs, books, magazines) and personal contact (during the visiting hours at least once per month or in case of juveniles at least once per week in duration of two hours). In respect of foreign citizens, visits by diplomatic or consular staff are allowed without any restrictions on their frequency.

33. A uniform procedure for apprehension or arrest of foreigners is also regulated by the Regulation of Presidium of Police Force no. 98/2018 on carrying out of actions connected to a detained foreigner placed in police detention units for foreigners (“Internal Regulation”). The Internal Regulation regulates competences of police units, procedures for placing of a foreigner into police detention units for foreigners and duties of these units as well as termination of detention which was elaborated in accordance with Regulation No. 604/2013 of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast).

34. In accordance with the Act no. 404/2011 Coll. on residence of foreigners as amended (“Act on residence of foreigners”), police officer is authorized to apprehend a citizen of third country in connection with proceeding on administrative expulsion. Such apprehension shall be carried out in order to safeguard foreigner’s travel or return to country of origin if there is a risk of escape or if a citizen of third country is avoiding or frustrating process of preparation for administrative expulsion; for purpose of performance of administrative expulsion or penalty of expulsion; for purpose of safeguarding of preparation or performance of transfer in accordance with specific regulation if there is a considerable risk of escape or for purpose of their return based on an international treaty, if they illegally crossed borders or have an illegal residence in the territory of the Slovak

Republic. The aim of proceeding on apprehension of a foreigner is not the final assessment whether they shall be subjected to administrative or criminal expulsion, extradited based on an international treaty or whether a foreigner shall be forcedly leave territory of the Slovak Republic. The aim is to prevent frustration of any of the mentioned proceedings by hiding of a foreigner or by avoiding expulsion in other manner. A minor without a legal representative cannot be apprehended.

35. If police force unit decides on apprehension and detention of a citizen of third state, the decision on apprehension is issued and the person is placed into police detention unit for foreigners (“detention unit”).

36. Detention units are obliged to enable access to premises (with consent of its director) to employees of the International Organisation for Migration, other NGOs or inter-governmental organisations. Detention units are further obliged to (i) review whether the purpose for detention of a foreigner still exists, (ii) inform a foreigner in the language s/he understands or in language reasonably deemed to be understood by her/him about the possibility to request an assisted voluntarily return, to contact an NGO or the Office of the High Commissioner for Refugees. Further, detention units are, immediately after placement of a foreigner, obliged to provide information in language understood or deemed to be understood by a foreigner about the detention unit, their rights and duties connected to placement in the detention unit as well as any internal regulations of the detention unit. Information should be provided on several occasions and regularly reviewed.

37. Vulnerable persons and families with children have access to psychological and social services, consulting, and crisis intervention. A detained foreigner is entitled to receive and communicate with persons providing legal protection and legal aid without any restrictions. Pursuant to section 97 (2) of the Act on residence of foreigners, police force is obliged to forward any complaints or claims submitted by a detained foreigner to state authorities of the Slovak Republic.

38. Upon release, detention units are obliged to return to a foreigner all travel documents, passport and objects collected during an entry check, except money used in accordance with section 80 (2) of the Act on residence of foreigners and objects whose possession is in violation with the Slovak legislation (e.g. drugs).

Reply to the issues raised in part III, paragraph 6 of the List of Issues

39. Investigation of the crime of enforced disappearance is not within the competence of military police. Under section 10 (8) (e) of the Code of Criminal Procedure military police is entitled to investigate only criminal offences of members of armed forces. In connection with section 200 (4) and 202 (2) of the Code of Criminal Procedure military police has competence to investigate only criminal offences for which the Criminal Code stipulates a prison sentence with an upper penalty limit not exceeding three years. Under section 420 (1) of the Criminal Code, the upper penalty for a crime of enforced disappearance is twelve years.

Reply to the issues raised in part III, paragraph 7 of the list of issues

40. In order to ensure a prompt investigation, the Code of Criminal Procedure stipulates that the initial phase of an investigation – a procedure prior commencement of criminal prosecution – shall start immediately after the receipt of a criminal complaint or after a criminal offence came to knowledge of prosecutor. Under section 196 of the Code of Criminal Procedure a procedure prior commencement of criminal prosecution should not take longer than 30 days. Within this period, a police officer shall decide whether to end proceeding (by submitting case to a competent authority, due to inadmissibility of prosecution or statute of limitations) or to commence next phase – preparatory procedure – by a decision on start of prosecution. In this phase, charges against a known perpetrator are pressed.

