

Standing and operational space of non-governmental organisations (NGOs) in contributing to respecting and promoting fundamental rights in EU Member States

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Contractor: Center for the Research of
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Author(s): Elena Gallová Kriglerová, Jana
Kadlečíková, Alena Chudžíková, Katarína
Medľová

Reviewed by: Jana Plichtová

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1 Regulatory environment for the work of non-governmental organisations

Title of legislation and reference	Topic (please make reference to categories A-F above)	Effect on civil society (positive or negative) Please include reference to source of information
1. Act No. 162/2015 Coll. Administrative Court Procedure ¹	E	Positive – the act strengthens the rights of civil society in environmental protection. ²
2. LP/2016/885 Law amending Act No. 24/2006 Coll. on assessment of impacts on environment (currently in the interdepartmental commentary procedure) ³		Positive – the amendment would reduce the scope of conflict of interest and bring transparency to expert assessment. ⁴

¹ Slovakia, Act No. 162/2015 Coll. Administrative Court Procedure (*Zákon č. 162/2015 Z.z. Správny súdny poriadok*), 21 May 2015; available at: <http://www.zakonypreludi.sk/zz/2015-162>.

² Via Iuris (2016), "Správny súdny poriadok posilňuje práva verejnosti pri ochrane životného prostredia", 1 July 2016, available at: <http://www.viaiuris.sk/ssp/>.

³ Slovakia, LP / 2016/885 The law amending and supplementing Law No. 24/2006 Coll. on Assessment of impacts on the environment and on amendments to certain laws, as amended, and on amendments to certain laws (*LP/2016/885 Zákon, ktorým sa mení a dopĺňa zákon č. 24/2006 Z. z. o posudzovaní vplyvov na životné prostredie a o zmene a doplnení niektorých zákonov v znení neskorších predpisov a o zmene a doplnení niektorých zákonov*), available at: <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2016/885>.

⁴ Via Iuris (2016), "Hlavný zdrojom informácií o procesoch EIA by mal zostať Enviroportál", 2 December 2016, available at: <http://www.viaiuris.sk/1635-2/>.

3. Act No. 29/2015 Coll. amending Act No, 85/1990 Coll. on right to petition ⁵	E	Positive ⁶ – the amendment includes, inter alia, the duty of the public authorities to receive, investigate and settle any petition of public or other common interest. Petitions can also be signed online.
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Case concerning access to funding:⁷ The case concerns the non-governmental organisation (NGO) People in Need (*Člověk v tísní*), based in Slovakia and also in the Czech Republic against the Ministry of Education, managing the EU funds. The NGO has been refused the request to grant assistance from the EU structural funds, which the NGO claims is due to discrimination against their Czech background. The constitutional court dismissed the complaint, but opened the space for further considerations on interpretation of the law concerning the residency of the NGOs.

2 EU Member State government funding for non-governmental organisations – trends and developments 2011-2016

2.1 Overall amount of government funding

According to the latest expert publication mapping the situation of NGOs in Slovakia, there are three basic sources of funding for NGOs: 1. Public funding; 2. Private funding by companies and individuals; 3. Income from the own activities of NGOs. The share of these three sources on the overall funding could be assessed as stable with a share of one third for every

⁵ Slovakia, Act No. 29/2015 Coll. amending and supplementing Act No. 85/1990 Coll. on the right to petition, as amended, and amending Act No. 305/2013 Coll. on the scope of electronic form of performance of the public authorities and on amendments to certain laws (the e-government), as amended by Act no. 214/2014 Coll. (*Zákon č. 29/2015 Z. z. Zákon, ktorým sa mení a dopĺňa zákon č. 85/1990 Zb. o petičnom práve v znení neskorších predpisov a ktorým sa dopĺňa zákon č. 305/2013 Z. z. o elektronickej podobe výkonu pôsobnosti orgánov verejnej moci a o zmene a doplnení niektorých zákonov (zákon o e-Governmente) v znení zákona č. 214/2014 Z. z.*), 28 January 2015, available at: <http://www.zakonypreludi.sk/zz/2015-29>.

⁶ Information provided via telephone interview with Via Iuris, 24 February 2017.

⁷ Slovakia, Constitutional Court of the Slovak Republic (*Ústavný súd Slovenskej republiky*), II. ÚS 471/2014-15, 30 July 2014.

mentioned source.⁸ Public funding includes transfers, subsidies or grants from public authorities to non-governmental non-profit organisations.

Available data on funding by public authorities is split by funding provided by central state authorities and by self-governing regions/municipalities.

While the amount of funds from central state administration has increased in recent years, the funding provided by self-governing regions and municipalities remains rather stable.

