



PUBLIC DEFENDER OF RIGHTS

Who is a Public Defender of Rights?

The Public Defender of Rights is an independent body of the Slovak Republic, whose position and competences are specified by the Constitution of the Slovak Republic and the Act No. 564/2001 Col. of Laws, on Public Defender of Rights, as amended.

Competence of Public Defender of Rights

According to Art. 151a sect. 1 of the Constitution of the Slovak Republic, “the public defender of rights is an independent body which in the scope and in manner laid down by a law protects the fundamental rights and freedoms of natural persons and legal entities in the proceedings before public administration bodies and other public bodies, if activities, decision making or inactivity of the bodies are inconsistent with legal order. In cases laid down by a law the public defender of rights can participate in calling the persons acting in public bodies to responsibility, if the persons have violated fundamental right or freedom of natural persons and legal entities. All public power bodies shall provide the public defender of rights with needed co-action.

Scope and manner, in which the public defender of rights as independent body participates in protection of fundamental rights and freedoms of natural persons and legal entities, as well as details of the election and the recall of the public defender of rights, his competence, the conditions of performance of his function, the manner of legal protection and enforcement of rights of natural persons and legal entities are specified by the Act on Public Defender of Rights.

Anybody who believes 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 activities, decision-making or inactivity of a public administration body can turn to the public defender of rights.

Fundamental rights and freedoms, in protection of which the public defender of rights participates, can be found both in the Chapter Two of the Constitution of the Slovak Republic and in international documents.

The competence of a public defender of rights relates to public administration bodies, which are, including, without limitation, the following:

▪ state administration bodies, e.g.:

- Ministries and other Central State Administration Authorities,
- local state administration bodies – regional and district authorities, cadastral offices,
- Courts only in the case of bodies competent for administration and management of courts and for reasons which assume disciplinary misdemeanour of a judge.

▪ local self-government authorities, e.g.:

- municipality council/city council, Lord Mayor/ Mayor,
- council of a higher regional unit, Chairman of a higher regional unit,

▪ otherwise intervene into rights and obligations of natural persons and legal entities in the area of public administration, for instance, e.g.:

- Sociálna poisťovňa (Social Insurance Company), Všeobecná zdravotná poisťovňa (General Health Insurance Company)...

The competence of a public defender of rights does not apply to the National Council of the Slovak Republic, President of the Slovak Republic, Government of the Slovak Republic, Supreme Audit Office of the Slovak Republic, Constitutional Court of the Slovak Republic, intelligence services, decision-making powers of investigators of Police Corps, prosecution, courts (except of bodies competent for administration and management of courts and for reasons which assume disciplinary misdemeanour of a judge), matter of an operation and mobilization nature.

Powers of the Public Defender of Rights

A public defender of rights may:

- **enter public administration facilities** (public administration bodies are not entitled to prohibit an entry of a public Defender into their premises, including branches),
- **require a public administration body to provide it with necessary files, documents, as well as explanations of a matter, to which the inducement relates** (upon a request of a public defender of rights, public administration bodies are obliged to provide it with required information and explanations, submit a written statement to factual, as well as legal, matters; they are at the same time obliged to allow it to inspect a file or loan it a file, except for information and explanations, forming the confidentiality obligation recognized or imposed by the state, in which case an employee of a public administration body is authorised to refuse the provision thereof),
- **give questions to employees of a public administration body** (a public defender of rights may give questions to employees of affected bodies in person, by phone, or via e-mail),
- **talk to persons, which are secured** at places, where custody, sentence of imprisonment, sentences of soldiers, protective in-patient medical treatment, protective youthful and young offenders rehabilitation, in-patient treatment or treatment in a special in-patient institution, and in police cells are being serviced (any written inducement of a person, which has been deprived of personal liberty or person with a limited personal liberty, and which is addressed to a public defender of rights, will not be subject to official control either),
- **be present in oral hearing and ask parties to the proceedings and persons participated in the hearing questions** (a public defender of rights may use the above authorisations, however it will not be itself a party to the proceedings, i.e., it will not hold certain rights, e.g., filing remedies, delivery of decisions, etc.).

Upon the public defender of rights's demand, public administration bodies shall be obliged to provide him with information and explanations and immediately enable him to look

into a file or borrow him a file. As to fulfilment of other obligations a period of 20 days is required by law.