41. Further time limits are provided for a completion of investigation after charges against known perpetrator are pressed. For crimes and particularly serious crimes (i.e.

classification of the crime of enforced disappearance) it is 4 months, resp. 6 months after charges were pressed.²

42. Independence of investigation is guaranteed by section 7 of the Police Force Act. Police officer conducting investigation is independent and bound only by the Constitution, the constitutional acts, the international treaties, the acts, and other legislative acts and in the extent provided for by the Code of Criminal Procedure by instructions of prosecutor and court. To these instructions by a prosecutor belong – instruction to press charges,³ instruction which operations should be done in investigation (in case it does not end within the statutory time limit),⁴ return the file to a police officer for further investigation with instructions.⁵

43. Prosecution, being a hierarchical institution, allows interferences by instructions from a superior prosecutor to the actions carried out by a prosecutor supervising criminal proceeding. By instructions, a superior prosecutor can order how to proceed in prosecution and how to carry out necessary tasks or can decide to carry out necessary tasks by herself/himself.⁶ However, even these instructions have their limits. Under section 6 (4) of the Act on prosecution, a prosecutor is obliged to refuse instructions from a superior prosecutor, if by carrying out of an instruction s/he would commit an offence or an administrative delict or a disciplinary misconduct. Prosecutor can decide whether s/he will follow an instruction in case her/his life might be threatened.⁷ In cases when carrying out of an instruction might cause damage, prosecutor is obliged to inform superior prosecutor about it.⁸ Furthermore, prosecutor can refuse to carry out an instruction if it's against her/his legal opinion and can ask superior prosecutor to submit the matter to another prosecutor.⁹

44. In respect of a start of prosecution, under section 6 (8) of the Act on prosecution, a superior prosecutor is prohibited to issue an instruction preventing start of criminal proceeding or prosecution, pressing of charges, taking of an accused into custody, ending of prosecution or not filling for a remedy to the detriment of an accused. Superior prosecutor is not allowed to proceed in the mentioned manner on his own or instruct a different prosecutor to do so.¹⁰

45. The mechanism of impartiality is established also in section 31 (1) of the Code of Criminal Procedure. Judge, prosecutor, police officer, or other clerks are excluded from performance of tasks in criminal proceeding if there is any doubt about their impartiality due to their relationship to the case or persons who are directly related to the case or due to their relationship to another law enforcement authority. The impartiality may be challenged by one of the parties to the case¹¹ or a person who deems herself/himself not impartial may come forward.¹² In both cases, a superior person or authority shall decide.¹³

46. This legal basis on independence and impartiality applies to investigation and prosecution of all criminal offences, the crime of enforced disappearance included.

Reply to the issues raised in part III, paragraph 8 of the list of issues

47. Exclusion of law enforcement bodies, judges or other persons from criminal proceedings is regulated under section 31 of the Code of Criminal procedure (see reply to issues raised in part III, paragraph 7 and Annex 3 to the State party's report).

² See section 209 (2) of the Code of Criminal Procedure.

³ See section 205 (3) of the Code of Criminal Procedure.

⁴ See section 209 (3) of the Code of Criminal Procedure.

⁵ See section 230 (2) a, d) of the Code of Criminal Procedure.

⁶ Section 6 (1) of the Act no. 153/2001 Coll. on Prosecution.

⁷ Section 6 (5) of the Act no. 153/2001 Coll. on Prosecution.

⁸ Section 6 (6) of the Act no. 153/2001 Coll. on Prosecution.

⁹ Section 6 (7) of the Act no. 153/2001 Coll. on Prosecution.

¹⁰ Section 6 (10) of the Act no. 153/2001 Coll. on Prosecution.

¹¹ See section 31 (5) of the Code of Criminal Procedure.

¹² See section 32 (1), (2) of the Code of Criminal Procedure.

¹³ See section 32 of the Code of Criminal Procedure.

