THE NATIONAL COUNCIL OF THE SLOVAK REPUBLIC
ACT
Of 4 December 2001
ON PUBLIC DEFENDER OF RIGHTS

The National Council of the Slovak Republic has adopted this Act:

§ 1

Subject of regulation

This Act shall regulate:

a) the scope and the way by which the public defender shall participate in the protection of the basic rights and freedoms of natural persons and legal persons with respect to the activity, decision-making or inactivity of public administration bodies, if their activity, decision-making or inactivity is in conflict with the legal order or the principles of the democratic state and the rule of law and

b) the circumstances on the election and the recall of the ombudsman, the conditions of performing his function, his competence, the means of providing legal protection and enforcement of rights of natural persons and legal persons.

The seat and the competence of public defender of rights

§ 2

The seat of the public defender of rights shall be in Bratislava.

§ 3

(1) The competence of the public defender of rights shall apply to:

a) state administration bodies

b) local self-government bodies

c) legal persons and natural persons who according to a special Act decide on the rights and duties of natural persons and legal persons in the area of public administration.

(2) The competence of the public defender of rights shall not apply to the National Council of the Slovak Republic (hereinafter referred to as “National Council”), the President of the Slovak Republic, the Government of the Slovak Republic, the Constitutional Court of the Slovak Republic, the Supreme Control Office of the Slovak Republic, the Intelligence Service, investigators of the Police Corps, the Prosecution and Courts, with the exception of state
administration of courts and the reasons which presuppose disciplinary misdemeanor of the judge. Nor shall the competence of the public defender of rights apply to matters of operational or mobilization nature.

§ 4

Start of the function of public defender of rights

(1) The public defender of rights shall be elected by the National Council from among the candidates proposed by at least 15 members of the National Council.

(2) As defender of rights may be elected a citizen of the Slovak Republic who

a) has reached the age of 35 years,

b) has full legal capacity,

c) is of impeccable character, his education, skills, experiences and moral character gives a guarantee that he shall properly exercise the function of public defender of rights,

d) is not a member of a political party or political movement,

e) has permanent residence on the territory of the Slovak Republic,

f) consents to the election as public defender of rights.

(3) The fulfillment of the conditions contained in paragraphs 2 and 3 shall be checked by the National Council before voting on an election proposal.

(4) For the purposes of this Act, as impeccable shall be considered a citizen who has not been convicted by a final court decision for the commission of an intentional criminal offence or for an act for which he was unconditionally sentenced of imprisonment. The impeccable character shall be proved by an extract from the Criminal Record not older than three months.

§ 5

Term of office

The term of office of the public defender of rights shall be five years, which shall begin running on the day of giving undertaking. The same person may be elected as public defender of rights at most for two consecutive periods.

§ 6

Undertaking

(1) The public defender of rights shall give the following undertaking to the President of the National Council:

"I promise on my honour and conscience that I shall observe the Constitution of the Slovak Republic, Constitutional Laws, laws and international treaties promulgated in the manner prescribed by law, that I shall participate in the protection of the basic rights and freedoms of natural persons and legal persons with respect to the activity, decision-making or inactivity of public administration bodies, and that
I shall protect basic rights and freedoms in compliance with the principles of the democratic state and the rule of law.

(2) The public defender of rights shall confirm giving the undertaking by his signature on a document with the text of the undertaking; the date of giving the undertaking must be indicated on this document.

(3) The right to perform the function of the public defender of rights shall arise on the date of giving the undertaking.

(4) A refusal of the undertaking, or undertaking with reservations shall have as its result the invalidity of the election of the public defender of rights.

§ 7

Incompatibility of the function of public defender of rights

(1) The performance of the function of the public defender of rights shall be incompatible with the performance of the function of the President of the Slovak Republic, a member of the National Council, a member of the Government of the Slovak Republic, a director or president of a central body of the state administration of the Slovak Republic, a president or vice-president of the Supreme Control Board of the Slovak Republic, a judge of the Constitutional Court of the Slovak Republic, a judge, a prosecutor, a member of the Slovak Information Service, a member of the Police Corps or other armed corps, and with a function in public administration bodies.

(2) The public defender of rights must not, alongside the performance of his function, carry out any other paid function, carry on a business nor carry out other gainful activity excluding administration of his assets or assets of his minor children, scientific, pedagogical, literary and artistic activities provided these activities do not interfere with the proper exercise of his function and the dignity of the function and do not endanger the trust in the impartiality and independence of public defender of rights.