If public administration body fails to comply with the public defender of rights's request, the public defender of rights shall report the failure to the superior body or to the Government of the Slovak Republic, if such superior body does not exist. The superior public administration body or, if no superior body exists, the Government of the Slovak Republic shall be obliged to notify the public defender of rights in writing of measures adopted in the matter. The notice shall be provided within 20 days from delivery of the public defender of rights's report.

If the public defender of rights does not consider the implemented measures as sufficient, he shall report the fact to the National Council or to a body authorized by the National Council.

The public defender of rights can apply the Constitutional Court of the Slovak Republic for commencement of proceedings in matter of harmony of legal regulations according to Art. 125, 1 of the Constitution of the Slovak Republic, if further application of the regulation could represent a threat to the fundamental rights and freedoms or human rights and fundamental freedoms, as arise from an international treaty that has been ratified by the Slovak Republic and published in a way specified by a law.

The public defender of rights may not interfere in court decisions, is not a party to the proceedings, may not file a proposal for proceedings before a court, no decisions are delivered to it, and has no right to file remedies.

The public defender of rights is not authorised to solve disputes among natural persons.

The public defender of rights is not authorised to interfere in the decision-making activity of courts.

Procedure Used in Submission of Complaint

Anybody can turn to the public defender of rights:

- **in writing** (using **mail, fax, e-mail**, via **electronic form**)
Address: **Kancelária verejného ochrancu práv**
Nevädzová 5
P.O.BOX 1
820 04 Bratislava 24
fax: +421/2/48 28 72 03
e-mail: sekretariat@vop.gov.sk
office@vop.gov.sk
- **personally** in form of minutes
 - **in the headquarters of Secretariat of the Public Defender of Rights** at Nevädzova č. 5 in Bratislava – municipal part Ružinov on each working day from 8.00 a.m. to 4.00 p.m. without need to agree on visitation time in advance;
in business days in **regions of Slovakia**. Visit to regional centre needs to be agreed on in advance using contact telephone numbers.

Essential of Content of Complaint

The complaint shall clearly indicate:

- **a matter, to which it relates,**
- **a public administration body, against which it is filed,**
- **an action, execution of which the claimant requires.**

For faster investigation of complaint, we simultaneously recommend to submit **copies** of all **documents**, which are available to the claimant and confirm his statements. If the complaint doesn't relate to claimant, it shall be also necessary to submit **written approval** with submission of the complaint, issued by a person concerned, or **power of attorney** covering the case.

A complaint, in which the claimant fails to mention his name, surname and address (business name and registered office in the case of legal entity), is an **anonymous** complaint. The public defender of rights is not obliged to deal with anonymous complaint. Claimant can ask the public defender of rights to keep the claimant's identity confidential. In such a case, only a copy of complaint, which contains no personal data, shall be used in dealing with matter. If a claimant has asked for his identity to be kept confidential, but the nature of the complaint does not enable to settle the matter without disclosure of some of personal data, the claimant shall be immediately notified of it. At the same time, it shall be necessary to inform the claimant that for further dealing with the complaint his approval with disclosure of certain needed personal information has to be given within certain term.

Fundamental Rights and Freedoms Provided for in the Second Chapter of the Constitution of the Slovak Republic

Fundamental rights and freedoms are guaranteed in the territory of the Slovak Republic for anyone regardless of its sex, race, colour of skin, language, belief and religion, political or other opinions, national or social origin, nationality or ethnical affiliation, property, ancestry or other position. No-one can be damaged, favoured, or disfavoured for such reasons. Foreigners hold in the Slovak Republic fundamental human rights and freedoms guaranteed by this Constitution, unless expressly recognized only to citizens.

