

HAJNALKA SZINEK CSÜTÖRTÖKI*

Overview of Human Rights Protection in Slovakia: Impact of the European Convention on Human Rights**

ABSTRACT: The protection of human rights has become a cornerstone of modern society, shaping both national and international legal frameworks. In Europe, the European Convention on Human Rights (ECHR) serves as a crucial instrument for safeguarding fundamental rights and freedoms. Since gaining independence in 1993, Slovakia has undergone significant transformations in its legal and political systems, gradually integrating international human rights standards. This country report aims to provide a contextual introduction to the historical development of human rights in Slovakia and the implementation of the ECHR, while also addressing key law-making processes. Furthermore, it explores human rights protection at the national level and the relationship of Slovakia with the Council of Europe. By analysing key legal developments and landmark cases, this study evaluates Slovakia's achievements and continuing challenges in protecting fundamental rights, providing insights into the future direction of human rights within the broader context of its obligations under the ECHR.

KEYWORDS: Slovakia, human rights, protection of human rights, European Convention on Human Rights, European Court of Human Rights.

1. Introduction

The protection of human rights has become a cornerstone of modern society, shaping both national and international legal frameworks. In Europe, the European Convention on Human Rights (hereinafter referred to as the ECHR or Convention) represents one of the most significant instruments for safeguarding fundamental rights and freedoms; its influence

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has extended across all member states of the Council of Europe (hereinafter referred to as the CoE), including Slovakia.

Since gaining independence in 1993,¹ Slovakia has undergone a remarkable transformation, transitioning from a totalitarian regime to a democratic state and aligning its legal and political structures with international human rights standards while managing the complexities of its post-communist legacy.²

Upon its accession to the CoE,³ Slovakia became part of a broader European human rights framework that significantly influenced its domestic legal and political structures. It should be highlighted that the ratification of the ECHR by Slovakia,⁴ just before its formal membership in the CoE, marked a significant milestone in the nation's legal history. This ratification not only signalled Slovakia's commitment to uphold civil, political, and social rights but also initiated a shift in the national discourse on human rights. The obligations imposed by the ECHR have necessitated extensive reforms within Slovakia's legal system, prompting legislative changes, constitutional amendments, and a re-evaluation of judicial practices to ensure compliance with the provisions of the Convention. The journey to successfully implementing these rights has been complex and multi-dimensional. The relationship between national legislation and international human rights standards has posed considerable challenges, especially concerning legislative consistency, institutional capacity, and public awareness of human rights issues. Additionally, the European Court of Human Rights (hereinafter referred to as the ECtHR or Court) has been instrumental in influencing Slovakia's human rights landscape through its judgments, highlighting various deficiencies and opportunities for enhancement within the national legal framework.

This country report explores the evolution of human rights protection in Slovakia, particularly focusing on the impact of the ECHR. It begins by offering a contextual introduction to the historical development of human

¹ That is, following the peaceful dissolution of Czechoslovakia.

² Slovakia, as part of Czechoslovakia, was under communist rule until the Velvet Revolution of 1989. After the peaceful dissolution of Czechoslovakia in 1993, Slovakia emerged as an independent democratic state.

³ Slovakia became the 31st member of the CoE on 30 June 1993.

⁴ Slovakia, as part of Czechoslovakia, ratified the ECHR on 19 May 1992. After gaining independence, Slovakia reaffirmed its commitment by ratifying the ECHR again on 28 May 1993. This reaffirmation occurred just before Slovakia officially joined the CoE on 30 June 1993.

rights in Slovakia. Next, the study delves into the process of implementing the ECHR and describes the key law-making processes involved. Special attention is given to the national implementation of the ECHR, highlighting key legislative reforms and institutional changes designed to align with the provisions of the Convention. Furthermore, the Constitution of the Slovak Republic⁵ (hereinafter referred to as the Slovak Constitution)⁶ and other major legal acts concerning human rights are mentioned, illustrating how these domestic legal acts have been shaped by both the ECHR and Slovakia's broader international commitments. The study also describes Slovakia's relationship with the CoE and discusses several landmark cases that have played a critical role in the development of human rights law in Slovakia, particularly through judgments delivered by the ECtHR. These cases provide a lens through which to examine the practical application of human rights principles and the ongoing challenges Slovakia faces in meeting its international obligations.

Through this comprehensive analysis, the study assesses the overall impact of the ECHR on Slovakia's human rights landscape, identifying key successes, persistent challenges, and potential future directions for the protection of fundamental rights in the country.

2. Historical Development of Human Rights in Slovakia: A Contextual Introduction

The development of human rights in Slovakia⁷ is closely linked to its complex political and historical journey. From its time as part of the Austro-Hungarian Empire, through the formation of Czechoslovakia after World War I, and later under communist rule, the human rights framework of Slovakia has evolved alongside the nation's shifting political landscape. Following the fall of communism in 1989⁸ and the peaceful dissolution of

⁵ *Ústava Slovenskej republiky*.

⁶ However, also the Czech one.

⁷ Hodás, 2016.

⁸ At this point, the Velvet Revolution should be mentioned, which did not aim to create a new society or type of individual but sought a return to the values that existed before communism. It unfolded during a deep crisis in communism, a period marked by its decline and the growing agony over the loss of freedom, human rights, and human dignity. Unlike revolutions driven by economic hardship or focused on establishing a market economy or privatising property, the Velvet Revolution was centred on a vision of freedom and the restoration of human dignity; Erdősová, 2022, p. 156.

Czechoslovakia in 1993,⁹ Slovakia embarked on a new chapter as an independent state, with human rights and freedoms becoming a central element of its legal and constitutional identity.¹⁰

In the early years of independence, Slovakia's commitment to human rights and freedoms was framed largely by its desire to integrate into the European Union (hereinafter referred to as the EU) and the broader international community. Key to this process was Slovakia's accession to the CoE and its ratification of the ECHR in 1993. It should be highlighted that Slovakia ratified the ECHR on 19 May 1992, while still part of Czechoslovakia. After gaining independence, it renewed its commitment by ratifying the ECHR again on 28 May 1993, shortly before officially joining the CoE on 30 June 1993. These developments marked a turning point in the country's approach to human rights, embedding international standards within its domestic legal framework.

The Slovak Constitution initially incorporated provisions from the Federal Charter of Fundamental Rights and Freedoms,¹¹ inherited from Czechoslovakia, which laid out a foundation for human rights protection.¹² However, the practical application of international treaties, particularly the ECHR, encountered limitations. Initially, the ECHR was not fully recognised as part of Slovakia's constitutional order, applying only in cases where it conflicted with domestic statutes. Moreover, individual constitutional complaints based solely on the ECHR were dismissed, requiring claimants to invoke Slovak constitutional provisions alongside their ECHR-based arguments.¹³ Over time, Slovakia's legal system has evolved, and the ECHR has gained a more prominent role in the judicial process. The Constitutional Court of the Slovak Republic¹⁴ (hereinafter referred to as the Slovak Constitutional Court) has increasingly referenced the ECHR and its rulings in its decisions, improving the effectiveness of human rights protections based on the Convention.

Significant changes occurred with the adoption of the so-called Euro-amendments, which aimed to harmonise Slovakia's legal system with EU standards. These amendments enhanced the status of international human

⁹ For more, see Skaloš, 2012, pp. 483–498.

¹⁰ For more, see Erdősová, 2022, pp. 149–172.

¹¹ Adopted by the former Czechoslovak Federal Assembly in January 1991.

¹² Drgonec, 2007, pp. 1148–1150.

¹³ Bobek and Kosař, 2010, p. 14.

¹⁴ *Ústavný súd Slovenskej republiky*.

rights treaties, such as the ECHR, within the Slovak legal order.¹⁵ The former Article 11 was replaced by Articles 7(5) and 154c, which affirmed that ratified international human rights treaties take precedence over national law when they provide greater protection for constitutional rights.¹⁶ Article 7(5) also emphasised that various international treaties, including human rights treaties and those that do not require domestic legislation for their implementation, have primacy over domestic laws. This creates a situation where the status of international human rights treaties depends on the timing of their ratification, leading to different hierarchical positions within Slovak law.¹⁷

Despite these advancements, the role of the ECHR in Slovakia has been marked by ongoing legal and judicial challenges. The Slovak Constitutional Court has affirmed that the ECHR takes precedence over statutes, though not over the Slovak Constitution itself. However, the “Euro”-amendments also revised Article 127 of the Constitution, enabling individuals to submit constitutional complaints based on violations of rights protected by international treaties ratified by Slovakia, including the ECHR. Consequently, these complaints can now be lodged independently of Slovak constitutional provisions.¹⁸

While the judgments of the ECtHR are not officially considered sources of law in Slovakia, the Slovak courts generally acknowledge that these rulings are binding in the same case. Moreover, Slovak courts occasionally resist revising their previous decisions following ECtHR judgments. The question of whether judges feel bound by ECtHR decisions about other states is more complex; sometimes, courts state that these judgments are binding only for the parties involved and do not engage in detailed discussions regarding their application. In other instances, they may apply ECtHR case law without explicitly addressing its implications.¹⁹

Overall, while there is a readiness among Slovak courts to utilise ECtHR decisions, there is a noticeable hesitance to articulate the extent of their obligation to adhere to these rulings. As for the influence of Strasbourg jurisprudence on national legislation, there has been no significant constitutional amendment or change in judicial practices as a result of

¹⁵ Ibid.

