

# **Legal environment and space of civil society organisations in supporting fundamental rights and the rule of law**

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## Contents

1	Civic space developments in 2021 .....	3
1.1	The mechanism for the implementation of the Recovery and Resilience Plan of the Slovak Republic and participation of CSOs .....	3
1.2	New policy document on civil society development.....	4
1.3	Participation of CSOs in the preparation, implementation and monitoring of the use of EU funds for upcoming period 2021 - 2027 .....	5
2	Examples of civil society contributions to the rule of law.....	7
2.1	CSOs advocating for the rights of children and young people to education during pandemic .....	7
2.2	CSOs campaign against the limitation of access to abortions.....	8
2.3	Changes in the law on construction of motorways criticised by CSOs.....	9
3	Other relevant developments.....	10
3.1	Website MojaPeticia.sk .....	10

# 1 Civic space developments in 2021

<b>1.1 The mechanism for the implementation of the Recovery and Resilience Plan of the Slovak Republic and participation of CSOs</b>	
Area	Participation and cooperation with authorities
Topic	Access to consultations / participation in decision-making
Impact	Major

In April 2021, the Government approved the Recovery and Resilience Plan of the Slovak Republic (RRP). Throughout 2021, other policy documents and legislation were adopted to enable the implementation of the RRP. As for the implementation of RRP, the participation of CSOs is planned throughout the Governmental Council for Implementation of Recovery and Resilience Plan<sup>1</sup>. The statute of the Governmental Council lists among relevant stakeholders also concrete CSOs<sup>2</sup>. The Governmental Council is an advisory and consultative body of the Government for the issues related to the implementation of the RRP and to ensure dialogue with participating stakeholders (including listed CSOs)<sup>3</sup>. In fact, the legislation on the implementation of RRP does not specify any executive powers that the Governmental Council would have in relation to the implementation of the RRP<sup>4</sup>. In December 2021, around 60 organizations including NGOs, professional associations and other stakeholders called on the Prime Minister to involve non-state actors in the implementation of RRP since they viewed the participation of NGOs in the implementation of RRP as not sufficient. They expressed concerns about the implementation of the reforms and offered the relevant state administration bodies their expertise and assistance. As the organizations mention, not even their comments on policy documents (the Statute of the

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<sup>1</sup> Slovakia, Government of the Slovak Republic (Vláda SR), [Štatút Rady vlády Slovenskej republiky pre Plán obnovy a odolnosti](#) (Statute of the Council of the Government of the Slovak Republic for the Recovery and Resilience Plan), adopted by the Government on 14 December 2021.

<sup>2</sup> Slovakia, Government of the Slovak Republic (Vláda SR), [Štatút Rady vlády Slovenskej republiky pre Plán obnovy a odolnosti](#) (Statute of the Council of the Government of the Slovak Republic for the Recovery and Resilience Plan), Article 4, paragraph 4 ad – ak), adopted by the Government on 14 December 2021, available at:

<sup>3</sup> Slovakia, Government of the Slovak Republic (Vláda SR), [Štatút Rady vlády Slovenskej republiky pre Plán obnovy a odolnosti](#) (Statute of the Council of the Government of the Slovak Republic for the Recovery and Resilience Plan), adopted by the Government on 14 December 2021.

<sup>4</sup> Slovakia, [Law no. 368/2021 Coll. on the on mechanism to support recovery and resilience and amending certain laws](#) (Zákon č. 368/2021 Z.z. o mechanizme na podporu obnovy a odolnosti a o zmene a doplnení niektorých zákonov), 24 September 2021.

Governmental Council for Implementation of Recovery and Resilience Plan<sup>5</sup> and the System of Implementation of the Recovery and Resilience Plan<sup>6</sup>) regulating the implementation of RRP were accepted<sup>7</sup>.

<b>1.2 New policy document on civil society development</b>	
Area	Participation and cooperation with authorities/Financing framework
Topic	Civil dialogue/Funding landscape
Impact	Major

In May 2021, the Concept of Civil Society Development in Slovakia for 2021 – 2030 and the Action Plan of the Concept of Civil Society Development in Slovakia for 2021 – 2024<sup>8</sup> were published. The new concept is a follow-up of the previous Concept of Civil Society Development in Slovakia for 2012 – 2020.

The main purpose of the Concept is to reinforce the development of civil society in Slovakia and the non-governmental sector as well as to strengthen the principles of open government. The need for the concept is based on the experience of non-governmental sector players on the one hand and on the other hand it is also required from the sphere of public administration which is increasingly coordinating and harmonizing its activities with non-governmental organizations.