(3) The facts as stated above in item 1 and 2 are obstacles to the function of the public defender of rights.

End of the function of public defender of rights

§ 8

(1) Before the term of office elapses, the performance of the function of public defender of rights shall end

a) by resigning the function,

b) by the loss of eligibility according to Article 4,

c) on the date of coming into force of a court decision by which he was convicted of committing an intentional criminal offence or by which he was convicted of a criminal offence, and the court did not decide in his case on a conditional postponement of the performance of a sentence of imprisonment,

d) by performance of activity, which is incompatible with the function of public defender of rights or

e) by death.

(2) The facts as stated above from a) to d), public defender of rights is obliged to report to the President of the National Council. The coming into force of a court decision by which he was convicted of
committing an intentional criminal offence or by which he was convicted of a criminal offence, and the court did not decide in his case on a conditional postponement of the performance of a sentence of imprisonment, and the coming into force of a court decision by which the legal capacity was removed, or by which the legal capacity was restricted, reports to the President of the National Council the court, which has delivered the decision.

§ 9

(1) The public defender of rights may resign his function by a written notice to the President of the National Council.

(2) The function of the public defender of rights shall expire at the end of the calendar month following the month, in which the written notice of his resignation from the function is delivered to the President of the National Council. Public defender of rights shall however be obliged to carry out all the activities which do not allow delay, such that the claimant does not suffer any harm to his rights.

§ 10

(1) The National Council may recall the public defender of rights from the function if his health condition does not allow the proper performance of duties following from his function in long-term, but at least for three months.

(2) The public defender of rights shall be recalled from the function on the day following the day when a decision of the National Council on his recall from the function is delivered to him.

Legal protection of natural persons and legal persons

§ 11

(1) Anybody who thinks that his fundamental rights and freedoms were infringed contrary to the legal order or principles of the democratic state and the rule of law in relation to the activity, decision-making or inactivity of a public administration body can turn to the public defender of rights.

(2) Natural persons may use their mother tongue in contacts with the public defender of rights. The costs of interpretation shall be borne by the secretariat.

§ 12

(1) The public defender of rights shall be under duty to keep confidential the facts on the protection of personality and confidential facts of which he became aware while exercising his function, and even after termination of the performance of his function. The President of the National Council can discharge public defender of rights of the confidentiality obligation.

(2) Information on the activities of the public defender of rights is accessible according to special act.

(3) The public defender of rights shall be entitled to acquaint himself with confidential facts.

§ 13

(1) The public defender of rights shall act upon a complaint of a natural person or legal person or on his own initiative.
(2) A complaint can be filed in writing, verbally into the minutes, by telegraphic, fax or e-mail.

(3) It must be clear from the complaint who is filing it, the subjects it relates to, what the claimant is claiming for.

(4) If the complaint does not contain prescribed requirements, the public defender of rights shall without delay ask the claimant to complete or specify it within a certain period of time, which may not be shorter than seven days. He shall also instruct him how to do the completion or specification. If the claimant does not complete or specify the complaint within the given period of time in spite of the public defender of rights’s request, and the dealing with the complaint cannot proceed because of this defect, the public defender of rights shall put off the complaint. He shall instruct the claimant on these consequences.

(5) The complaint in writing of a person deprived of personal liberty or whose personal liberty is restricted and which is addressed to the public defender of rights shall not be subject to official control.

(6) If the claimant asks the public defender of rights to keep his identity confidential or if the confidentiality is in the interest of proper settling of the complaint, the investigation of the complaint shall proceed only on the basis of a copy of a complaint without mentioning the personal data. Everyone dealing with the case who knows the identity of the claimant shall be under duty to keep it confidential.

(7) If a claimant has asked to have his identity kept confidential but the nature of the complaint does not allow investigation without giving some data about this person, he shall be notified on this without delay. At the same time he shall be advised that the dealing with the complaint shall proceed only if he agrees in writing within a given period of time with the revelation of certain necessary personal data.

(8) A complaint filed by a claimant without giving his name, surname and address (in the case of legal person a trade name and its seat) is an anonymous complaint. Anonymous complaint does not need to be dealt with.