¹⁶ See also Drgonec, 2007, pp. 1148–1150.

¹⁷ Krzyzanowska-Mierzecka, 2008, p. 541.

¹⁸ Procházka, 2002, pp. 215–216.

¹⁹ Bobek and Kosař, 2010, pp. 17–18.

ECtHR case law. Slovakia amended its statutory laws in response to ECtHR rulings against the country, but not in reaction to cases concerning other contracting states to the ECHR.²⁰

3. The ECHR in Action: Implementation and Legislative Framework in Slovakia

The incorporation of the ECHR²¹ in Slovakia's legal framework involves a complex interaction of constitutional amendments, legislative reforms, and judicial practices, all aimed at strengthening the country's human rights protections. Since achieving independence and joining the CoE in 1993, Slovakia has focused on aligning its national laws with the ECHR,²² representing a substantial evolution in its legal system.

Initially, the Slovak Constitution provided for the precedence of international treaties concerning human rights only if they offered broader protections than domestic laws. This condition was modified by Constitutional Act no. 90/2001 Coll.,²³ which established that all international treaties on human rights, including the ECHR, would take precedence over conflicting national legislation. It can be stated that this amendment was crucial in facilitating a more direct application of ECHR provisions in domestic courts, allowing individuals to invoke these rights without necessarily linking them to corresponding constitutional provisions.

Furthermore, the role of the Slovak Constitutional Court has been crucial in interpreting and applying the ECHR within the national legal context. With the constitutional amendments, the Court has increasingly referenced ECHR jurisprudence, which has led to a more nuanced understanding of human rights protections. This judicial engagement is vital, as it not only enhances the enforcement of individual rights but also contributes to the development of legal norms that resonate with international human rights standards.

Legislative reforms have accompanied these constitutional changes, with Slovakia enacting laws designed to strengthen human rights

²⁰ Ibid.

²¹ For more on this topic, see Šikuta and Svák, 2008, pp. 80–87.

²² See A Schabas, 2015.

²³ *Ústavný zákon č. 90/2001 Z. Z., ktorým sa mení a dopĺňa Ústava Slovenskej republiky č. 460/1992 Zb. v znení neskorších predpisov.*

protections. For instance, the Antidiscrimination Act²⁴ emerged as a critical instrument in combating discrimination and ensuring equal treatment across various sectors, including employment and education. This Act, along with other legislative measures, underscores Slovakia's commitment to align its domestic laws with the ECHR and other international human rights instruments.²⁵

Moreover, Slovakia's human rights practices are subjected to scrutiny by international bodies, including the ECtHR and United Nations (hereinafter referred to as the UN) treaty mechanisms. The ECtHR has ruled on several cases against Slovakia, often highlighting systemic issues such as police violence and discrimination against marginalised groups. The rulings of the ECtHR necessitate that Slovakia address these deficiencies, prompting legislative and administrative reforms aimed at enhancing accountability and protecting individual rights.

In its engagement with UN mechanisms, Slovakia has been proactive in submitting periodic reports to various treaty bodies, thereby facilitating international oversight of its human rights obligations. This process not only enhances accountability but also allows for an ongoing dialogue between Slovakia and the international community regarding human rights practices. Slovakia's acceptance of optional protocols empowers individuals to file complaints regarding human rights violations, further reinforcing mechanisms for accountability and redress.²⁶

Despite these advancements, challenges remain in the effective implementation of the ECHR. Issues such as discrimination,²⁷ persistent inefficiencies in the judicial system, and limited access to legal remedies for vulnerable groups continue to pose significant hurdles. Civil society organisations play an essential role in advocating for reforms, emphasising the need for ongoing engagement with both the CoE and the UN to address these issues comprehensively.

Looking ahead, the future of human rights implementation in Slovakia hinges on the government's commitment to tackle the systemic challenges highlighted by both domestic and international entities. Continuous reform

²⁴ Zákon č. 365/2004 Z. z. o rovnakom zaobchádzaní v niektorých oblastiach a o ochrane pred diskrimináciou a o zmene a doplnení niektorých zákonov.

²⁵ Cf. the National Strategy for Human Rights Protection and Promotion in Slovakia. [Online]. Available at: <https://coe.int/t/commissioner/source/NAP/Slovakia-National-Action-Plan-on-Human-Rights.pdf> (Accessed: 14 August 2024).

²⁶ Ibid.

²⁷ Cf. Poláková, 2007, pp. 662–670.

efforts, grounded in the principles of accountability and transparency, will be crucial for ensuring that Slovakia not only meets its ECHR obligations but also fosters a culture of respect for human rights among its institutions and society at large. The ongoing dialogue with the CoE and engagement with UN mechanisms will be vital in shaping Slovakia's human rights landscape, enabling the country to fulfil its role as an active participant in the global human rights community.²⁸

4. Protection of Human Rights at the National Level

Announcement no. 209/1992 Coll.²⁹ by the Federal Ministry of Foreign Affairs of the Czech and Slovak Federal Republic³⁰ (hereinafter referred to as the ČSFR) reported that the ECHR, along with Protocols 3, 5, and 8, was signed in Madrid on 21 May 1991, on behalf of the ČSFR. Slovakia's Ministry of Foreign Affairs later confirmed through Announcement no. 79/1994 Coll. that on 30 June 1993, the CoE Committee of Ministers retroactively acknowledged Slovakia's succession to multilateral treaties, including the ECHR. Recently, an anniversary marking the applicability of the ECHR in Slovakia and its predecessor states was celebrated.³¹

On 2 May 2002, a roundtable held at Masaryk University, Faculty of Law in Brno examined the application of the ECHR within the constitutional frameworks of the Czech Republic and Slovakia, focusing on the role of legal institutions in interpreting the Convention. The foundation for applying the ECHR in Slovakia stems from its Constitution.

According to the Slovak Constitution, the country is a sovereign, democratic, and rule-of-law state that operates independently of any specific ideology or religion.³² Its political framework is based on a classical separation of powers among the legislative, executive, and judicial branches. As outlined in the Constitution, state authority originates from the citizens, who shall exercise it either through elected representatives or

²⁸ See also Mokrá, 2021.

²⁹ Published on 18 March 1992.

³⁰ Česká a Slovenská federativní republika.

³¹ See the text Reservations and Declarations for Treaty No.005 - Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 005) on the CoE Portal. [Online]. Available at: <https://www.coe.int/en/web/Conventions/full-list?module=declarations-by-treaty&numSte=005&codeNature=2&codePays=SLK> (Accessed: 20 October 2024).

³² The Slovak Constitution, Article 1(1).

directly.³³ The Constitution also guarantees that individuals are free to act unless prohibited by law, and no one can be compelled to take actions that the law does not mandate.³⁴

The National Council of the Slovak Republic (*Národná rada Slovenskej republiky*) serves as the sole constitutional and legislative body in the country.³⁵ As an elected assembly,³⁶ it represents the sovereignty of both the state and its people and is responsible for discussing and passing legislation related to the Constitution, constitutional laws, and other statutory regulations, while also monitoring their implementation. Furthermore, legislative initiatives can originate from parliamentary committees, individual members, or the government. The legislative process consists of three readings within the parliament.

Following the shift to democracy and the establishment of an independent state in 1993, the legal framework for the protection of human rights and fundamental freedoms became firmly embedded in the Constitution. This integration brought in norms that ensure legality and protect human rights and freedoms.³⁷ Moreover, the constitutional framework of the Slovak Republic, alongside the constitutional act that incorporates the Charter of Fundamental Rights and Freedoms,³⁸ serves as the cornerstone of human rights legislation within Slovakia's legal system. It is derived from key international documents such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, among others. This framework is supplemented by various international treaties to which Slovakia is a signatory, reflecting its commitment to global human rights standards.³⁹ It should also be

³³ Ibid., Article 2(1).

³⁴ Ibid., Article 2(3).

³⁵ Ibid., Article 72.

³⁶ The parliament comprises 150 members, elected through secret ballot during general, equal, and direct elections for a term of four years.

³⁷ See the situation report on the protection of human rights in the Slovak Republic for the UN Universal Periodic Review, prepared by the Ministry of Foreign and European Affairs of the Slovak Republic, p. 1. [Online]. Available at: https://www.mzv.sk/documents/10182/11690/140228_situacna_sprava_o_ochrane_LP_v_SR.pdf (Accessed: 19 August 2024).