48. Under section 2 (10) of the Code of Criminal Procedure, law enforcement bodies shall investigate merits of the case and procure all evidence ex officio in order to clarify all circumstances of the case and to be able to reach decision without any doubt. The only law enforcement bodies given the competence to investigate are prosecutors and police officers. In accordance with section 8 of the Code of Criminal Procedure, the term police officer means:

- (a) A police force investigator;
- (b) An investigator from the police force assigned to the inspection service in the case of crimes committed by members of the armed security forces excluding offence under paragraph c);
- (c) A financial administration investigator if it concerns criminal offences committed in connection with the violation of customs regulations or tax regulations in the area of VAT on imports and excise duties;
- (d) An authorised member of the police force;
- (e) An authorised member of the military police in proceedings on criminal offences of a member of the armed forces;
- (f) An authorised member of the Corps of Prison and Court Guard in proceedings on criminal offences of persons serving a prison sentence or in custody;
- (g) An authorised financial administration employee if it concerns criminal offences committed in connection with the violation of customs regulations or tax regulations within the jurisdiction of customs administration;
- (h) A captain of a sea vessel in proceedings on criminal offences committed on board of the vessel.

49. Any other civil or security force members are excluded from investigation in general since they are not given the competence to participate or investigate criminal offences.

50. Police officers are excluded from investigation also under article 21 of the Order of the Minister of Interior no. 175/2010 on competences of Police Force Units and Units of Ministry of Interior by offences' detection, identifying perpetrators and process in criminal proceedings.

51. A prosecutor can be under section 13 of the Act on prosecution suspended from performance of duties until the end of criminal proceedings in which s/he is charged from committing of a criminal offence. The decision on suspension from duties is made and issued by the General Prosecutor.

52. Pursuant to section 46 of the Act on police officers, a police officer shall be temporary suspended from service when s/he is suspected of committing a criminal offence. Suspension shall not exceed 6 months, the Minister of Interior can prolong the period until the end of an on-going criminal proceedings.

53. Military police officers are excluded from investigation of crime of enforced disappearance. Under section 76 (1) of the Act on professional soldiers, a soldier is suspended from military service after charges for intentional criminal offence or military criminal offence are pressed against her/him.

54. The abovementioned suspension from duties is relevant in case of any criminal offence and applies to all cases irrespective of participation of police officer, prosecutor or soldier on investigation or criminal proceedings.

Reply to the issues raised in part III, paragraph 9 of the list of issues

55. In the absence of bilateral or multilateral agreement, cooperation and legal assistance in criminal matters is regulated by part five of the Code of Criminal Procedure. This provides for rules of request for carrying out e.g. investigation, providing of documents, delivery of documents, hearing of witnesses. Cooperation can be therefore conducted either based on an international treaty or under provisions of the domestic law.

56. The section 479 of the Code of Criminal Procedure stipulates that in order to act on request from a state not bound by any international treaty on cooperation, guarantee of reciprocity is required. Furthermore, under section 481 of the Code of Criminal Procedure, the Slovak Republic can refuse cooperation in case if carrying out of a request would violate the Constitution or any other legal provisions which shall always take precedence or if the performance of a request would violate an important protected interest of the Slovak Republic.

D. Measures to prevent enforced disappearances (arts. 16–23)

Reply to the issues raised in part IV, paragraph 10 of the list of issues

57. Extradition procedure for the purposes of criminal proceedings is provided for in sections 498 – 514 of the Code of Criminal Procedure. Extradition of a person to a requesting state is admissible if the act for which the extradition is requested is a criminal offence under the Slovak legislation and the upper limit of imprisonment, which may be imposed for such criminal offence, is at least one year under the Slovak legislation.

58. Under section 501 of the Code of Criminal Procedure extradition is not admissible in cases:

(a) A person is a citizen of the Slovak Republic, except for cases where an obligation to extradite such citizen is provided by law, an international treaty or a binding decision of an international organisation;

(b) A person applied for asylum in the Slovak Republic or was granted asylum or supplementary protection, except if a person repeatedly requested asylum in the Slovak Republic and their request has previously been decided;

(c) A criminal prosecution or serving of a prison sentence are statute barred under the statute of limitation of the Slovak Republic;

(d) The act for which the extradition is requested is a criminal offence only under the legislation of the requesting state, but not under the Slovak legislation;

(e) The criminal offence for which the extradition is requested is solely of a political or military nature;

(f) The criminal offence was committed in the territory of the Slovak Republic, except when the jurisdiction of a requesting state shall be given priority due to the specific circumstances of the offence or for safeguarding of proper investigation, criminal proceedings and serving of penalty;

(g) The Slovak court validly decided in proceedings against the requested person and about the committed act for which the extradition is requested (ne bis in idem principle);

(h) A person was not criminally liable at the time of the commitment of the criminal offence under the Slovak legislation or is not criminally liable for other reasons.

