



# Access to justice for children

## Country fact sheet: **Slovak Republic**<sup>1</sup>



### Overview

**Country size:** 49 035 km<sup>2</sup>

**General Population:** 5,5 million

**Number of Children:** 1 million (2019)

**Date of ratification of the Convention on the Rights of the Child:**

2 September 1990

**Date of abolition of the death penalty:** 9 January 1991

### Minimum ages

**Minimum age of criminal responsibility ("MACR"):** Generally, the MACR is 14 years and one day. The MACR is 15 years and one day in the case of sexual intercourse with a child of 15 years or younger. The MACR is 18 years and one day if someone solicits a child younger than 15 years through electronic communication services for a meeting with the intent of having sexual intercourse or making child pornography.

**Age of imprisonment:** More than one minimum age, i.e. a criminally responsible child can be imprisoned.

**Age until juvenile justice legislation is applied:** 18 years

### Type of legal system

The Slovak Republic legal system is based on a civil law system.

### Specialisation of the system

Child social work service is a specialized institution in the Slovak Republic.

The Slovak Republic has governmental structures/bodies specialized in child justice, including the Centre for International Legal Protection of Children and Youth, and the Public Defender of Rights.

### Child-specific legislation

- The [Constitution of the Slovak Republic](#) – guarantees the protection of children and provides for other rights such as the right to education, care and non-discrimination, and equality for children born out of wedlock.
- [Criminal Code](#) – addresses criminal responsibility and sentencing measures for children.
- [Code of Criminal Procedure](#) – provides measures for the examination of child victims or witnesses and procedural rights in proceedings against children.
- [Act on Victims of Crime Offences and on Amendment and Supplement of Certain Acts](#) – provides additional rights and protections for child victims.
- [Act on Social and Legal Protection of Children and on Social Guardianship and on Amendment and Supplement of Certain Act](#) – contains measures for the protection and social welfare of a child.
- [Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and Protection against Discrimination and on Amendment and Supplement of Certain Acts](#) (Anti-Discrimination Act) – contains provisions for anti-discrimination and equal treatment for all people.

The [Convention on the Rights of the Child](#) is directly applicable in the Slovak Republic's justice system.

<sup>1</sup> The information used to compile this fact sheet is based on the responses to the question received in March 2020.

# Child suspects or accused in criminal proceedings

## Implementation of EU Directive 2016/800

**EU Directive 2016/800** on procedural safeguards in criminal proceedings for children who are suspects or accused persons in criminal proceedings was transposed into Slovak law.

## Cross-cutting safeguards

- Children below the minimum age of criminal responsibility (MACR) who commit an offence cannot be prosecuted for the offence. If the age of the person is unknown and there is a reason to believe that he/she is a child, he/she has to be considered as a child until the contrary is proved. See *Criminal Code, Section 22*, and *Act on Victims of Criminal Offences and on Amendment and Supplement of Certain Acts, Article 1, Section 2*.
- An accused child must have an attorney from the preliminary hearing stage onwards. If the child cannot afford an attorney and demonstrates that he or she does not have sufficient funds, an attorney will be appointed for the child. See *Code of Criminal Procedure, Articles 37 and 40*.
- The public may be excluded from the hearing of an accused child if a motion is made by the child's attorney or legal representative. See *Code of Criminal Procedure, Article 343*.
- The child must attend the hearing determining their guilt or punishment. However, the child may be removed from the hearing if there is a concern that part of the proceedings may affect the child's moral development. Upon the child's return to the hearing, the child should be informed of what took place in his or her absence. See *Code of Criminal Procedure, Article 343*.
- The child's legal representative (i.e., parent or legal guardian), is entitled to represent the child through choosing a defence counsel, filing petitions on the child's behalf, and submitting request for appeal. Also, decisions in criminal proceedings are delivered to the social guardian and to the legal guardian with whom the child lives in the same household. See *Code of Criminal Procedure, Articles 35 and 344*.

- Equal treatment and the protection from discrimination is guaranteed by *Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and Protection against Discrimination and on Amendment and Supplement of Certain Acts*.

## Specific procedural measures

- A child who is under 15 years of age at the time of the offence, must always be examined as to whether he or she is competent to recognise the illegality of the act, and whether he or she is competent to control his or her own conduct. See *Code of Criminal Procedure, Articles 337 and 338*.

## Diversion and alternatives to detention

- Detention and imprisonment of children are measures of last resort. Detention should be only for the necessary period of time. In determining the severity of punishment, the court shall consider, as a mitigating circumstance, how the child fulfilled the imposed educational obligations and restrictions. See *Criminal Code, Articles 110 and 117* and *Code of Criminal Procedure, Articles 70, 76, 85 and 86*.
- An accused child may be remanded in detention only if the purpose of detention cannot be achieved otherwise. The alternatives to detention include guarantees, promise and supervision. When using an alternative measure to detention, the court may impose appropriate restrictions and obligations and have the performance monitored electronically. See *Code of Criminal Procedure, Articles 70, 80, and 339*.
- The court may impose protective education for a child offender if: the education of the child is not properly ensured, and this deficiency cannot be eliminated in the family in which the child lives; the previous education of the child was neglected; or the environment in which the child lives does not guarantee his/her proper education. Protective education may only be imposed if the offender is criminally responsible and is not over 18 years. The court may also impose house arrest on a child offender. See *Criminal Code, Articles 102-105, and 116a*.

# Child victims and witnesses in criminal proceedings

## Implementation of EU Directive 2012/29

As of 11 May 2020, the Slovak Republic had not fully transposed **EU Directive 2012/29** establishing minimum standards on the rights, support and protection of victims of crime. As of this date, the European Commission had ongoing infringement proceedings against the Slovak Republic for its failure to fully transpose **EU Directive 2012/29**.

## Cross-cutting safeguards

- Legal assistance is provided to victims through the Centre for Legal Aid and it is free when the victim does not have the means to pay for legal representation.

- During the assessment of the victim, the victim's personal situation and immediate needs, age, sex, disability, if any, and maturity, are taken into account. The victim's physical, mental and moral integrity should be fully respected. See *Code of Criminal Procedure, Article 2(21)*.
- Additionally, the Slovak Republic specifically ensures the following rights/safeguards to children: right to avoid contact with the offender, protection from revictimization, and protection in criminal proceedings.

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## Focus on status offences

The Slovak Republic does not address behaviours which are typically deemed a status offence through the criminal justice sector. These include offences such as truancy, running away from home, curfew violations, and possession of alcohol or tobacco. Instead, such behaviour may be addressed through the social welfare or child protection sectors. As such, the behaviour of the child is not criminalized, but adults may be held responsible for certain actions. For example, parents may be fined for a child's failure to attend school and an adult who provides alcohol or tobacco to a child may be charged under the law.

## Other relevant information

There are a variety of civil organisations working to improve the rights of children in contact with the law. Initiatives of non-governmental organisations (NGOs) include protecting the rights of children in proceedings before authorities and monitoring the country's fulfilment of its obligation to children under national and international law. A list of relevant NGOs will be made available upon request.

The Slovak Republic has various laws, including the *Constitution and Anti-Discrimination Act*, to help protection from discrimination. Protection from discrimination is focused on gender and diversity, race, persons with disabilities, etc.