³⁸ *Ústavný zákon č. 23/1991 Z. z., ktorým sa uvádzajú Listina základných práv a slobôd ako ústavný zákon Federálneho zhromaždenia Českej a Slovenskej Federatívnej republiky.*

³⁹ See the National Strategy for Human Rights Protection and Promotion in Slovakia, p. 6. [Online]. Available at: <https://coe.int/t/commissioner/source/NAP/Slovakia-National-Action-Plan-on-Human-Rights.pdf> (Accessed: 19 August 2024).

highlighted that the Constitution does not specifically mention the EU Charter or the ECHR, but it refers to the law of the EU, stating that it takes precedence over Slovak law.^{40,41}

The Constitution delineates the general safeguarding of fundamental rights and freedoms, which encompass political, civil, economic, social, and cultural rights. It also includes the right to a healthy environment and cultural heritage, the right to judicial protection, and the rights of national minorities and ethnic groups. Article 12 explicitly guarantees these fundamental rights and freedoms to all individuals, irrespective of their sex, race, colour, language, religion, political beliefs, national or social origin, or any other status.⁴² Discrimination on these grounds is strictly prohibited.⁴³

Article 12(1) of the Constitution establishes the notion of equality in dignity and rights, asserting that these rights are inherent, inalienable, imprescriptible, and irreversible. Additionally, the Constitution includes provisions that protect personal freedoms, freedom of movement, and freedom of expression, among others.

Concerning the research topic, the Antidiscrimination Act⁴⁴ should be highlighted as it plays a critical role in enforcing non-discrimination principles, outlining equal treatment standards and providing legal recourse for those whose rights have been infringed. The act defines various forms of discrimination and allows individuals to seek legal protection through the courts. By transposing EU directives into Slovak law, the

⁴⁰ The Slovak Constitution, Article 7(2). See also Erdősová, 2022, p. 160.

⁴¹ Before the amendments introduced by Constitutional Act no. 90/2001 Coll., Article 11 stated that international human rights treaties ratified by Slovakia took precedence over national laws if they provided broader rights. Since 1 July 2001, Article 7 governs the status of international treaties, granting precedence to human rights treaties without the need for broader rights, except for the ECHR, which retains this requirement under Article 154c for treaties ratified before the amendment. The constitutional amendment also changed how the ECHR is applied in legal proceedings. Previously, the ECHR could only be invoked in constitutional reviews if linked to a corresponding constitutional provision. Individual complaints alleging solely ECHR violations were dismissed, as the Constitutional Court ruled that international human rights treaties were not part of Slovakia's constitutional order. Under the amended Constitution, violations of fundamental rights or freedoms arising from international treaties can now be asserted independently. In practice, the Constitutional Court predominantly shapes ECHR application, aligning its rulings with ECtHR jurisprudence.

⁴² Ibid., Article 12(2).

⁴³ Ibid.

⁴⁴ Zákon č. 365/2004 Z. z., *Antidiskriminačný zákon*.

Antidiscrimination Act reinforces the commitment to prohibit discrimination based on identity characteristics. Article 12(2) of the Constitution and Section 2(1) of the Antidiscrimination Act outline specific characteristics that cannot serve as grounds for discrimination. Despite these legal protections, formal equality is often deemed insufficient for achieving substantive equality. The Constitution's emphasis on equality and the prohibition of harm indicates a broader understanding of equality that transcends mere formalities.⁴⁵

In addition, many other specific laws guarantee and further regulate the exercise of certain human rights or the rights of specific groups of the population. For example, the rights of the children are guaranteed and regulated by the Family Act,⁴⁶ the Education Act,⁴⁷ and the Children's Commissioner Act.⁴⁸ There are other laws that are not directly human rights instruments but regulate and protect various aspects of human rights. For example, the Code of Criminal Procedure contains certain provisions that guarantee human rights in criminal proceedings. The Press Law and Broadcasting and Retransmission Law regulate certain aspects of freedom of expression and the right to information.⁴⁹

In 2013, the Slovak government initiated a legislative intent to revamp civil procedure rules, aiming to enhance the efficiency of the judicial system and reduce delays in legal proceedings. This initiative underscores the government's recognition of existing weaknesses within the legal framework and its commitment to improving public trust in the judiciary.

In cases of human rights violations, individuals can seek redress from independent and impartial courts in Slovakia, including the Constitutional Court. The Constitutional Court plays a significant role in safeguarding equality, particularly through proceedings on constitutional complaints under Article 127 of the Slovak Constitution and in reviewing the compatibility of legal provisions under Article 125.

⁴⁵ See the National Strategy for Human Rights Protection and Promotion in Slovakia, p. 6. [Online]. Available at: <https://coe.int/t/commissioner/source/NAP/Slovakia-National-Action-Plan-on-Human-Rights.pdf> (Accessed: 14 October 2024).

⁴⁶ Act no. 36/2005 Coll. (*Zákon č. 36/2005 Z. z. o rodine*).

⁴⁷ Act no. 245/2008 Coll. (*Zákon č. 245/2008 Z. z. o výchove a vzdelávani*).

⁴⁸ Act no. 176/2015 Coll. (*Zákon č. 176/2015 Z. z. o komisárovi pre deti*).

⁴⁹ See the National Strategy for Human Rights Protection and Promotion in Slovakia, p. 6. [Online]. Available at: <https://coe.int/t/commissioner/source/NAP/Slovakia-National-Action-Plan-on-Human-Rights.pdf> (Accessed: 14 October 2024).

In addition to the above-mentioned frameworks, Slovakia's legal framework incorporates non-discrimination principles into various laws. Following the adoption of the Antidiscrimination Act, which broadly governs anti-discrimination standards, numerous sector-specific laws were amended to align with these principles. Consequently, the prohibition of discrimination is now embedded in several pieces of legislation, including the Act on Health Insurance,⁵⁰ Education Act,⁵¹ Labor Code,⁵² and Social Services Act,⁵³ among others.⁵⁴

In 2011, the Slovak Government Council for Human Rights, National Minorities, and Gender Equality (hereinafter referred to as the Council) initiated a plan to develop a comprehensive strategy for the protection and promotion of human rights in Slovakia.⁵⁵ This move was a key step in advancing the country's human rights agenda. Later that year,⁵⁶ the Slovak government formally approved the Plan to Prepare a National Strategy for Protecting and Promoting Human Rights in Slovakia,⁵⁷ assigning the deputy prime minister for human rights and national minorities to present the strategy by 2012. As the process progressed, the government extended the deadline to ensure thorough preparation. To manage strategy development, a working group called the Coordination Group was established,⁵⁸ along with a steering committee. An expert drafting team was also formed to compile the text of the strategy, based on input gathered during public consultations in key cities across the country. Further steps included a recommendation to extend the deadline again to mid-2014. The Council encouraged collaboration among public authorities, non-governmental organisations, human rights experts, and public officials to ensure a participatory approach in shaping the strategy. By 2014, the drafting team⁵⁹ was finalising the strategy, drawing on insights from expert meetings and consultations. Two

⁵⁰ Act no. 580/2004 Coll. (*Zákon č. 580/2004 Z. z. o zdravotnom poistení a o zmene a doplnení zákona č. 95/2002 Z. z. o poistovníctve a o zmene a doplnení niektorých zákonov*).

⁵¹ Act no. 245/2008 Coll. (*Zákon č. 245/2008 Z. z., školský zákon*).

⁵² Act no. 311/2001 Coll. (*Zákon č. 311/2001 Z. z., Zákonník práce*).

⁵³ Act no. 448/2008 Coll. (*Zákon č. 448/2008 Z. z. o sociálnych službách a o zmene a doplnení zákona č. 455/1991 Zb. o živnostenskom podnikaní (živnostenský zákon) v znení neskorších predpisov*).

⁵⁴ Ibid., p. 7.

⁵⁵ Adopted on 27 June 2011.

⁵⁶ 16 November 2011.

⁵⁷ Government resolution no. 717.

⁵⁸ Resolution no. 67 of 15 April 2013.

⁵⁹ Resolution no. 101 of 9 April 2014.

major discussions were held to address key aspects of human rights protection, led by the Council's chair and the deputy prime minister. Throughout this process, both the Coordination Group and the steering committee played essential roles in shaping a comprehensive and inclusive human rights strategy for Slovakia.⁶⁰

This extensive preparation yielded valuable outcomes, highlighting the importance of inclusive collaboration between government institutions, civil society, and various stakeholders in shaping Slovakia's human rights policy. The unprecedented level of public and expert engagement not only reinforced democratic principles but also ensured the strategy reflected a broad spectrum of perspectives and expertise. This process has yielded several key insights, particularly the importance of meaningful cooperation between the government, civil society, and the general public. The high level of participation in the creation of this critical human rights document was unprecedented, underscoring the effectiveness of democratic principles in public administration.⁶¹

5. Looking Beyond the National Level – Slovakia and the CoE

The relationship of Slovakia with the CoE is deeply rooted in its commitment to uphold human rights and fundamental freedoms, as delineated in various international agreements, notably the ECHR. Since it acceded to the CoE in 1993, Slovakia has actively participated in promoting and safeguarding human rights within its jurisdiction, subjecting itself to oversight and evaluation by various CoE bodies. This engagement underscores Slovakia's dedication to aligning its national policies with the regional human rights framework established by the CoE.