Procedure of investigating complaints

§ 14

(1) The public defender of rights shall investigate the complaint.

(2) If the public defender of rights discovers that the complaint is, according to its content, a remedy in virtue of regulations on proceeding in administrative or judicial matters, a claim or a remedy in administrative justice or a constitutional complaint he shall notify that fact to the claimant without delay and he shall instruct him about the correct procedure.

(3) If the public defender of rights discovers that there is a person illegally detained at places of custody, imprisonment, disciplinary sanctions of soldiers, protective treatment, protective reform, institutional treatment or institutional reform, or in a police detention cell, he shall notify this fact without delay to the competent prosecutor according to special regulation, of which he shall notify the administrator of such a place and the concerned person.

(4) If the complaint concerns the review of a final decision of a public administration body or if the public defender of rights thinks that the decision of the public administration body is contrary to an Act or other generally binding legal regulation, he shall forward the case to be dealt with by the respective prosecutor, and he shall notify the claimant on this. He can do the same in the case of a complaint containing proposals of measures which belong to the operation of the prosecution.

(5) A prosecutor shall be obliged to inform the public defender of rights within the periods set by the law of the measures he has taken for removing the illegality.
§ 15

(1) The public defender of rights shall put off the complaint if the matter the complaint concerns does not belong to his competence or if the requested facts referred to in § 13 item 4 have not been completed or specified within the given period of time.

(2) The public defender of rights may put off the complaint if he discovers that

a) the matter which the complaint concerns is being heard by the court and there are no obstructions in the proceedings, or if the case has already been decided by the court,

b) from the time of measure or event which the complaint concerns to the date of delivery of the complaint, a period of time longer than three years has passed

c) the complaint is obviously unsubstantiated,

d) the complaint is anonymous,

e) the complaint concerns a matter which has already been investigated by the public defender of rights and the repeated complaint does not include new facts,

3) The public defender of rights shall notify the claimant on the putting off of the complaint, and the reasons for doing so.

§ 16

If the public defender of rights does not proceed according to § 14 items 2 to 4 or § 15 he shall inform the claimant that he has accepted the complaint for investigation.

§ 17

(1) When investigating the complaint, the public defender of rights shall be entitled mainly to

a) enter the premises of the public administration bodies,

b) require that the public administration body provide him with the necessary files and documents as well as an explanation concerning the subject of the complaint,

c) question the employees of the public administration body,

d) speak also in the absence of other persons to the persons detained at places of custody, imprisonment, disciplinary sanctions of soldiers, protective treatment, protective reform, institutional treatment or institutional reform, or in a police detention cell

(2) Public administration bodies shall be obliged, upon the public defender of rights’s request, to

a) provide him with information and explanations,

b) enable him to inspect or borrow a file,
c) submit to him an opinion in writing regarding the factual and legal questions,

d) carry out evidence proposed by him and settle it in the reasoning of the decision,

e) carry out measures proposed by him

f) execute the measures proposed by him, if they are entitled to execute them according to an Act or other generally binding legal regulation,

g) enable him to take part in hearing and to question participants of the proceedings and persons taking part in the proceedings.

(3) Information and explanation pursuant to item 2 letter a) can be refused by an employee who would breach by this explanation the duty of confidentiality acknowledged or imposed by the state, unless he/she was not relieved of this duty pursuant to the law.

(4) If a public administration body does not meet the public defender of rights’s request pursuant to item 2 the public defender of rights shall notify this fact to its superior body, and if such body does not exist, to the Government of the Slovak Republic. This is without prejudice to the provision of item 3.

§ 18

If the results of investigation do not prove infringement of the fundamental rights and freedoms, the public defender of rights shall in writing notify of it the claimant and the public administration body against whose procedure, decision-making or inactivity the complaint is addressed.

§ 19

(1) If by investigation of the facts the public defender of rights discovers facts proving that basic rights and freedoms were infringed, he shall notify the results of the investigation together with a proposal of measures to the public administration body, against whose procedure, decision-making or inactivity the complaint is addressed.

(2) A public administration body shall be obliged within 30 days of delivery of the proposal of measures to announce to the public defender of rights its opinion regarding the results of the investigation and the adopted measures.

(3) If the public defender of rights does not agree with the public administration body’s opinion or he considers the adopted measures to be insufficient, he shall notify to the body superior to the public administration body against whom the complaint is directed of it, and if such a body does not exist, to the Government of the Slovak Republic.