Fundamental rights and freedoms provided for in the Constitution of the Slovak Republic include the following:

1. Fundamental Human Rights and Freedoms (Article 14 through 25)

Anyone's capacity for rights, right to live, inviolability of a person and its privacy, prohibition of torture, cruel, inhuman or humiliating treatment or punishment, personal liberty, prohibition of convict labour or services, right to preserve human dignity, personal honour, good reputation and protection of name, protection against unauthorised interference in family or private life, protection against unauthorised gathering, disclosure, or other misuse of information about one's person, right to own property, inviolability of residence, mail secret, secret of messages being transmitted, other papers, protection of personal data, freedom of movement and stay, prohibition to banish an own citizen, freedom of thought, conscience, religion, and belief, right to change religion and belief, publicly express one's thought, religion, and belief, participate in ordinances, teaching religion, organization of churches, **duty to enlist itself for military service, military service – no-one may be forced to perform military service, if it is in conflict with its conscience or religion.**

2. Political Rights (Articles 26 through 32)

Freedom of thought and right to information, right to express one's opinions, press publication, prohibition of censorship, obligation of public authorities to inform about their activities, petition right – right to address state authorities and local self-government authorities with requests, proposals, and complaints, prohibition to call for a violation of fundamental rights and freedoms, prohibition to interfere by a petition in the independence of courts, **right to peacefully assemble**, assembly may not be made subject to a permission of a public administration body, **right to freely assemble** in alliances, companies, associations, found political parties and movements, **right of citizens to participate in administration of public matters** directly or through representatives (election right), **right of citizens to make a stand** against anyone, who would remove democratic rules of fundamental human rights and freedoms provided for in the Constitution of the Slovak Republic, provided that the activity of constitutional authorities and effective use of legal means are disabled.

3. Right of National Minorities and Ethnical Groups (Articles 33 and 34)

Citizens forming national minorities or ethnical groups in the Slovak Republic are entitled:

- for **general development**, including, without limitation, to develop their own culture, extend and receive information in their mother tongue, assemble in national associations, found and maintain educational and cultural institutions;
- **to education in a mother tongue;**
- **to use their language in official contacts;**
- **to participate in solving matters concerning national minorities and ethnical groups.**

The membership in any national minority or ethnical group must not be to the detriment of anyone!

By exercising the rights stated herein the sovereignty and territorial integrity of the Slovak Republic must not be put at risk and other citizens of the Slovak Republic must not be discriminated.

4. Economic, Social, and Cultural Rights (Articles 35 through 43)

Right to freely choose occupation, preparation for it, right to **pursue business, undertake other gainful activity, right of citizens to work** and reasonable material welfare of citizens, who are unable to exercise such right otherwise than due to their fault, **right to fair and satisfactory working conditions**, for instance, the right to remuneration for work carried out, protection against unauthorised dismissal and discrimination, right to rest after work, right to vacation, collective bargaining, protection of safety and health at work, **right of free association** with others to protect one's economic and social interests (foundation and activity of union organizations), right to strike, **right to increased protection at work and special working conditions** (women, juveniles, disabled persons)

right to reasonable material welfare in case of old age, incapacity to work, and loss of bread winner, material need aid, **right to protection of health**, free medical care based on health insurance, right to medical aids from conditions under law, **protection of marriage, parenthood, family, special care for pregnant women, parental education and care, right to education, freedom of scientific research and art.**

5. Right to Protection of Environment and Cultural Heritage (Articles 44 and 45)

Right to favourable environment, right to on-time and complete information about the condition of environment and causes and consequences of such condition.

6. Right to Judicial and Other Legal Protection (Articles 46 through 50)

The rights to judicial and other legal protection include, for instance, the following: right to **claim one's right** before an independent and impartial court through a procedure provided for by law, right to **address a court in the matter of reviewing a decision of a public administration body, right to compensation of damage** caused by an illegal decision of a court, other state body or public administration body or by an incorrect official procedure, right to **refuse to give testimony**, if the risk of a criminal prosecution would thereby be caused to the person or its close relative, **right to legal assistance** before courts, other state bodies or public administration bodies from the beginning of the proceedings under the conditions stipulated by law, **right to an interpreter, impossibility to deprive from a statutory judge, right to public discussion of a matter with undue delays, right to provide statements to any evidence being exercised, right to considering the one against whom criminal proceedings are being conducted to be not guilty until the court declares**

its guilt by a valid and effective judgement of conviction, right of an accused person for the provision of time and possibility to prepare a defence and to defend itself or through counsel (**right to counsel**) **right of an accused person to refuse to give testimony**.

7. Right of Asylum for foreigners being chased for exercising political rights and freedoms. Asylum may be refused to anyone, who has acted in conflict with fundamental human rights and freedoms.

Frequently Asked Questions and Answers

1. What it does mean that the public defender of rights deals only with „fundamental rights and freedoms“ and where the rights and freedoms are specified?