The Slovak Republic, as a member of both the CoE and the UN, bears significant human rights responsibilities at both regional and global levels. Within the framework of the CoE, Slovakia has ratified the ECHR, thereby accepting the jurisdiction of the ECtHR. This relationship imposes on Slovakia a duty to uphold the rights enshrined in the Convention and comply with the decisions made by the Court. While Slovakia has also ratified the Revised European Social Charter, it has opted not to grant the

⁶⁰ See the National Strategy for Human Rights Protection and Promotion in Slovakia, p. 2. [Online]. Available at: <https://coe.int/t/commissioner/source/NAP/Slovakia-National-Action-Plan-on-Human-Rights.pdf> (Accessed: 16 October 2024).

⁶¹ Kollár, 2014.

European Committee of Social Rights the authority to adjudicate collective complaints against it. This situation highlights a potential gap in accountability for human rights standards within the nation.⁶²

The oversight of human rights practices in Slovakia is further facilitated by the CoE Commissioner for Human Rights. This official engages in-country assessments to identify deficiencies in the protection of human rights, conducts visits, fosters dialogue with state authorities, and produces thematic reports that provide recommendations for improvement. Notably, individuals and groups have brought various complaints of human rights violations against Slovakia to the ECtHR. One significant case involved a Roma man who was fatally shot during police interrogation regarding an alleged bicycle theft.⁶³ The Court ruled that Slovakia had violated the right to life and failed to conduct a thorough investigation into the incident, underscoring the state's obligation to protect individuals from harm and ensure accountability for law enforcement actions.

As part of its commitment to the Revised European Social Charter, Slovakia is required to submit annual reports to the European Committee of Social Rights, outlining its efforts to implement the provisions contained within the Charter. This obligation reflects Slovakia's engagement with regional human rights standards and its responsibility to demonstrate progress in safeguarding the rights of its citizens.⁶⁴

In addition to its commitments under regional frameworks, Slovakia is an active participant in various international human rights treaties as a UN member state. Its adherence to these treaties places it under the scrutiny of multiple UN human rights mechanisms, including the Human Rights Council, which conducts the Universal Periodic Review and oversees thematic special procedures. Slovakia's policies and practices are assessed by UN treaty bodies, having accepted the complaints procedure established by eight of these entities, which allows for individual complaints regarding alleged human rights violations.⁶⁵

⁶² See the website of the International Justice Resource Center. – Slovakia Factsheet. [Online]. Available at: <https://ijrcenter.org/country-factsheets/country-factsheets-europe/slovakia-factsheet/> (Accessed: 3 September 2024).

⁶³ See *Case of Mižigárová v. Slovakia*, App. no. 74832/01, Judgment of 14 March 2011.

⁶⁴ See the website of the International Justice Resource Center. – Slovakia Factsheet. [Online]. Available at: <https://ijrcenter.org/country-factsheets/country-factsheets-europe/slovakia-factsheet/> (Accessed: 3 September 2024).

⁶⁵ *Ibid.*

Following are among the key international treaties ratified by Slovakia:⁶⁶ the International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR); Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), among others. Notably, Slovakia has entered a reservation that modifies its obligations under the Convention on the Rights of Persons with Disabilities (CRPD). Furthermore, Slovakia has also ratified the Second Optional Protocol to the ICCPR, aimed at abolishing the death penalty, along with several optional protocols to the Convention on the Rights of the Child (CRC), addressing issues such as the involvement of children in armed conflict and prohibition of child trafficking and exploitation.⁶⁷

Slovakia is also obliged to submit regular state reports to the corresponding UN treaty bodies, detailing the measures it has undertaken to implement the provisions of these treaties. This process not only serves to enhance accountability but also facilitates international scrutiny of Slovakia's human rights record. Additionally, Slovakia has accepted optional protocols that empower individuals to file complaints against the state concerning violations of their rights under various human rights treaties, including the ICCPR, ICESCR, CAT, CEDAW, CRPD, CRC, and International Convention on the Elimination of All Forms of Racial Discrimination (CERD). Some UN treaties include inquiry procedures that enable treaty bodies to investigate allegations of severe or systemic human rights violations, and Slovakia has endorsed these mechanisms under the CAT, CEDAW, CRPD, and CRC.⁶⁸

In a notable move towards transparency and cooperation with international human rights mechanisms, Slovakia issued a standing invitation to UN special procedures in March 2001. This invitation allows UN mandate holders to conduct visits to Slovakia, fostering direct engagement with local human rights issues. For instance, the Special Rapporteur on the independence of judges and lawyers visited Slovakia in

⁶⁶ See the website of the Ministry of Foreign and European Affairs of the Slovak Republic. [Online]. Available at: <https://mzv.sk/web/en/diplomacy/human-rights/important-documents-and-human-rights-institutions> (Accessed: 3 September 2024).

⁶⁷ See the website of the International Justice Resource Center. – Slovakia Factsheet. [Online]. Available at: <https://ijrcenter.org/country-factsheets/country-factsheets-europe/slovakia-factsheet/> (Accessed: 3 September 2024).

⁶⁸ Ibid.

2000, resulting in a report⁶⁹ that provided critical insights into the state of judicial independence and accountability within the country.⁷⁰

In summary, Slovakia's relationship with the CoE, viewed through the lens of human rights, is characterised by a robust commitment to international standards, active participation in relevant treaties, and persistent challenges in implementation. The CoE remains an essential partner for Slovakia in its ongoing efforts to advance human rights and fundamental freedoms, with the nation's responses to the recommendations of the CoE being pivotal in shaping the future of its human rights landscape. By engaging with both the CoE and the UN, Slovakia has affirmed its role as a proactive member of the international community, dedicated to the protection and promotion of human rights.

6. Landmark Cases and Human Rights Evolution

Slovakia, as a member of the CoE and a signatory to ECHR, has been subject to the jurisdiction of the ECtHR since its establishment as an independent state. Over the years, the country has been involved in numerous cases brought before the ECtHR, many of which have significantly shaped its human rights landscape. It can be stated that these cases reflect Slovakia's evolving democratic and legal institutions⁷¹ as it transitioned from a post-communist state to a member of the EU.

First of all, it should be highlighted that the cases brought against Slovakia in the ECtHR⁷² have addressed diverse human rights issues, including the right to a fair trial, prohibition of torture and inhuman or degrading treatment, prohibition of discrimination, and property rights. Several of the landmark cases involve the treatment of marginalised communities, especially the Roma population, who have historically faced systemic discrimination and exclusion in various domains of Slovak society, such as education, healthcare, and access to justice. Other important cases

⁶⁹ The report is available here:

<https://www.undocs.org/Home/Mobile?FinalSymbol=E%2FCN.4%2F2001%2F65%2FAdd.3&Language=E&DeviceType=Desktop&LangRequested=False> (Accessed: 15 October 2024).

⁷⁰ See the website of the International Justice Resource Center. – Slovakia Factsheet. [Online]. Available at: <https://ijrcenter.org/country-factsheets/country-factsheets-europe/slovakia-factsheet/> (Accessed: 15 October 2024).

⁷¹ For more information, see Csudai, 2020, pp. 38–53.

⁷² See, for example, Kupcová, 1995, pp. 58–63; Repík, 1993, pp. 6–17.

have dealt with the protection of private and family life,⁷³ the right to a fair trial,⁷⁴ and the right of access to a court.⁷⁵

Through these cases, the ECtHR has played a crucial role in holding Slovakia accountable to its human rights obligations, while also providing individuals with a platform to seek justice when their rights have been violated. The Court's rulings have had far-reaching implications, prompting legislative and policy changes in areas such as education and healthcare and the legal system itself, as well as the treatment of minority groups. These cases are not only important for the individuals involved but have also contributed to the broader development of human rights norms in Slovakia.

According to official sources (last updated July 2024), the Court handled 342 applications concerning Slovakia in 2023. Of these, 323 were deemed inadmissible or were struck out. The Court issued 18 judgments (of 19 applications), with 17 of them identifying at least one violation of the ECHR.⁷⁶

Owing to space limitations in this study, below, I provide an overview of the most important cases related to the subject matter.

6.1. Cases Related to the Right to Life (Article 2)

6.1.1. P.H. v. Slovakia

The case *P.H. v. Slovakia*⁷⁷ is notable as the 11th instance before the Court involving mysterious circumstances surrounding an individual's fall from a police station window. It is the seventh case related to discrimination in such incidents and the fourth specifically addressing alleged discrimination based on the victim's Roma ethnicity. This case also contributes to the six judgments issued against Slovakia regarding police violence targeting Roma individuals.⁷⁸

⁷³ See, for example, cases *Plechlo v. Slovakia*, *Haščák v. Slovakia*, *M.L. v. Slovakia*, *López Guió v. Slovakia*, *Hajduová v. Slovakia*, *Kvasnica v. Slovakia*.

⁷⁴ See, for example, *Erik Adamčo v. Slovakia*, *Vasaráb and Paulus v. Slovakia*, *AI Alo v. Slovakia*.

⁷⁵ See, for example, *Paluda v. Slovakia*, *Lawyer Partners, A.S. v. Slovakia*.