	2010	2011	2012	2013	2014	2015
Central state administration	95 906 753	122 862 441	139 850 807	111 936 787	128 016 926	174 042 783
Eight self-governing regions and municipalities	36 553 973	31 622 136	37 782 247	45 398 589	36 371 804	40 882 260

Limits of current funding of NGOs by public authorities can be summarised as follows:⁹

- Most of the funding provided by public authorities is usually intended for precisely defined activities, such as public services that are not directly provided by central or local public administration but by contracted NGOs. NGOs cannot use these resources freely, i.e. they cannot use them for other purposes or for their own development.
- There are significant variances among rules set by state institutions for NGOs if applying for funding, which is sometimes too bureaucratic and unclear.
- Although the amount of funds provided by public authorities has increased in recent years, it cannot be fully considered as a stable source of financing of NGOs. There is no schedule of public funds available for NGOs that would enable them to plan their activities and respective budgets.
- Middle-sized and small NGOs usually do not have enough personnel to be able to cope with the rules set by public authorities (strict budgetary rules, regular detailed reporting on using the funds, etc.).

⁸ Mesežnikov, G. and Strečanský, B. (eds) (2017), *Občianska spoločnosť na Slovensku. Krízy, križovatky, výzvy*. Institute for public affairs, Bratislava, available at: http://www.ivo.sk/buxus/docs//publikacie/subory/Obcianska_Spolocnost_na_Slovensku.pdf, pp. 44–45.

⁹ Mesežnikov, G. and Strečanský, B. (eds) (2017), *Občianska spoločnosť na Slovensku. Krízy, križovatky, výzvy*. Institute for public affairs, Bratislava, available at: http://www.ivo.sk/buxus/docs//publikacie/subory/Obcianska_Spolocnost_na_Slovensku.pdf, pp. 57–58

2.2 Distribution of government funding

In Slovakia, there is only partial information available on the distribution of government funding. The funding by central state authorities is divided according to the institutions providing finances to NGOs.

The following table contains information on funding that individual central state authorities provided to NGOs in recent years. The highest shares of finances have been provided by the Ministry of Education (€ 237 million), the Ministry of Labour, Social Affairs and Family (€ 174 million) and the Ministry of Agriculture and Rural Development (€ 101 million). The highest increase in funding sources for NGOs has also been recorded a for these three ministries.¹⁰

More detailed information on the distribution of public sources is not available. However the funds for the provision of services are reported to be more accessible for NGOs than resources for advocacy or funds needed for the operation of NGOs.¹¹

	2010	2011	2012	2013	2014	2015	Total amount in €
Office of the government	2,696,002	5,716,632	5,510,797	4,353,416	4,238,996	4,362,270	26,878,113
Ministry of Foreign and European Affairs	165,337	102,138	148,096	3,404,115	2,755,532	3,395,512	9,970,730
Ministry of Defense	99,582	99,582	99,582	57,520	99,580	85,238	541,084
Ministry of Interior	6,669,124	3,999,873	3,784,322	7,481,595	7,868,871	6,104,677	35,908,462
Ministry of Environment	1,122,633	1,763,922	3,907,095	5,690,163	5,037,982	2,636,037	20,157,831

¹⁰ Mesežnikov, G. and Strečanský, B. (eds) (2017), *Občianska spoločnosť na Slovensku. Krízy, križovatky, výzvy*. Institute for public affairs, Bratislava, available at: http://www.ivo.sk/buxus/docs//publikacie/subory/Obcianska_Spolocnost_na_Slovensku.pdf, p. 46.

¹¹ Mesežnikov, G. and Strečanský, B. (eds) (2017), *Občianska spoločnosť na Slovensku. Krízy, križovatky, výzvy*. Institute for public affairs, Bratislava, available at: http://www.ivo.sk/buxus/docs//publikacie/subory/Obcianska_Spolocnost_na_Slovensku.pdf, p. 47.

Ministry of Education, Science, Research and Sport	34,196,918	32,116,952	38,078,315	42,759,920	42,486,875	47,375,341	237,014,321
Ministry of Healthcare	1,771,216	11,898,891	17,000,230	3,854,832	1,954,496	5,075,681	41,555,347
Ministry of Labour, Social Affairs and Family	26,613,695	21,352,169	17,532,998	9,067,566	39,492,683	60,247,579	174,306,690
Ministry of Culture	10,536,526	14,091,314	8,680,642	8,821,862	6,459,687	6,574,317	55,164,347
Ministry of Economy	188,414	89,930	75,711	93,000	20,000	20,000	487,055
Ministry of Agriculture and Rural Development	2,710,657	16,269,524	37,109,212	17,720,186	10,626,655	16,572,273	101,008,507
Ministry of Transport and Construction	7,755,044	14,455,419	6,275,363	7,872,098	5,659,909	19,592,722	61,610,555
General central administration	50,891	268,267	909,532	190,000	793,180	1,401,340	3,613,210
Public university	1,330,714	637,829	738,913	570,514	522,480	599,795	4,400,244
Total amount in €	95,906,753	122,862,441	139,850,807	111,936,787	128,016,926	174,042,783	772,616,497

More detailed information on distribution of public funding is not available. There is also no information available on distribution of funds provided by self-governing regions and municipalities.