59. The procedure of extradition can be described as follows. Upon receiving of a request from a foreign state, the Ministry of Justice forwards it to the relevant prosecution for start of preliminary investigation. The aim of preliminary investigation is to establish whether the conditions for admissibility of extradition are met. After conclusion of a preliminary investigation, prosecutor files a request to a relevant court which shall decide about admissibility of extradition. The person who shall be extradited and their defence counsel have an opportunity to submit any relevant comments to the deciding court. Court's decision can be challenged by a complain (form of an appeal) which is decided on by the Supreme Court of the Slovak Republic.

60. After the final court's decision enters into force, the case is presented to the Minister of Justice. The Minister of Justice decides on extradition after it was considered by courts as admissible. The Minister's decision is final and cannot be appealed against.

61. Under section 510 (2) of the Code of Criminal Proceedings the Minister of Justice can refuse extradition if:

(a) There is a justified concern that criminal proceedings or imprisonment in a foreign state does not comply or will not comply with the principles of Articles 3 and 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

(b) There is a justified concern that the requested person would face persecution or that their position in criminal proceedings would worsen in a foreign state due to their origin, race, religion, association to a certain ethnic group or another group, their nationality or for their political views;

(c) The requested person would be disproportionately affected to their detriment by extradition to a foreign state given their age and personal circumstances and taking into account the severity of the criminal offence with which they are charged;

(d) The death penalty could be imposed in a foreign state, except if there is a guarantee that the death penalty will not be imposed;

(e) A foreign state requests extradition for the performance of the death penalty.

62. The extradition procedure among the EU member states is provided for by the Act no. 154/2010 Coll. on European Arrest Warrant implementing Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA) and other relevant directives.

63. Rules on administrative expulsion of foreigners are regulated by sections 77 – 87 of the Act on residence of foreigners. An administrative expulsion is a decision of police force when a foreigner lost authorisation to stay in the Slovak Republic and is bound to leave its territory. The procedure of administrative expulsion is suspended if a foreigner applied for asylum and terminated when asylum or supplementary protection, permanent residence or tolerated stay is granted. Pursuant to section 81 of the Act on residence of foreigners, a foreigner cannot be expelled to a state in which her/his life or freedom would be threatened on the grounds of her/his race, ethnicity, religion, affinity to a social group or political views or if there is a threat that s/he would be subjected to torture, other inhuman or degrading treatment or punishment. To other reasons for refusal of an administrative expulsion belong also death sentence or threat of death sentence. A foreigner cannot be subjected to expulsion in case there is a threat s/he would be expelled or extradited from the target state to another state in which her/his life and freedom might be threatened. A child cannot be subjected to administrative expulsion unless it is in her/his interest.

64. From the procedural point of view, police force unit is obliged to provide upon foreigner's request translation of the decision on administrative expulsion. Before the issuing of the decision, a police force unit is obliged to allow foreigner and her/his lawyer to make a standpoint on the findings. Appellate procedure is governed by rules set in the Act no. 71/1967 Coll. on administrative procedure ("Act on administrative procedure"). An appeal can be filed by the police force unit that issued the decision on administrative expulsion within 15 days after its delivery. Filing of an appeal has a suspensive effect, a foreigner cannot be subjected to administrative expulsion until the case is reviewed by an appellate body (a superior authority) and final decision is issued. Decision of an appellate body can be challenged only by application for retrial.

Reply to the issues raised in part IV, paragraph 11 of the list of issues

65. There is not a list of states considered as safe for the procedure of extradition. Each case is subject to individual review, an individual assessment is made by prosecutor, court and the Minister of Justice. The Ministry of Foreign and European Affairs of the Slovak Republic is consulted on the situation in a state requesting extradition and considered ad hoc. Diplomatic assurances can be accepted and conditions of extradited person is checked on by the representatives of the Slovak Republic.