⁷⁶ ECtHR, Press country profile – SLOVAKIA, 2024, p. 1. See also Máčaj, 2023, pp. 23–34.

⁷⁷ App. No. 37574/19.

⁷⁸ Várnagy, 2022.

The applicant, a 16-year-old girl, was apprehended for petty theft in a shopping mall.⁷⁹ During her transport to a police station, she alleged that two officers slapped her and made derogatory comments about her ethnicity.⁸⁰ Her brother witnessed her arrival in tears and heard shouting from the room where she was taken.⁸¹ Shortly after, he saw officers rush down the stairs, claiming she had jumped out of a window.⁸² According to police, she was compliant, and her release had been ordered just before she requested to use the restroom. A male officer escorted her to the bathroom but turned his back while she was inside. The window through which she fell was 7.7 m above the ground and could be opened by tilting. Initially, the officer stated that he saw her fall out from the corner of his eye but later changed his account, stating that he found her on the ground after hearing a noise.⁸³

The applicant survived but was placed in a medically induced coma⁸⁴ and has no memory of the events. Criminal investigations were launched against unidentified officers for failing to prevent her escape, but she was only interviewed a month and a half later.⁸⁵ The prosecutor ultimately determined that criminal prosecution was unnecessary and recommended addressing the failure to prevent her fall as a disciplinary matter.⁸⁶

The applicant's attorney sought clarification on whether the alleged mistreatment and her fall were connected and requested interviews with her mother and brother. However, the investigator rejected these requests, stating they were unwarranted. The proceedings were closed for several reasons, including the prosecutor deeming the alleged mistreatment "improbable" and finding it dubious that the applicant could remember only the mistreatment during transport.⁸⁷

⁷⁹ App. No. 37574/19, para. 5.

⁸⁰ Ibid., para. 9.

⁸¹ Ibid., para. 5.

⁸² Ibid., para. 17.

⁸³ Ibid., paras. 10–17.

⁸⁴ Ibid., paras. 19 and 20.

⁸⁵ Ibid., para. 24.

⁸⁶ See Ibid., paras. 23–34.

⁸⁷ Ibid., paras. 31., 32., 42. and 45. See also the press release on the website of the Ministry of Justice of Slovakia titled The ECtHR has ruled in the case *P. H. v. Slovak Republic*. Available at: <https://www.justice.gov.sk/tlacovespravy/tlacova-sprava-3737/> (Accessed: 15 September 2024).

In her application to the ECtHR,⁸⁸ invoking Articles 2, 3, 6, 13, and 14 of the ECHR, the applicant argued she faced ill-treatment by the police, that the state failed to safeguard her well-being in custody, that the investigation was ineffective, and that these issues were compounded by discrimination due to her ethnicity and mental disability. The Court stressed the need for a comprehensive approach to evaluate her complaints, particularly regarding the connection between the incidents.

Regarding Article 3, the Court found insufficient evidence to substantiate the applicant's claims of ill-treatment during transport. As she had no memory of other details, her assertion that mistreatment continued at the police station could not be corroborated. Consequently, the Court dismissed these claims as insufficiently credible to trigger procedural obligations under Article 3.

Under Article 2, the Court identified procedural failings, noting that investigations into her fall and the alleged ill-treatment were conducted separately, without considering their possible link. It criticised the lack of efforts to resolve inconsistencies in police statements and the failure to explore procedural avenues to grant the applicant victim status. These shortcomings led to a procedural violation of Article 2. The Court found a substantive violation as well, noting that the officer's omission in supervising the applicant breached the state's duty to protect individuals in custody.⁸⁹

The Court briefly dismissed the discrimination claim under Article 14, concluding that as no ill-treatment had been proven, there was no basis for a discriminatory motive.⁹⁰

A key issue in this judgment, as in much of the Court's case law on anti-Roma police violence, is its reliance on a strict standard of proof beyond a reasonable doubt and its reluctance to shift the burden of proof from the applicant to the state. This tendency favours respondent governments, apparent in the Court's rigorous scrutiny of the applicant's evidence compared with that of the state, particularly regarding the claim of being slapped, and its acceptance of the state's assertion that the applicant's fall was "inexplicable".⁹¹

⁸⁸ Cf. Dembour, 2022.

⁸⁹ Várnagy, 2022.

⁹⁰ App. No. 37574/19, part C point 6.

⁹¹ Várnagy, 2022.

6.1.2. Kontrová v. Slovakia

Another significant case is *Kontrová v. Slovakia*⁹² – recognised as one of the first cases in which the ECtHR acknowledged the violation of rights due to a state's failure to protect individuals from domestic violence. This case, akin to *Opuz v. Turkey*,⁹³ established a standard for when governments are required to intervene in private matters.⁹⁴

The applicant, a married mother of two, filed a criminal complaint against her husband for assaulting her with an electric cable, accompanied by a medical report indicating that her injuries would incapacitate her for up to seven days. She also detailed a history of physical and psychological abuse. A few weeks later, while attempting to withdraw her complaint, a police officer informed her that she needed to provide a medical report proving that her incapacity did not exceed six days. After submitting the necessary documentation, the officer decided to handle the case under the Minor Offences Act and chose not to pursue further action, which set the stage for a tragic turn of events.⁹⁵

In late December, the applicant's husband threatened to harm himself and their children while armed with a shotgun. After police responded and found the applicant, her husband fled the scene. The following day, she returned to the police station to discuss the incidents but tragically, on the last day of the year, her husband killed their two children before taking his own life. This devastating incident highlighted the severe consequences of the authorities' inadequate response to the applicant's earlier complaints of domestic violence.⁹⁶

The ECHR found that the police failed to fulfil their obligations, including neglecting to register the applicant's complaint, initiating an immediate investigation, and adequately recording emergency calls and failing to act on allegations regarding her husband's possession of a shotgun. The Court concluded that the tragic shooting was a direct result of police inaction.⁹⁷

⁹² App. No. 7510/04.

⁹³ App. No. 33401/02.

⁹⁴ Abdel-Monem, 2009.

⁹⁵ For more, see the circumstances of the case – App. No. 7510/04, part A paras. 1–4.

⁹⁶ Ibid.

⁹⁷ App. No. 7510/04, part A para. 2

The Supreme Court of Slovakia (*Najvyšší súd Slovenskej republiky*) had previously annulled lower court decisions that dismissed the case, establishing that the officers neglected their responsibilities and confirming a causal relationship between their unlawful conduct and the fatal outcome. Ultimately, the District Court found the responsible officers guilty (three of them) and imposed sentences of imprisonment (of six months for one and four months for two).⁹⁸

The ECHR ruled that the applicant lacked an effective national remedy to claim compensation for non-pecuniary damages resulting from her children's deaths, linked directly to the government's failure to fulfil its positive obligations under Article 2 of the Convention. The government argued that the applicant should have pursued actions for personal integrity protection, citing previous cases. However, the Court dismissed this argument, noting the lack of consistent case law supporting the effectiveness of such a remedy at the time of the events.⁹⁹

In summary, this case illustrates the tragic consequences of domestic violence and the crucial obligation of the state to protect individuals in such situations. The ECHR ruling reinforced the principle that authorities have a positive obligation to intervene when there is a clear and immediate danger to individuals.¹⁰⁰

6.1.3. Other Important Cases

In the case *Dvořáček and Dvořáčková v. Slovakia*,¹⁰¹ in addition to the traditional recognition of a violation of Article 6 of the Convention, the Court also found a violation of Article 2 of the Convention in its procedural aspect. This is formally the same but substantively a different provision compared with the abovementioned judgment in the case *Kontrová v. Slovakia*. The procedural aspect of the relevant article in connection with this case does not impose a positive obligation on the state to prevent an event that could result in the loss of a person's life, but rather the requirement for the state to promptly and adequately investigate the circumstances surrounding the death of the couple's daughter, who suffered from Down syndrome and heart and lung damage, and died at the age of 23

⁹⁸ Ibid.

⁹⁹ App. No. 7510/04.

¹⁰⁰ Abdel-Monem, 2009, p. 30.

¹⁰¹ App. No. 30754/04.

years. The investigation had been ongoing since 1987, and although the Convention has been applicable since 1993, the Court deemed it unreasonably lengthy. The couple had approached the relevant authority – in this case, the district office – in 1987, complaining that inadequate healthcare had harmed their daughter's health. The Court acknowledged the couple's grievances and ruled that there had been a violation of Article 2 of the Convention in its procedural aspect.¹⁰²

In the case *Mižigárová v. Slovakia*,¹⁰³ the applicant claimed a violation of her right to life under Article 2 of the Convention, asserting that her husband's death was a result of a serious injury sustained while in police custody. She argued that the Slovak authorities failed to conduct a comprehensive and factual investigation into the circumstances surrounding his death. Additionally, the applicant alleged a violation of Article 3, contending that her husband experienced ill-treatment while in police custody and that the authorities did not perform an adequate investigation into this mistreatment. Furthermore, she asserted that she lacked an effective remedy for her complaints under Articles 2 and 3, as required by Article 13 of the Convention. The applicant maintained that her rights, as well as those of her deceased husband, were violated under Articles 2, 3, and 13, in conjunction with Article 14, based on ethnic origin.¹⁰⁴

6.2. Cases Related to Inhuman or Degrading Treatment

The case *Labsi v. Slovakia*¹⁰⁵ concerned the expulsion of Yassine Labsi, an Algerian national convicted in France for preparing a terrorist act, who sought asylum in Slovakia. This landmark judgment by the ECtHR had significant implications for the prohibition of torture and inhuman or degrading treatment under Article 3 of the ECHR, as well as violations of Article 13 (right to an effective remedy) and Article 34 (right of individual petition).