The fundamental rights and freedoms represent special category of especially important subjective rights. These rights are **inviolable, inalienable, secured by law, and unchallengeable**. Nobody can be deprived of the rights or deprive himself of the rights (e.g. through waiver). An individual does not acquire these rights through their inclusion into legal order of certain country, but, on contrary, the rights **arise directly from the individual's position**. Fundamental rights and freedoms are specified both in the Chapter Two of the Constitution of the Slovak Republic and in international documents (such as, Convention on the Rights of the Child, Universal Declaration of Human Rights and others).

2. Which bodies are the “public administration bodies“?

The public administration bodies include:

- **state administration bodies** (such as, ministries, central state administration bodies, district offices, regional offices etc.)
- **self-governmental bodies** (such as, mayor, chairman of the higher territorial unit, municipal board etc....)
- **legal entities and natural persons, who are taking decisions on or otherwise intervene into the rights and duties of natural persons and legal persons in the area of public administration, following provisions of the specific act** (e.g. Social Insurance Company, health insurance companies)

3. What are essentials required for complaint submitted to the public defender of rights?

The complaint shall clearly indicate **a matter, to which it relates, a public administration body**, against which it is filed, and an action, **execution of which the claimant requires**. For faster investigation of complaint, we recommend to submit copies of all documents, which are available to the claimant and confirm his statements. If the complaint doesn't relate to claimant, it shall be also necessary to submit **written approval** with submission of the complaint, issued by a person concerned, or **power of attorney** covering the case.

4. Is it necessary to state one's name and surname in the inducement?

We recommend to potential claimants to give their personal data for proper settlement of complaint. A complaint, in which the claimant fails to mention his name, surname and address (business name and registered office in the case of legal entity), is an **anonymous** complaint. The public defender of rights is not obliged to deal with anonymous complaint. If the submitter of an inducement is afraid of a disclosure of its identity, it may request the public defender of right for an undisclosed thereof, in which case the handling of the inducement will proceed only on the basis of a copy of the inducement, which fails to state

personal data. If the submitter has requested for an undisclosed of its identity but the nature of the inducement fails to allow the handling thereof without sating certain of its personal data, the public defender of rights will immediately notify the submitter of the inducement of such fact, as well as of the fact that it will continue in the handling only if granted written consent of the submitter, stating the necessary information. Anonymous inducements, i.e., inducements, where the submitter fails to state its name, surname, and address (legal person – name and seat), need not be handled by the public defender of rights.

5. Will the public defender of rights handle also inducement, which fails to contain all prescribed prerequisites?

If an inducement fails to contain required information or it is impossible to precisely ascertain from the data provided, to which matter it relates, then the public defender of rights will immediately call upon submitter of the inducement to supplement such data. If claimant fails to add required data within a certain period of time, which may not be shorter than seven days, the public defender of rights shall put off the complaint.

The defender of rights will inform the submitter of the inducement about such results in writing.

6. Can I also use e-mail for submission of complaint?

A complaint can be submitted to the public defender of rights in writing, verbally into the minutes, using telegram, fax or e-mail.

7. Is there some published specimen or form of complaint submission to the public defender of rights?

The Secretariat of public defender of rights informs about details concerning the complaint submission to the public defender of rights in its materials, which can be obtained in the Secretariat's spaces at Nevädzová č.5 and on its website www.vop.gov.sk. The site also contains forms form complaint submission which can be completed and sent to the public defender of rights directly through the internet. The information materials as well as forms for complaint submission are published also in the languages of national minorities living in Slovakia, with respect to which the provisions of Convention No 588/2001 Coll. of **European** Charter for Regional or Minority Languages have been ratified, i.e. Bulgarian, Czech, Croatian, Hungary, German, Polish, Romany, Ruthenian and Ukrainian language. Besides mentioned languages, the information about activity and operation of the public defender of rights are available also in English, French, Spain, Russian and Arabic.

8. May I use my mother tongue in contacts with the public defender of rights?

The Act on Public Defender of Rights allows natural persons to use their mother tongue in contacts with a public defender of rights. Expenses for an interpreter will be borne by the state.

9. Can I withdraw the complaint as in the case of suit?

Yes. There are no procedural obstacles to such withdrawal. The claimant can withdraw the complaint until it is finally settled by the public defender of rights. In this case the proceeding before public defender of rights will be then finished by a complaint put off in accordance with the methods of complaints settlements set by law.