Reply to the issues raised in part IV, paragraph 12 of the list of issues

66. The Public Defender of Rights is under section 17 (1) (a) of the Act no. 564/2001 Coll. on Public Defender of Rights ("APDR") entitled to enter premises of public authorities and under section 17 (1) (d) of the APDR has a right to communicate with persons deprived of liberty without a presence of other person. The public authorities are

obliged to enable the Public Defender of Rights exercise of her competences immediately after they are requested to do so.¹⁴

67. The Public Defender of Rights has a right to inspect and monitor more than 650 facilities in total,¹⁵ including private facilities as well as psychiatric wards, facilities for seniors, orphanages, etc. Pursuant to section 19 of the APDR, the Public Defender of Rights has a competence, upon finding of shortcoming, to suggest measures to eliminate shortcomings. Relevant authorities are obliged to reply within 20 days about adopted measures or refusal to adopt the proposed measures. The Public Defender of Rights is afterwards entitled to present the case to a superior authority and if the proposed measures are refused by a superior authority, to inform the Parliament. The Corps of Prison and Judicial Guard (in charge of prisons) cooperate with the Public Defender of Rights on elimination of any shortcomings found during monitoring.

68. The current personnel of the Office of the Public Defender of Rights consists of approx. 45 employees which should be considered as sufficient given the amount of public facilities in which personal liberty is being restricted.

69. Prior the ratification of the Optional Protocol to the Convention against Torture (“OPCAT”), it is necessary to elaborate a legal analysis and to introduce legislation necessary for establishment of the National Preventive Mechanism (“NPM”). The legal analysis is being prepared by the Ministry of Justice along with a proposal for creation of the NPM. One of the considered models is to distribute competences of the NPM between the Public Defender of Rights, the Commissioner for Persons with Disabilities and the Commissioner for Children. Carrying out of obligations enshrined in the OPCAT would require increase in financing and human resources for all of the mentioned institutions. The financial requirements for proper and effective functioning of the mentioned institutions as the NPM are discussed as well.

Reply to the issues raised in part IV, paragraph 13 of the list of issues

70. For general information on procedure for taking into custody or preliminary detention see State party’s report, paras. 107 – 108. For detention under sections 85 or 86 of the Code of Criminal Procedure “cells of preliminary detention” are being used.

71. In this respect see also section 85 (3), (4), (6) of the Code of Criminal Procedure, Annex 3 to State party’s report. Under these provisions, a police officer who detained a person is obliged to inform a prosecutor immediately after deprivation of person’s liberty. The information shall include place and time of detention, identity of person, circumstances and reasons for detention. Police officer is obliged to inform a detained person about the reasons of detention and shall conduct interrogation.

72. Under section 86 of the Code of Criminal Procedure a police investigator is obliged to make an official record about detention with personal information of a detainee, reasons for detention and information on rights of detainee. The official record is signed by a detainee and considered as basis for admission of a detainee to a cell of preliminary detention. Afterwards an interrogation of a detainee can be conducted. Police officer is again obliged to inform a detainee on their rights (e.g. right to remain silent, right to legal representation, right to use notes).

73. Each and every unit of police force has its own evidence of persons detained under section 86 of the Code of Criminal Procedure. Usually it is in a form of evidence book and the data is also submitted to SAP database operated by the Ministry of Interior. Information can be found in personal files of employees under folder “incident”. The SAP database does not have a character of register of detainees.

74. The information submitted to evidence book taken by e.g. national unit of fight against illegal migration are:

¹⁴ Section 17 (3) of the Act no. 564/2001 Coll. on Public Defender of Rights.

¹⁵ Calculation provided by the Public Defender of Rights for facilities monitored in case of establishment of the NPM.

- (a) Date and time of restriction of personal liberty;
- (b) Name, surname, date of birth and permanent residence of a detainee;
- (c) Reason and legal background for restriction of personal freedom;
- (d) Time when information on rights was provided and handing over of information booklet in writing;
- (e) Signs of injuries, health issues;
- (f) Date and time of providing information to family member or designated person about detention;
- (g) In case of a juvenile, date and time of providing information to legal representative, body of social-legal protection of children and social curatorship;
- (h) Date and time of providing information to legal guardian if appointed;
- (i) In case of a foreigner, date and time of providing information to relevant consular office and information on contact and visits of a consular officer;
- (j) Contact and visits of family members, lawyer, doctor;
- (k) Date and time of communication with a designated person by phone;
- (l) Time of interrogation or identification;
- (m) Time of release or transfer of a detainee;
- (n) Name and surname of police officer who restricted personal liberty of detainee;
- (o) Other important information.