Labsi fled to Slovakia after his conviction in France, fearing persecution and ill-treatment if he returned to Algeria. He argued that his status as a terrorist suspect would likely result in torture by Algerian

¹⁰² For more information, see the facts of the case (App. No. 30754/04).

¹⁰³ App. No. 74832/01.

¹⁰⁴ See the press release on the website of the Ministry of Justice of the Slovak Republic. [Online]. Available at: <https://www.justice.gov.sk/tlacovespravy/tlacova-sprava-1319/> (Accessed: 16 September 2024).

¹⁰⁵ App. No. 33809/08.

authorities. However, Slovak authorities denied his asylum application and ordered his expulsion, deporting him to Algeria in 2010 before the ECtHR could adjudicate his claims.¹⁰⁶

The ECtHR found that Slovakia violated Article 3 by exposing Labsi to a real risk of torture and ill-treatment upon his return to Algeria. The Court emphasised that the prohibition against torture is absolute and cannot be overridden by national security concerns or terrorism allegations. The deportation of Labsi represented a clear violation of this fundamental right.¹⁰⁷ Additionally, the Court addressed Slovakia's failure to provide Labsi with an effective remedy under Article 13, noting that the Slovak legal system did not allow him to effectively challenge his deportation given the serious risks he faced in Algeria. The absence of a real remedy highlighted deficiencies in Slovakia's legal framework for individuals facing expulsion to countries with substantial risks of torture or persecution.¹⁰⁸

A further violation of Article 34 occurred when Slovakia proceeded with Labsi's expulsion while his case was still pending before the ECtHR, undermining his right to individual petition. By deporting Labsi, Slovakia interfered with the Court's ability to protect him from potential harm, rendering any subsequent judgment ineffective in preventing his ill-treatment.¹⁰⁹

The present case affirms crucial principles of human rights law. It solidified the absolute nature of Article 3 protections, clarifying that states cannot justify violations based on terrorism or public safety concerns. In my view, the ruling underscored the necessity for effective legal remedies for individuals facing serious rights violations, particularly asylum seekers. Moreover, it emphasised the importance of respecting the right of individual petition, reminding states not to interfere with access to the ECtHR.

Moreover, this case has significant legal and political ramifications, highlighting Slovakia's need to align its asylum system with international human rights standards, especially concerning deportations to countries where individuals face torture. The judgment serves as a critical reminder to

¹⁰⁶ See the details of the case.

¹⁰⁷ See the press release on the website of the Ministry of Justice of the Slovak Republic. [Online]. Available at: <https://www.justice.gov.sk/tlacovespravy/tlacova-sprava-1592/> (Accessed: 16 September 2024).

¹⁰⁸ Ibid.

¹⁰⁹ App. No. 33809/08, point IV.

all member states of the CoE about their obligations under the Convention, reinforcing that human rights must be upheld even under challenging circumstances.

It can be stated that the case presented is a key case in ECtHR jurisprudence, particularly regarding the absolute prohibition of torture under Article 3 and the right to an effective remedy under Article 13. It reaffirms that states cannot compromise human rights protections for national security reasons and highlights the need for effective legal safeguards for individuals facing deportation.

6.3. Cases Related to the Right to Liberty and Security

The case *Shiksaitov v. Slovakia*¹¹⁰ focuses on the arrest and detention of Mr. Shamil Shiksaitov, a Chechen national facing extradition proceedings in Slovakia, despite holding refugee status in Sweden. This case raises significant issues related to international human rights law, particularly the protection of refugees, the legality of detention, and the extradition process. He was granted refugee status in Sweden, which recognised his need for protection from persecution if he returned to Russia. Nevertheless, Slovakia arrested him with the intent to extradite him to Russia, where he faced potential threats to his life and security. The circumstances surrounding his arrest and subsequent detention prompted legal proceedings before the ECtHR.¹¹¹

At the heart of the case is Slovakia's decision to act on an extradition request from Russia despite Shiksaitov's refugee status under Swedish law. This action raised questions about Slovakia's adherence to international legal obligations, particularly the non-refoulement principle, which prohibits returning refugees to countries where they could face persecution. This principle is fundamental to international refugee law, ensuring that individuals such as Shiksaitov are not forcibly returned to places where their basic rights, including the right to life and freedom from torture, may be compromised.¹¹²

Shiksaitov's detention was scrutinised under Article 5, para. 1 of the ECHR, which safeguards the right to liberty and security. This provision allows detention only under strict legal frameworks, ensuring lawful and proper procedures are followed. The Court determined that Slovakia had

¹¹⁰ App. Nos. 56751/16 and 33762/17.

¹¹¹ See the details of the case.

¹¹² Cf. App. Nos. 56751/16 and 33762/17, part II. para 27.

unlawfully detained Shisksaitov in the extradition context, violating his right to liberty. The detention lacked sufficient legal justification, especially given his refugee status, which should have been a crucial factor before any arrest.

Additionally, the Court addressed Article 5, para. 5, which guarantees the right to compensation for unlawful detention. The judgment confirmed Slovakia's failure to provide Shisksaitov with an enforceable right to seek compensation for his unlawful detention, revealing significant flaws in Slovakia's handling of the extradition process and highlighting broader compliance issues with international legal standards.¹¹³

In my view, this case is particularly significant as it reflects the tensions between state security concerns and obligations under international human rights law, especially regarding individuals labelled as threats by their home countries. Shisksaitov faced accusations of involvement in criminal activities tied to his Chechen origin, but his refugee status indicated that these claims may have stemmed from political persecution. Slovakia's decision to detain and potentially extradite him, without fully considering this context, questioned its commitment to the protections afforded under the Convention.

The ECtHR ruled that Slovakia violated both paras. 1 and 5 of Article 5, underscoring the state's duty to comply with human rights standards when dealing with individuals under international protection. I think that the case serves as a reminder that the legal status of refugees and asylum seekers must be respected, particularly concerning extradition and international criminal allegations.

The judgment presented reinforces the necessity for states to thoroughly consider the legal and human rights status of individuals facing extradition. It emphasises the absolute protection granted by refugee status, requiring states to adhere to international human rights obligations rather than succumbing to external political or security pressures that could jeopardise the individual's life or well-being. Ultimately, the case highlights the importance of safeguarding fundamental rights, even amid complex geopolitical challenges.

¹¹³ App. Nos. 56751/16 and 33762/17, part III.

6.4. Cases Related to Freedom of Expression

The case *Ringier Axel Springer Slovakia, a.s. v. Slovakia (no. 4)*¹¹⁴ focused on freedom of expression under Article 10 of the ECHR. It arose from a television program where a well-known Slovak singer allegedly supported marijuana legalisation. The journalist hosting the show did not oppose this view, prompting Slovak regulatory authorities to fine the broadcaster, claiming the program implicitly endorsed drug legalisation contrary to national law and social policies. The fine was justified by the assertion that media should promote responsible social messages, and the broadcast was seen as a violation of this responsibility. In response, Ringier Axel Springer Slovakia argued that the fine violated its freedom of expression, asserting that the role of journalism is to inform and stimulate debate on public interest issues without adopting a specific stance. The ECtHR reviewed the case, affirming that freedom of expression includes not only favourable information but also ideas that may offend or disturb. The Court ruled that the fine constituted disproportionate interference with the broadcaster's rights, concluding that the journalist's comments were not harmful enough to warrant such a severe penalty. The mere airing of a controversial opinion, particularly in a public debate, does not equate to promoting illegal behaviour. The Court emphasised that the regulatory authority's actions were overly restrictive and lacked justification for imposing financial penalties instead of less intrusive measures. Consequently, the ECtHR found a violation of Article 10, highlighting the importance of protecting media freedom in discussions of public concern. This ruling reinforced the role of journalists in fostering debate on controversial topics while balancing state interests with the fundamental right to freedom of expression.¹¹⁵

The cases *Ringier Axel Springer Slovakia, A.S. v. Slovakia (no. 2)*¹¹⁶ and *Ringier Axel Springer Slovakia, A.S. v. Slovakia (no. 3)*¹¹⁷ addressed critical issues regarding media liability and freedom of expression under Article 10 of the ECHR. Both cases involved the Slovak media company, which faced legal repercussions for articles published in its widely circulated newspaper, *Nový Čas*.

In the first case, the company was liable for publishing an article that revealed the identities of a car accident victim and his father without

¹¹⁴ App. No. 26826/16.