§ 20

(1) If the public defender of rights discovers by investigation of the complaint the facts proving that in the activity of the public administration body a crime, offence or other administrative contravention or disciplinary offence has been committed or that the duty laid down by the law has been breached, he shall notify it to the competent body.

(2) The body to whom the public defender of rights has notified the fact pursuant to item 1 shall inform the public defender of rights of the measures implemented on the basis of his notice.

(3) If the public defender of rights does not consider the implemented measures to be sufficient, he
shall notify this fact to the superior body, and if such a body does not exist, to the Government.

§ 21

(1) If the public defender of rights comes to the conclusion that an Act, other generally binding legal regulation or internal regulation issued by the public administration body infringes the basic rights and freedoms, he may file a motion to change or repeal it to the competent body.

(2) The body to whom the public defender of rights has notified the fact pursuant to paragraph 1 shall notify the public defender of rights of the measures it has implemented on the basis of his notice.

§ 22

(1) The public defender of rights shall notify in writing the complainant and the natural person whose basic rights and freedoms have been infringed by the activity, decision-making or inactivity of public administration bodies, about the results of the investigation and measures adopted.

(2) The provisions of § 14 item 3 and § 17 to 21 shall apply to the public defender of rights and public administration bodies even if the public defender of rights performs tasks under his authority, on his own initiative without a complaint having been filed concerning the matter.

Reports on activity

§ 23

(1) The public defender of rights shall submit to the National Council in the first quarter of each year an activity report which contains his findings on observance of the basic rights and freedoms of the natural persons and legal persons by the public administration bodies, and his proposals and recommendations for improvement of the shortcomings if found.

(2) The public defender of rights shall publish the activity report pursuant to paragraph 1 on the Internet and periodicals or other information means.

(3) The public defender of rights shall inform about his activities and the results thereof via Internet and other information means.

§ 24

If the public defender of rights comes to the conclusion that an infringement of the basic right and freedom is significant and concerns a greater number of persons he can submit an extraordinary report to the National Council. The extraordinary report can also contain a proposal to discuss the report on the forthcoming plenary session of the National Council.

§ 25

Interaction

In the execution of his competence, the public defender of rights shall cooperate with foundations, civil associations and initiatives aimed at protection of basic rights and freedoms.

§ 26
Salary position of the public defender of rights

Salary position of the public defender of rights, lump remuneration and remuneration of other expenditures connected with the performance of his function shall be the same as the salary position of a Member of the Parliament in the function of the Vice-President of the National Council as determined by special act.1[13] The public defender of rights is during his term office a subject to health insurance,1[14] medical insurance and retirement insurance1[15] in the same way as the employees who have work contract. The public defender has right to obtain children benefits according to the conditions as stated in specific act.1[16]

§ 27

The Secretariat of the Public Defender of Rights

(1) The Secretariat of the Public Defender of Rights (hereinafter referred to as “the secretariat”) shall be established.

(2) The secretariat shall be a legal person with its seat in Bratislava, and it shall fulfill the tasks related to expert, organizational and technical operation of the public defender of rights’s activity.

(3) The secretariat shall be entitled to request the bodies of public administration to provide the documents and information needed by the public defender of rights for fulfillment of his tasks.

(4) The secretariat shall be administered by the head of the secretariat who shall be appointed and dismissed by the public defender of rights. The head of the secretariat shall be responsible for his activity to the public defender of rights.

(5) The secretariat shall be a budgetary organization with its own budgetary chapter.1[17]

(6) The costs of the activities of the public defender of rights and functioning of the secretariat are provided for from a separate state budgetary chapter.

(7) Details on the organization, activity and tasks of the secretariat shall be regulated by office regulations, which shall be issued by the public defender of rights.

§ 28

Transitory provision

The public defender of rights first elected after entering into force of this Act shall start his function six months from giving the prescribed undertaking at the latest.

§ 29

Entry into force

This Act shall enter into force on 1st January 2002.

1[1] Article 151a paragraph 1 of the Constitution of the Slovak Republic

1[2] For example the Act no. 347/1990 Coll. on the organisation of the ministries and other central administration bodies, the Act no. 222/1996 Coll. On the organisation of the local state administration,
the Act no. 369/1990 Coll. on the municipal organisation