75. For the period of custody and serving of prison sentence the following applies. In accordance with section 65 and the following of the Act no. 4/2001 Coll. on the Prison and Judicial Guard Corps, the prison and judicial guard corps creates and operates information systems gathering, archiving and using information such as personal data relevant for carrying out tasks of the prison and judicial corps. The prison and judicial guard corps provides and enables access to the information to Ministry of Justice, courts, prosecution, Police Corps, Slovak Information Service, Military Intelligence, National Security Authority, Military Police Corps, municipal police, Financial Directorate of the Slovak Republic, Health Care Surveillance Authority and other persons in the extent necessary for fulfilment of their duties.

76. Under section 99 of the Act on prison sentence and section 63 of the Act on custody, the prison and judicial guard corps gather the following information on detained persons:

- (a) name, surname, surname given at birth, personal identification number, title, academic degree, previous name and surname in case it has been changed;
- (b) Date and place of birth;
- (c) Permanent and habitual residence;
- (d) citizenship, identity card number or passport number or number of any identity card proving identity and date and place of issue of an identity document;
- (e) Education, work and field of expertise;
- (f) Personal, family and social anamnesis, including marital status, addiction to alcohol or drugs, conclusion of psychological assessment;
- (g) Health classification;
- (h) Information retrieved from decisions or proceedings of law enforcement authorities (e.g. information on authority ordering detention and authority carrying out the order or authority that deprived the person of liberty, grounds for deprivation of liberty, time of release, manner of admission of a detained person, etc.);

(i) Manner of termination of restriction of personal liberty including information about death during the restriction of personal liberty, circumstances and cause of death;

(j) Information on course of prison sentence, e.g. information on placement and duration of restriction of personal liberty, disciplinary measures, fulfilment of the treatment programme.

77. In respect of the measures adopted in practise, prisons are obliged to inform court, law enforcement authorities, probation and mediation service officials, Foreign Police, consular offices and lawyer of a detained person about e.g. (the information obligation varies):

- (a) Admission to the prison;
- (b) Transfer to another place of detention;
- (c) Start and end of protective treatment;
- (d) Escape and detention of a detainee;
- (e) Death of a detainee;
- (f) Suspension of deprivation of liberty;
- (g) Conditional release and probation;
- (h) Release upon serving of sentence, pardon or amnesty or any other reasons.

78. Upon detention of a foreigner by the Units of Foreign Police and the Police Force information on the detention are submitted to information system IS MIGRA. Register of detained foreigners in police detention units for foreigners is led in a “book of detained foreigners” by the permanent service. This evidence includes: name, surname, date of birth, permanent and habitual residence, citizenship, reasons for detention, date and time of detention and admission to detention unit for foreigners, authority ordering detention, date, time and name of police officer who took a foreigner outside the premises and the same information on return, end of period for detention, date and time of release together with reason for release, number of detention room, date and time of handing over of foreigner’s file.

Reply to the issues raised in part IV, paragraph 14 of the list of issues

79. As mentioned in para. 176 of the State party’s report, access to information by close persons of detainees is provided for in section 19 (6) of the Police Corps Act. This section provides for the right of detainees to inform their close persons about their detention and to request legal help by a lawyer. The term close person shall be interpreted in the light of section 116 of the Civil Code:

“A close person is a relative in a direct line of descent, sibling and spouse. Other persons in a family or similar relation shall be deemed to be close to each other if an injury suffered by one is reasonably felt by the other as their own.”

80. Under section 74 (1) of the Code of Criminal Procedure, the court shall notify a family member of accused or another person specified by accused and their lawyer about remand in custody. About the release or escape from custody is under section 74 (2) of the Code of Criminal Procedure informed a witness and an aggrieved party (victim). Similarly is regulated a notification obligation after an accused was apprehended or arrested.¹⁶

81. In reference to para. 178 of the State party’s report, under section 8 of the Act no. 221/2006 Coll. on Performance of Custody, the transfer of the accused shall be immediately notified to appointed lawyer and to family member in case if the transfer lasts longer than 48 hours.