¹¹⁵ Gönczi, 2024.

¹¹⁶ App. No. 21666/09.

¹¹⁷ App. No. 37986/09.

consent, violating their right to privacy. Slovak courts imposed sanctions for this intrusion. The company challenged these sanctions, arguing they infringed upon its freedom of expression. In the second case, the company was found liable for alleging that a contestant on *Who Wants to Be a Millionaire?* had cheated, leading to a defamation ruling due to insufficient factual basis. The ECtHR determined that the Slovak courts failed to balance competing rights adequately and found the penalties against Ringier Axel Springer Slovakia excessive, identifying violations of Article 10 of the ECHR.¹¹⁸

These judgments underscored the need for domestic courts to evaluate the role of journalism in democratic societies and the appropriate limits on press freedom, affirming the protection afforded to the media in public debates on topics of legitimate interest.

6.5. Other Relevant Cases and Decisions

This section of the country report focuses on a few significant cases adjudicated by the ECtHR that address various violations of rights protected under the ECHR.

In *Lakatošová and Lakatoš v. Slovakia*,¹¹⁹ the Court dealt with a grave incident that occurred in 2012 involving a shooting spree by an off-duty police officer targeting a Roma family. The two applicants, who were a married couple, suffered serious injuries during this tragic event, which also resulted in the deaths of three family members. The Court found a violation of Article 14 in conjunction with Article 2, highlighting the systemic failure of Slovak authorities to protect the applicants from racially motivated violence. This case underscores the importance of state obligations in safeguarding vulnerable communities against discrimination and hate crimes.¹²⁰

Another pivotal case is *Urbárska obec Trenčianske Biskupice and Ján Krátky v. Slovakia*.¹²¹ In this case, the Court examined the compulsory leasing of land owned by the applicant association and its subsequent

¹¹⁸ See the details of the cases mentioned.

¹¹⁹ App. No. 655/16.

¹²⁰ See the press release issued by the Registrar of the Court ECHR 429 (2018) titled Slovakian authorities failed to investigate possible racist motive in shooting by off-duty police officer at Roma family's home. [Online]. Available at: [https://hudoc.echr.coe.int/eng-press#%22itemid%22:\[%22003-6276502-8178452%22\]](https://hudoc.echr.coe.int/eng-press#%22itemid%22:[%22003-6276502-8178452%22]) (Accessed: 10 October 2024).

¹²¹ App. No. 74258/01.

transfer to tenants, raising significant concerns regarding property rights. The Court ultimately concluded that the state's actions constituted a violation of Article 1 of Protocol No. 1, which protects the right to property. This ruling emphasised the need for states to respect and protect individuals' property rights against arbitrary state actions.¹²²

The Court also addressed issues related to the collective expulsion of aliens in *Asady and Others v. Slovakia*.¹²³ This case revolved around the expulsion of the applicants to Ukraine by Slovak police. The Court found no violation of Article 4 of Protocol No. 4, indicating that the procedures employed by the authorities complied with the Convention's stipulations concerning the collective expulsion of aliens. This decision illustrates the balance that the Court seeks to maintain between state sovereignty and the protection of individuals' rights under international law.

In a series of cases involving the sterilisation of Roma women without informed consent, the Court issued several judgments that highlighted grave violations of human rights. In *I.G., M.K. and R.H. v. Slovakia*,¹²⁴ the Court identified violations of Article 3 concerning treatment and investigation for the first two applicants, who claimed they were sterilised without their consent. Additionally, the Court found violations of Article 8, which protects the right to respect for private and family life. However, the Court found no violation of Article 13 regarding the right to an effective remedy for the same applicants. As for the third applicant, the Court decided to strike her case from the list, indicating that the claims did not warrant further examination.

In the case *N.B. v. Slovakia*,¹²⁵ the Court established a violation of Article 3 concerning the treatment of the applicant while finding no violation related to the investigation. Furthermore, the Court recognised a violation of Article 8 concerning respect for private and family life. Similarly, *V. C. v. Slovakia*¹²⁶ revealed violations of Article 3 concerning inhuman or degrading treatment and Article 8 regarding the right to private

¹²² See also Máčaj, 2019, p. 84.

¹²³ See the press release issued by the Registrar of the Court ECHR 099 (2020) titled Slovakian police did not subject Afghani nationals to collective expulsion when they returned them to Ukraine. [Online]. Available at: <https://hudoc.echr.coe.int/eng-press%7B%22itemid%22:%5B%22003-6669602-8870570%22%5D%7D> (Accessed: 10 October 2024).

¹²⁴ App. No. 15966/04.

¹²⁵ App. No. 29518/10.

¹²⁶ App. No. 18968/07.

and family life. These cases reflect the Court's commitment to upholding the dignity and autonomy of individuals, particularly marginalised groups such as the Roma community.¹²⁷

Another notable judgment, *K.H. and Others v. Slovakia*,¹²⁸ addressed violations of Article 6, para. 1 related to access to a court and Article 8 regarding respect for private and family life. In this instance, the Court found no violation of Article 13 concerning the right to an effective remedy in conjunction with Article 8. This decision further illustrates the complex interplay between various rights under the Convention and the obligations of states to uphold them.

In terms of noteworthy decisions delivered, the Court rejected a *request for an advisory opinion under Protocol No. 16 to the Convention* on 19 November 2020. The request,¹²⁹ submitted by the Supreme Court of Slovakia, was deemed inadmissible because it did not pertain to an issue requiring guidance from the Court to ensure compliance with Convention rights in a pending case.¹³⁰

Additionally, the case *Ali Nurdinovich Ibragimov v. Slovakia* and *Anzor Chentiev v. Slovakia*¹³¹ addressed extradition orders concerning two Russian nationals of Chechen origin. The Court found the complaints regarding Articles 2, 3, and 6, para. 1 to be manifestly ill-founded and declared them inadmissible, emphasising the rigorous standards required for claims under the Convention.

Furthermore, the case *Cviková v. Slovakia*¹³² was communicated to the Government of the Slovak Republic (*Vláda Slovenskej republiky*) on 2 November 2021. This case highlights the continuing scrutiny of Slovakia's adherence to its obligations under the Convention and the importance of accountability in safeguarding human rights.¹³³ The ECHR in Strasbourg

¹²⁷ See also Curran, 2016, p. 148.

¹²⁸ App. No. 32881/04.

¹²⁹ No. P16-2020-001.

¹³⁰ See the press release issued by the Registrar of the Court ECHR 072 (2021) titled A request by the Supreme Court of the Slovakia for an advisory opinion under Protocol No. 16 has not been accepted. [Online]. Available at: [https://hudoc.echr.coe.int/eng-press%22itemid%22:\[%22003-6951760-9351452%22\]}](https://hudoc.echr.coe.int/eng-press%22itemid%22:[%22003-6951760-9351452%22]}) (Accessed: 10 October 2024).

¹³¹ App. No. 65916/10.

¹³² App. Nos. 615/21, 9427/21 and 36765/21.

¹³³ ECtHR, Press country profile, Slovakia, p. 5.

ruled¹³⁴ on 13 June 2024 in favour of Slovak judge Denisa Cvíková, determining that her rights to personal freedom had been violated due to the prolonged duration of her police custody.¹³⁵ In March 2020, the Specialized Criminal Court (*Špecializovaný trestný súd*) ordered the detention of Judge Cvíková and several other judges from Bratislava, who faced charges of corruption, obstructing justice, and interfering with judicial independence. Although the court released Cvíková from custody in August of the same year, this decision was reversed by the Supreme Court in October. Cvíková's appeal to the Constitutional Court was also rejected. Subsequently, she sought relief from the ECHR, arguing that her detention was arbitrary and violated her rights. She also filed for damages. The Justice Ministry indicated that while the ECHR found the initial decision to detain her to be relevant and justified – without signs of arbitrariness – this changed once the Supreme Court denied her appeal. As the corruption charges were brought against her during Operation Storm in 2020, Cvíková's position as a judge has been suspended.¹³⁶

In summary, these significant cases demonstrate the critical role that the ECtHR plays in addressing and rectifying violations of fundamental rights in Slovakia. Through its judgments, the Court has reinforced the principle that states must uphold their obligations under the Convention, ensuring that all individuals are afforded the protection of their rights, regardless of their background or circumstances.

7. Conclusions

The evolution of human rights in Slovakia is deeply intertwined with the country's complex political and historical path. From its period within the Austro-Hungarian Empire, through the creation of Czechoslovakia after World War I, and later under communist rule, Slovakia's human rights framework developed in parallel with its changing political landscape. After the fall of communism in 1989 and the peaceful dissolution of Czechoslovakia in 1993, Slovakia entered a new era as an independent state,

¹³⁴ The ECtHR found her initial detention lawful and only ruled against the extended detention after August 2020.

¹³⁵ Kmet', 2024.

¹³⁶ See the press release of the News Agency of the Slovak Republic (*Tlačová agentúra Slovenskej republiky*) titled Strasbourg Court Found Judge Cvíková's Rules Violated, Awards Compensation. [Online]. Available at: <https://etasr.sk/article/20803378> (Accessed: 14 October 2024).

with human rights and freedoms becoming central to its legal and constitutional identity.