2.3 Restrictions (or other changes) on NGO funding from other sources

No significant restrictions of funding of NGOs have been recorded during recent years.

3 Access to the decision-making process for non-governmental organisations working on fundamental rights

Title of legislation/policy	Reference	Short summary (max 500 characters)
Establishment of the Governmental Plenipotentiary for Civil Society Development	Slovakia, Government of the Slovak Republic (2012), <i>Statute of Government Plenipotentiary for Civil Society Development</i> . Government Resolution No. 309/2012 of 27 June 2012.	In 2011, Slovakia became a member of the international initiative, Open Government Partnership. Based on this, the government created a position of Plenipotentiary for Civil Society development. The main role of this position is to facilitate communication and cooperation between NGOs and governmental institutions, to initiate policy and legislative changes regarding the development of civil society and participation of NGOs in decision making. In 2012, the Governmental Council for NGOs was also established as an advisory body for government and Strategy of Civil Society Development was adopted in 2012.
National strategy for Human Rights Protection and Promotion in Slovakia – Strengthening the role of NGOs and participation mechanisms	Slovakia, Ministry of Interior. Office of Plenipotentiary for Civil Society Development (2014), <i>Národná stratégia podpory a ochrany ľudských práv v SR. Posilnenie mimovládnych</i>	This governmental strategy points out that NGOs are the key actors in promoting and protecting human rights in Slovakia and accordingly, they are the key partners of state institutions and government in this.

	<p><i>neziskových organizácií a mechanizmov participácie.</i> Bratislava, April 2014, available at: https://www.mzv.sk/dokumenty/10182/184563/10_strategia_posilnenie_MNO.pdf</p>	<p>Therefore, it is crucial to strengthen the role of NGOs in participation on decision making. The strategy stems from the recommendations of international organisations (UN and EU institutions) and stresses that the state should support NGOs should in several areas – financial support needs to be provided through governmental financial schemes, assignation of 2 % of taxes for NGOs, through European funds and by individual donations. Moreover, the legislation should be also changed with the aim of strengthening the participation of NGOs in decision making (two legislation developments are described below).</p>
<p>Adoption of a new law on the lawmaking process in 2015</p>	<p>Slovakia, Law No. 400/2015 Coll. on the lawmaking process (<i>Zákon č. 400/2015 Z.z. o tvorbe legislatívnych predpisov</i>), November 2015</p>	<p>The new law regulates the preparation of laws submitted to the National Council by the government. The proposal also enshrines rights of the public (and NGOs) to participate in the lawmaking process. Consequently, every governmental law proposal has to be submitted for a public discussion. Furthermore, the law proposal defines a collective comment</p>

		and the obligation to hold a public deliberation in case the collective comment is supported by at least 500 individuals providing their signature.
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4 Further information

In October 2016, the parliament debated an amendment to the law on non-profit organisations providing public community services (Law No. 213/1997 Coll.). The amendment was proposed by a group of MPs representing Kotleba – People’s Party Our Slovakia and introduced a term ‘foreign agent’ labelling NGOs that are subsidies of foreign natural or legal persons and “act on order, request, under influence or control of a foreign natural or legal person” and are “funded by a foreign agent”.¹² They further propose that all activities and information materials must contain an identifier “Attention! Foreign agent” in a font as big as the name of the organisation. The amendment also proposed a creation of a registry of ‘foreign agents’ and a possibility for courts to “disband an organisation if it constitutes a threat to the constitutional order, security or defence of the Slovak Republic.” The proposal does not define such threat. The parliament did not pass the bill with 18 MPs voting in favour of the bill, 53 against, 39 abstaining and 38 being absent.

¹² Slovakia, Draft Bill amending Law No. 217/1997 Coll. on non-profit organisations providing public community services as amended (*Zákon č. 217/1997 Z.z. o neziskových organizáciách poskytujúcich všeobecne prospešné služby v znení neskorších predpisov*), parliamentary print No. 269, 23 September 2016, available at: <http://www.nrsr.sk/web/Default.aspx?sid=zakony/cpt&ZakZborID=13&CisObdobia=7&ID=269>.