Top priorities of the Concept involve:

- to strengthen the relationship between civil society, NGOs and public administration,
- to ensure and implement an equal partnership between civil society, NGOs and public administration, including the creation of all the conditions for its fulfillment,
- to stabilize and positively develop the legislative and financial environment for the existence, operation and development of civil society actors, including NGOs,
- to promote and develop participation and active citizenship,
- to increase the credibility and reputation of civil society and NGOs,

<sup>5</sup> Slovakia, Government of the Slovak Republic (Vláda SR), [Štatút Rady vlády Slovenskej republiky pre Plán obnovy a odolnosti – Vyhodnotenie pripomienkového konania](#) (Statute of the Council of the Government of the Slovak Republic for the Recovery and Resilience Plan – Evaluation of the comment procedure), adopted by the Government on 14 December 2021.

<sup>6</sup> Slovakia, Government of the Slovak Republic (Vláda SR), [Systém implementácie Plánu obnovy a odolnosti Slovenskej republiky – Vyhodnotenie pripomienkového konania](#) (The system of implementation of the Recovery and Resilience Plan of the Slovak Republic – Evaluation of the comment procedure), adopted by the Government on 22 December 2021.

<sup>7</sup> Slovakia, Klimatická koalícia (2021), [‘Otvorený list k implementácii Plánu obnovy a odolnosti’](#), 13 December 2021.

<sup>8</sup> Slovakia, Ministry of Interior of the Slovak Republic (Ministerstvo vnútra SR) (2021), [Konceptia rozvoja občianskej spoločnosti na Slovensku na roky 2021 – 2030 a Akčný plán Konceptie rozvoja občianskej spoločnosti na Slovensku na roky 2021 - 2024](#).

- to promote the resilience of civil society and NGOs.

The Concept was prepared by the Ministry of Interior of the Slovak Republic in the spring of 2021. By the end of 2021, it has been in the stage of evaluation of the comments received throughout the interdepartmental comment procedure which means that the Concept still has not been approved by the Government<sup>9</sup>.

### **1.3 Participation of CSOs in the preparation, implementation and monitoring of the use of EU funds for upcoming period 2021 - 2027**

Area	Participation and cooperation with authorities
Topic	Access to consultations / participation in decision-making
Impact	Major

The Office of Governmental Plenipotentiary for civil society development (*Úrad splnomocnenca vlády SR pre rozvoj občianskej spoločnosti*) prepared a policy document that provides a framework for managing the cooperation and partnership of the state administration bodies and representatives of civil society regarding the use of the EU funds<sup>10</sup>. The main aim of the document is to ensure the participation of CSOs in the preparation, implementation and monitoring of the use of EU funds so that they are used in a transparent, effective way based on clear rules. In November 2021, the document was approved by the Governmental Council for non-governmental non-profit organizations (*Rada vlády SR pre mimovládne neziskové organizácie*) and subsequently it was signed by the Minister of investments, regional development and informatization<sup>11</sup>.

The document defines the role of the Office of Governmental Plenipotentiary for civil society development, the Ministry of investments, regional development and informatization and the Chamber of NGOs of the Governmental Council for non-governmental non-profit organizations in fulfilling the principle of partnership. It

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<sup>9</sup> Slovakia, Ministry of Interior of the Slovak Republic (*Ministerstvo vnútra SR*) (2021), [Konceptia rozvoja občianskej spoločnosti na Slovensku na roky 2021 – 2030 a Akčný plán Konceptie rozvoja občianskej spoločnosti na Slovensku na roky 2021 - 2024](#).

<sup>10</sup> Slovakia, The Office of Governmental Plenipotentiary for civil society development (*Úrad splnomocnenca vlády SR pre rozvoj občianskej spoločnosti*) (2021), [Systém riadenia spolupráce a partnerstva so zástupcami občianskej spoločnosti pri príprave, implementáciu a monitoring fondov EÚ v programovom období 2021 – 2027](#) (*The system of managing the cooperation and partnership with representatives of civil society in the preparation, implementation and monitoring of EU funds in the programming period 2021 – 2027*).

<sup>11</sup> Slovakia, Governmental Plenipotentiary for civil society development (*Splnomocnenec vlády SR pre rozvoj občianskej spoločnosti*) (2021), [Systém riadenia spolupráce a partnerstva so zástupcami občianskej spoločnosti pri príprave, implementáciu a monitoring fondov EÚ v programovom období 2021 – 2027](#), 1 December 2021.

also specifies the method of establishment, the role and competencies of the so-called Monitoring committee that also involves the representatives of CSOs<sup>12</sup>.