82. The access to information and notification on custody, release, whereabouts of detainee or accused is guaranteed to appointed lawyer, family member and/or close person. The Slovak legislation in the context of criminal proceedings and information access does

¹⁶ See section 34 (4) of the Code of Criminal Procedure.

not use the term “person with a legitimate interest” but rather uses terms such as “family member” or “close person” or “person specified by the accused”. These persons are considered as persons with legitimate interest and are being notified on whereabouts of the accused pursuant to the article 18 of the Convention.

Reply to the issues raised in part IV, paragraph 15 of the list of issues

83. The State party does not provide specific and regular training on the Convention and the crime of the enforced disappearance. Any initiatives or sharing of know-how on this topic are welcomed and may influence planning of training plans. General training on criminal law is provided to judges and public officials. Police Force is providing a general training on victims of crimes and their rights.

84. Military police officers after being admitted to the military police are provided a training of 12 weeks about legislation and principles when restricting someone personal freedom with an update training on police intervention techniques (twice a year). Professional training of military police officers includes training on relevant legislation e.g. the Act no. 124/1992 Coll. on military police, the Criminal Code aimed at specifics of criminal offences including the crime of enforced disappearance.

E. Measures for reparation and protection of children against enforced disappearance

Reply to the issues raised in part V, paragraph 16 of the list of issues

85. Section 9 (1) (d) of the Code of Criminal Procedure stipulates that a criminal proceedings cannot start or cannot continue against a deceased person or person declared dead. Therefore under the valid legislation a criminal proceeding cannot continue in case if a perpetrator is deceased or has been declared dead. Status of absentee, death or declaration of death of a victim of the offence of enforced disappearance does not have any influence on the start or continuation of started criminal proceeding.

86. Under section 48 (3) of the Code of Criminal Procedure, a legal guardian can be appointed if an aggrieved party cannot exercise their rights or there is a danger of default (e.g. claims will not be submitted within statutory period). A legal guardian appointed under the Code of Criminal Procedure represents a disappeared person only in criminal proceedings.

87. For the purpose of resolving civil matters, under section 29 of the Act no. 40/1964 Coll. Civil Code, a legal guardian is appointed to a person whose location is unknown provided that such appointment is necessary for protection of their interests. The procedure of appointment is regulated by the Act no. 161/2015 Coll. Civil Non-Dispute Code which includes provisions on jurisdiction and supervision of court on actions of the appointed legal guardian.

88. Under the Civil Non-Dispute Code is regulated also a specific procedure for appointment of a legal guardian in proceeding on declaration of death. If whereabouts of a person are unknown for a substantial amount of time and investigation in criminal proceeding did not provide any additional information on the whereabouts of an absentee, a person with legitimate interest can petition a relevant court for declare an absentee deceased.¹⁷ This type of proceeding can be started also ex officio.¹⁸ In such case, court will appoint a legal procedural guardian for an absentee.¹⁹ If an absentee is supposedly deceased, the court is obliged to issue a public call for an absentee or whoever have seen her/him or has any information on whereabouts of an absentee to come forward within a period of one year.²⁰ After lapse of this period an absentee may be declared deceased by a decision of

¹⁷ Section 221 (1) of the Act no. 161/2015 Coll. Civil Non-Dispute Code.

¹⁸ Section 221 (2) of the Act no. 161/2015 Coll. Civil Non-Dispute Code.

¹⁹ Section 222 of the Act no. 161/2015 Coll. Civil Non-Dispute Code.

²⁰ Section 225 of the Act no. 161/2015 Coll. Civil Non-Dispute Code.

court.²¹ Except the mentioned one year period, there is no other statutory period for a person to be recognised as an absentee.

Reply to the issues raised in part V, paragraph 17 of the list of issues

89. Pursuant to section 10 of the Act no. 274/2017 Coll. on Victims of Crime (“Victims Act”) the victims of intentional violent crimes can receive compensation from state. Victims eligible for compensation are nationals of the Slovak Republic, stateless persons with residence in the Slovak Republic, nationals of the EU member states, foreign nationals if an international treaty provides so and the harm occurred in the territory of the Slovak Republic, persons with granted asylum or supplementary protection and the harm occurred in the territory of the Slovak Republic.