Slovakia's integration of the ECHR into its legal system follows a dualistic model, where international treaties, once ratified and published, become an integral part of the national legal framework. The Slovak Constitution grants these international human rights treaties a form of superlegislative authority, meaning that they take precedence over ordinary domestic laws but remain subordinate to constitutional norms.

Slovakia has been a party to the ECHR since 1993, along with its additional protocols, and the ECHR plays a significant role in shaping Slovakia's human rights framework. The ECtHR has adjudicated numerous cases against Slovakia, dealing with violations under various articles of the ECHR. Common issues in these cases include the right to liberty, security, and private life, and the right to a fair trial. Notable cases include decisions on unlawful detention, unfair trial procedures, and violations of private and family life, among others.

One notable challenge for Slovakia is its high number of cases being heard at the ECtHR, which has sometimes led to reforms in procedural and legal standards, particularly regarding the right to fair trial and due process and protection against unlawful detention. Despite reforms, systemic issues such as excessive length of judicial proceedings and prison overcrowding continue to bring Slovakia before the ECtHR. Additionally, the country has faced several cases related to racial discrimination, which has drawn international scrutiny.

Domestically, the implementation of ECtHR judgments is overseen by the Slovak judiciary and relevant government ministries. Legislative reforms have been implemented over the years to address the Court's rulings. However, some rulings indicate ongoing challenges in fully aligning national practices with ECHR standards.

Overall, the ECHR remains a critical instrument in ensuring Slovakia's compliance with European human rights standards, but its effective implementation at the national level is an ongoing process, influenced by both legal reforms and societal developments.¹³⁷

¹³⁷ Blaško and Kučera, 2016, pp. 401–424.

Bibliography

- [1] Abdel-Monem, T. (2009) *Opuz v. Turkey: Europe's Landmark Judgment on Violence against Women*. Publications of the University of Nebraska Public Policy Center, 38. [Online]. Available at: <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1037&context=publicpolicypublications> (Accessed: 10 October 2024).
- [2] A Schabas, W. (2015) *The European Convention on Human Rights: A Commentary*. Oxford: Oxford University Press; <https://doi.org/10.1093/law/9780199594061.001.0001>.
- [3] Blaško, M., Kučera, M. (2016) 'How the Convention has helped Slovakia in its transition to a consolidated democracy', in Motoc, I., Ziemele, I. (eds.) *The Impact of the ECHR on Democratic Change in Central and Eastern Europe*. Cambridge: Cambridge University Press; <https://doi.org/10.1017/CBO9781316471340.020>.
- [4] Bobek, M., Kosař, D. (2010) *The application of European Union law and the law of the European Convention of Human Rights in the Czech Republic and Slovakia – an overview*. Prague: Czech Society for European and Comparative Law.
- [5] Csudai, E. (2020) *Inštitucionálna ochrana ľudských práv Slovenskej republiky v komparácii s Českou republikou*. Sociálne vedy z perspektívy mladých vedeckých pracovníkov IV; <https://doi.org/10.34135/svpmvpIV.191005>.
- [6] Curran, S. (2016) 'Intersectionality and Human Rights Law: An Examination of the Coercive Sterilisations of Romani Women', *The Equal Rights Review* 2016(16), pp. 132–159.
- [7] Dembour, M-B. (2022) *The escape of the state: No shift in the burden of the proof and no anti-Roma discrimination by the police in P.H. v Slovakia* [Online]. Available at: <https://dissect.ugent.be/the-escape-of-the-state-no-shift-in-the-burden-of-the-proof-and-no-anti-roma-discrimination-by-the-police-in-p-h-v-slovakia/> (Accessed: 10 October 2024).

[8] Drgonec, J. (2007) *Ústava Slovenskej republiky: komentár*. Šamorín: Heuréka.

[9] Erdősová, A. (2022) 'The Constitutional Development of Slovakia', in Csík, L., Trócsányi, L. (eds.) *Comparative Constitutionalism in Central Europe: Analysis on Certain Central and Eastern European Countries*. Miskolc–Budapest: Central European Academic Publishing. pp. 149–172; https://doi.org/10.54171/2022.lcslt.ccice_9.

[10] Gönczi, G. (2021) *Mikor felel a sajtó az interjúalany kijelentéseiért?*, [Online]. Available at: <https://ejeb.atlatszo.hu/2021/10/21/mikor-felel-a-sajto-az-interjualany-kijelenteseiert/> (Accessed 14 October 2024).

[11] Hodás, M. (2016) *Historický vývoj ľudských práv a ústavného štátu (a niektoré súčasné výzvy)*. Bratislava: História ľudských práv.

[12] Kmet', M. (2024) *Rozsudok Európskeho súdu pre ľudské práva vo veci Cvíková v. Slovensko - zhrnutie podstatných častí*, [Online]. Available at: <https://www.pravnelisty.sk/rozhodnutia/a1430-rozsudok-europskeho-sudu-pre-ludske-prava-vo-veci-cvikova-v-slovensko-zhrnutie-podstatnych-casti> (Accessed: 9 October 2024).

[13] Kollár, M. (2014) *Celoštátna stratégia ochrany a podpory ľudských práv v Slovenskej republike*. [Online]. Available at: https://hsr.rokovania.sk/data/att/146908_subor.pdf (Accessed: 9 October 2024).

[14] Krzyżanowska-Mierzewska, M. (2008) 'The Reception Process in Poland and Slovakia', in Keller, H., Stone Sweet, A. (eds.) *A Europe of Rights: The Impact of the ECHR on National Legal Systems*. Oxford: Oxford University Press; <https://doi.org/10.1093/acprof:oso/9780199535262.003.0009>.

[15] Kupcová, Z. (1995) 'Z judikatúry Európskej komisie pre ľudské práva a Európskeho súdu pre ľudské práva, *Justičná revue*, 47(3-4), pp. 58–63.

[16] Máčaj, A. (2019) ‘Zásahy do práva vlastniť majetok v kontexte nájmu bytov a následky pre právny poriadok Slovenskej republiky’, *HTI*, 11(1), pp. 79–86.

[17] Máčaj, A. (2023) ‘Slovakia before the European Court of Human Rights in recent years – an upcoming fair trial’, *Slovak Yearbook of European Union Law*, 2023/3, pp. 23–34; <https://doi.org/10.54869/syeul.2023.3.818>.

[18] Mokrá, L. (2021) *Internal dimension of human rights in the European Union*. Bratislava: C. H. Beck.

[19] Pirošíková, M. (2013) *Crime victims' rights from the perspective of ECHR case law*, [Online]. Available at: https://jazr.sk/files/Pirosikova_Crime%20victims'%20rights%20from%20the%20perspective%20of%20ECHR%20case%20law.pdf (Accessed: 21 September 2024).

[20] Pirošíková, M., Bálintová, M. (2017) *Vybrané rozhodnutia ESĽP pre ľudské práva vo vzťahu k SR*. Bratislava: Wolters Kluwer.

[21] Poláková, A. (2007) ‘Zákaz diskriminácie z pohľadu Dohovoru o ochrane ľudských práv a základných slobôd a judikatúry Európskeho súdu pre ľudské práva’, *Justičná revue*, 59(5), pp. 662–670.

[22] Procházka, R. (2002) ‘Európsky dohovor o ľudských právach v slovenskom ústavnom poriadku’, *Časopis pro právní vědu a praxi*, 10(3), pp. 215–219.

[23] Repík, B. (2002) *Evropská úmluva o lidských právech a trestní právo*. Praha: Orac.

[24] Skaloš, M. (2012) ‘The state succession after the dismemberment of the Czech and Slovak Federative Republic’, in *Dny práva 2012: sborník příspěvků*, 6. ročník mezinárodní konference pořádané Právnickou fakultou Masarykovy univerzity, Brno – 20 let po rozpadu čs. federace - co nás spojuje a rozděluje. Brno: Masarykova univerzita.

- [25] Šikuta, J., Svák, J. (2008) ‘Dohovor na ochranu ľudských práv a základných slobôd v systéme vnútroštátneho práva’, *Notitiae ex Academia Bratislavensi Iurisprudentiae*, 1/2008, pp. 80–87.
- [26] Várnagy, E. (2022) *P.H. v Slovakia: When the concept of discrimination goes out the window at the Strasbourg Court*, [Online]. Available at: <https://strasbourgobservers.com/2022/10/14/p-h-v-slovakia-when-the-concept-of-discrimination-goes-out-the-window-at-the-strasbourg-court/> (Accessed: 9 October 2024).
- [27] ECtHR (2024) *Press country profile – Slovakia*, [Online]. Available at: https://www.echr.coe.int/documents/d/echr/cp_slovak_republic_eng (Accessed: 10 October 2024).
- [28] European Union Agency for Fundamental Rights (2019) *The EU Charter of Fundamental Rights in Slovakia*. Strasbourg: European Union Agency for Fundamental Rights. <https://doi.org/10.2811/20007>.