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<sup>12</sup> Slovakia, The Office of Governmental Plenipotentiary for civil society development (*Úrad splnomocnenca vlády SR pre rozvoj občianskej spoločnosti*) (2021), [Systém riadenia spolupráce a partnerstva so zástupcami občianskej spoločnosti pri príprave, implementácii a monitoring fondov EÚ v programovom období 2021 – 2027](#) (*The system of managing the cooperation and partnership with representatives of civil society in the preparation, implementation and monitoring of EU funds in the programming period 2021 – 2027*).

## 2 Examples of civil society contributions to the rule of law

<b>2.1 CSOs advocating for the rights of children and young people to education during pandemic</b>	
Topic	Monitoring the legality and proportionality of laws, measures and practices; triggering the judicial review of laws, measures and practices and the enforcement of rulings; strategic litigation

In March 2021, The NGO VIA IURIS and the Let's Give Children a Voice initiative (*iniciatíva Dajme deťom hlas*) turned to the Office of the Prosecutor General of the Slovak Republic (*Generálna prokuratúra SR*) with a complaint in connection with the closure of schools which was adopted to slow down the spread of Covid-19 disease<sup>13</sup>. They argued that the School Act allows for the closure of schools in the state of emergency only for a short time, not for ten months which was the case of Slovakia<sup>14</sup>. They also objected to the decisions of the Minister of Education that led to closing schools since October 2020 without taking into account the effects on children's and young people's access to education and their mental and physical health.

The Office of Prosecutor General, the organizations claim, did not act fast enough despite the seriousness of the problem, but decided on the complaint only at the end of the statutory deadline. Until the Office decided, the last contested decision of the Minister of Education also had ceased to apply and the Prosecutor General's Office therefore postponed the complaint of the organizations and did not comment on the access to schools and the right to education in the state of emergency.<sup>15</sup> In spite of the slow action of the Office of the Prosecutor General, the mentioned NGOs contributed to the discussion and advocated for the rights of children to attend schools and for the public authorities to respect their rights to education during the pandemic.

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<sup>13</sup> VIA IURIS, *Iniciatíva dajme deťom hlas* (2021), '[Generálna prokuratúra nepovažuje školy za prioritu. Nekonala rýchlo a vyhla sa reakcii na dĺžku zatvorenia škôl v núdzovom stave](#)', 15 May 2021.

<sup>14</sup> UNICEF (2021), [Covid-19 and School Closures](#).

<sup>15</sup> VIA IURIS, *Iniciatíva dajme deťom hlas* (2021), '[Generálna prokuratúra nepovažuje školy za prioritu. Nekonala rýchlo a vyhla sa reakcii na dĺžku zatvorenia škôl v núdzovom stave](#)', 15 May 2021.

## 2.2 CSOs campaign against the limitation of access to abortions

Topic	Monitoring the legality and proportionality of laws, measures and practices; triggering the judicial review of laws, measures and practices and the enforcement of rulings; strategic litigation
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In October 2021, civil protests took place in several cities around Slovakia called by the “We Will Not Be Quiet” initiative (*iniciatíva Nebudeme ticho*). The protests were organized against a draft law<sup>16</sup> that would limit access to safe and legal abortion.<sup>17</sup>

At the same time, a letter supported by 60 organizations and initiatives, was sent to the Parliament, urging MPs not to support the proposal and expressing solidarity with all women.<sup>18</sup>

The draft law was presented as if it were helping women, but in practice, it would endanger their health, life and dignity. According to NGOs, the proposal sought to introduce major obstacles to access to safe abortion, extending the already problematic mandatory waiting period for abortion to 96 hours, even in the case of abortions for medical reasons. The law would further restrict access to information about which and under what conditions facilities perform abortions.<sup>19</sup> In the end, the draft law was rejected by the MPs.<sup>20</sup>

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<sup>16</sup> Slovakia, National Council of the Slovak Republic (*Národná rada SR*) (2021), [Návrh skupiny poslancov Národnej rady Slovenskej republiky na vydanie zákona o pomoci tehotným ženám](#) (*Proposal of a group of deputies of the National Council of the Slovak Republic to issue a law on assistance to pregnant women*).

<sup>17</sup> Možnosťvolby.sk (2021), [‘Proti obmedzovaniu sexuálnych a reprodukčných práv protestujú v šiestich mestách. 60 organizácií zároveň vyzýva NR SR, aby zákon odmietla.’](#), 17 October 2021.

<sup>18</sup> Aspekt.sk (2021), [‘V predložennom návrhu ide o ohrozenie zdravia žien, nie o pomoc a podporu’](#), 17 October 2021.

<sup>19</sup> Možnosťvolby.sk (2021), [‘Proti obmedzovaniu sexuálnych a reprodukčných práv protestujú v šiestich mestách. 60 organizácií zároveň vyzýva NR SR, aby zákon odmietla.’](#), 17 October 2021.