90. The compensation by state is provided only for harm caused on health and in cases of certain criminal offences (human trafficking, rape, sexual violence or sexual abuse) also moral compensation is provided. Moral compensation of up to 50 times of minimum wages may be granted to relatives of a deceased victim.

91. Victims are not eligible for compensation if:

- (a) The harm on health has been compensated in other manner;
- (b) The victim is also a perpetrator;
- (c) The victim refused to give consent for the start of criminal proceedings;
- (d) The victim cannot exercise their rights of the aggrieved party in criminal proceeding.

92. The compensation claim can be applied for after the decision in criminal proceeding entered into force and under the condition that the victim applied for compensation in criminal proceedings (it is possible to do so until the completion of investigation). The application for compensation needs to be submitted within 1 year after the decision (either in criminal proceeding or civil proceeding deciding on compensation) entered into force. If the compensation claim is not applied for within the statutory period, the claim ceases to exist.

93. The Ministry of Justice decides on compensation and is obliged to do so within 6 months after the receipt of the compensation claim. A compensation form which needs to be submitted is published on the website of the Ministry of Justice.

94. The compensation system introduced by the Victims Act is almost the same as the previous legislation, the main differences are in the eligible victims and that victims have a legal claim for compensation. Other forms of compensation, except the monetary compensation are not provided for in the Victims Act.

95. In respect of protection and support of victims of enforced disappearance, the Victims Act does establish a mechanism to ensure a standard of care provided to victims by victim support organisations. In the Slovak Republic support is mainly provided by NGOs which specialise in certain types of victims (e.g. only women with their children, victims of domestic violence). Currently, given the non-occurrence of the crime of enforced disappearance, there is not an NGO specialising in victims of enforced disappearance.

Reply to the issues raised in part V, paragraph 18 of the list of issues

96. The Slovak legislation regulates determination of parenthood. Under the Act no. 36/2005 Coll. on family, as mother is considered a woman who gave birth to the child. If there are doubts about who is mother, motherhood can be determined in court proceedings. The application for determination of motherhood can be submitted to a relevant court by woman who claims to be mother, father and a person with legitimate interest (e.g. parents of mother, child). The cases of determination of motherhood are extremely rare.

²¹ Section 228 of the Act no. 161/2015 Coll. Civil Non-Dispute Code.

97. Fatherhood is at first stage determined under legal presumptions. The first presumption is that father is husband of mother. Fatherhood can be challenged by husband within 3 years period starting from date when he became aware of facts doubting his fatherhood to child born during marriage and by mother within 3 years period starting from the date of birth of child. The second presumption determines fatherhood based on statement of mother and father. Under this presumption, fatherhood can be challenged by father and mother within 3 years period after the statement was made. Under the third presumption, father is determined by court's decision. Fatherhood can be challenged by child if it is in its interest and period for application by parents has lapsed. From the procedural point of view, there is not another form of establishing identity of a child other than by challenging of parenthood.

98. The Centre for International Legal Protection of Children and Youth has competence to protect child's interests in cross-border cases, in respect of the Convention on Civil Aspect of International Child Abduction and is eligible to participate in proceeding on determination of parenthood with international element present.

99. Official records regarding birth of a child, mother and father are kept by registry offices. The Act no. 154/1994 Coll. on registry offices provides for extent of gathered information and persons eligible to access the information. Information on birth certificate include name, surname, sex, date and place of birth of child; name, surname, birth surname, date and place of birth and citizenship of parents. Persons eligible to access information in person and/or apply for a copy of birth certificate are:

- (a) The person about whom is the information or their family members;
- (b) An authorized representative with power of attorney from the concerned person;
- (c) A person who has based on court's decision the right of custody of the concerned child;
- (d) A person who has based on court's decision the right of temporary custody of the concerned child;
- (e) A person who has been entrusted with foster care of the concerned child based on court's decision;
- (f) A guardian, if s/he personally takes care of the concerned child;
- (g) A legal guardian appointed by court;
- (h) public service officers for the official needs of state authorities, municipalities and other institutions, if so stipulated by a specific act.