<sup>20</sup> Slovakia, National Council of the Slovak Republic (*Národná rada SR*) (2021), [Návrh skupiny poslancov Národnej rady Slovenskej republiky na vydanie zákona o pomoci tehotným ženám](#) (*Proposal of a group of deputies of the National Council of the Slovak Republic to issue a law on assistance to pregnant women*).



## 2.3 Changes in the law on construction of motorways criticised by CSOs

Topic	Monitoring the legality and proportionality of laws, measures and practices; triggering the judicial review of laws, measures and practices and the enforcement of rulings; strategic litigation
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In October 2021, the Government approved an amendment to Act no. 669/2007 Coll. which changes the rules for the construction of motorways<sup>21</sup>. The Government also proposed to adopt the amendment in the shortened legislative procedure<sup>22</sup>.

The NGO VIA IURIS has formulated their reservations about the amendment in their law opinion saying that the proposed changes jeopardize the rights of landowners, the public and the public interest and in particular, the efforts to protect environment. According to VIA IURIS, the problem is mainly that<sup>23</sup>:

- The motorways will be able to be built before the construction permit is valid,
- There will be no time limit for the validity of the construction permit,
- It will be possible to build up to one year on the lands which will not be expropriated at that time,
- The draft amendment was approved by the government in a shortened legislative procedure which is not in compliance with the law.

The law opinion was sent to the MPs who rejected to discuss the amendment in a shortened legislative procedure<sup>24</sup>. According to the VIA IURIS this can be viewed as an opportunity for the amendment to be better discussed by the Parliament<sup>25</sup>.

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<sup>21</sup> Slovakia, Government of the Slovak Republic (*Vláda SR*) (2021), [Návrh zákona, ktorým sa mení a dopĺňa zákon č. 669/2007 Z. z. o jednorazových mimoriadnych opatreniach v príprave niektorých stavieb diaľnic a ciest pre motorové vozidlá a o doplnení zákona Národnej rady Slovenskej republiky č. 162/1995 Z. z. o katastri nehnuteľností \(katastrálny zákon\) v znení neskorších predpisov](#), adopted on 14 October 2021.

<sup>22</sup> Slovakia, Government of the Slovak Republic (*Vláda SR*) (2021), [Návrh na skrátene legislatívne konanie o vládnom návrhu zákona, ktorým sa mení a dopĺňa zákon č. 669/2007 Z. z. o jednorazových mimoriadnych opatreniach v príprave niektorých stavieb diaľnic a ciest pre motorové vozidlá a o doplnení zákona Národnej rady Slovenskej republiky č. 162/1995 Z. z. o katastri nehnuteľností \(katastrálny zákon\) v znení neskorších predpisov](#), adopted on 14 October 2021.

<sup>23</sup> VIA IURIS (2021), [Právne stanovisko k novele zákona o výstavbe diaľnic](#) (*Legal opinion on the amendment to the Motorway Construction Act*).

<sup>24</sup> Slovakia, National Council of the Slovak Republic (*Národná rada SR*) (2021), [Návrh vlády na skrátene legislatívne konanie o vládnom návrhu zákona, ktorým sa mení a dopĺňa zákon č. 669/2007 Z.z. o jednorazových mimoriadnych opatreniach v príprave niektorých stavieb diaľnic a ciest pre motorové vozidlá a o doplnení zákona Národnej rady Slovenskej republiky č. 162/1995 Z.z. o katastri nehnuteľností \(katastrálny zákon\) v znení neskorších predpisov – výsledok hlasovania](#).

<sup>25</sup> VIA IURIS (2021), [FB post from 28 October 2021](#).

### 3 Other relevant developments

#### 3.1 Website MojaPetícia.sk

In April 2021, the NGO VIA IURIS launched the website MojaPetícia.sk that enables civic initiatives, civic organizations or groups of interest to submit their comments to public authorities. The website is designed and operates in a way that secures that the submissions meet the rules stipulated by the law. The website works under the professional supervision of VIA IURIS. The website was created within the project Active citizens as the basis of a well-functioning state which was funded by the Active Citizens Fund (ACF). ACF is a grant program operated by three Slovak foundations: Ekopolis, Open Society Foundation and Carpathian Foundation and financed by the EEA and Norwegian grants.

The website is available free of charge for those who want to create the petition, mass comment or public call. Through a simple search, site visitors can find petitions or mass comments according to their interests and support them with their signatures<sup>26</sup>.

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<sup>26</sup> VIA IURIS (2021), [‘MojaPetícia.sk – nový priestor, vďaka ktorému bude počuť váš hlas’](#), 8 April 2021.