10. Can be the claimant represented by other person in the proceeding before the public defender of rights?

Yes. Taking account of personal data protection it is possible to expressly choose this way at the time of complaint submission, either in writing or verbally into minutes. Power of attorney, certified by notary public, is not necessary as anybody who believes 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 activities, decision-making or inactivity of a public administration body can turn to the public defender of rights.

11. How quickly will my inducement be handled, if I address a public defender of rights with it? Has the public defender of rights any prescribed periods therefor?

The Act on Public Defender of Rights provides for no periods for handling inducements by a public defender of rights. Inducement will be handled in the sequence, in which they have been delivered. The speed of handling them depends on the number and seriousness thereof. The speed of settlement depends on the number of the complaints and their complexity.

12. Is the public defender of rights obliged to inform about the handling of an inducement during the proceedings? Will I receive any written response from the public defender of rights?

During the review of the inducement, the public defender of rights will not particularly inform the submitter. The submitter will at each time be informed by the public Defender of rights about results and conclusion of the review of the inducement.

13. Is the public defender of rights authorized to provide the natural persons or legal entities with interpretation of generally binding legal regulations or their specific provisions?

The public defender of rights is not competent to provide the natural persons or legal entities with obligatory legal opinion or interpretation of generally binding legal regulations.

14. Is the public defender of rights entitled to initiate a change in a legal regulation?

The public defender of rights has no right to initiate legislation. Pursuant to the Act on Public Defender of Rights, if the public defender of rights ascertains, during the handling of an inducement, any facts showing that law, other generally binding legal regulation, or internal rule issued by a public administration body breaches fundamental rights and freedoms of natural and legal persons, it may file an inducement for a change therein or cancellation thereof with a competent authority.

15. May I address a public defender of rights with my inducement, if more than ten years have lapsed from a violation of my fundamental rights? Will the public Defender of rights be obliged to accept such inducement for handling?

Pursuant to Act No. 564/2001 Coll., on Public Defender of Rights, a public defender of rights may postpone an inducement, if the period of more than three years has lapsed from the measure or event, to which the inducement relates, on the day of the delivery of the inducement.

16. Are the proceedings before a public defender of rights subject to special fees?

No. The activity of a public defender of rights is free for submitters of inducements.

17. Is it possible to appeal against a decision of a public defender of rights? For instance to the European ombudsman?

The public defender of rights does not have decision-making powers. It will only notify the submitter of an inducement, upon the review of the inducement, of the manner, in which the inducement has been handled by it. The public defender of rights has no superior body, to which the submitter of an inducement could, if not satisfied with the manner, in which the public defender of rights has handled its inducement, appeal.

The European ombudsman is not authorised to review prior decisions of regional ombudsmen either. Its competence applies exclusively to review of complaints concerning wrong acting and institutions and bodies of the European Union.

18. Is it necessary to address a public defender of rights prior to the filing of a compliant with the European Court for Human Rights in Strasbourg?

No. The European Court for Human Rights in Strasbourg does not require that the claimant addresses, within the framework of a withdrawal of internal state remedies of the matter, a public defender of rights too. The Ombudsman Institute is not considered by court in its judicature, given the absence of decision-making powers, to be an effective remedy pursuant to Article 13 of the Convention on Protection of Human Rights and Fundamental Freedoms.

19. Can the public defender of rights investigate the submitted legal complaint being already investigated by the relevant department of police corps ?

The competence of the public defender of rights does not apply to decision-making powers of police investigators, public prosecution and courts, except of the state administration of courts and reasons anticipating the disciplinary misdemeanour of a judge.

20. Can I address the public defender of rights in the case I assume that there are undue delay in the legal proceeding ?

The solution of undue delay falls with scope of competence of the public defender of rights. If the claimant wants to demand his rights through the public defender of rights, his complaint has to contain file evidence number referring to relevant court proceeding, the relevant court and the date when the court undertook the last procedural act in this matter. At the same time it is necessary to submit the copies of documents proving the proclaimed facts. Anyway, it is necessary to say that the public defender of rights may not interfere in court acting and decision-making, enter the court proceeding, represent the participants in the court proceedings or file a proposal or remedies in the name of proceeding participants. Such activity would mean breach of courts independence guaranteed by constitution and would be contrary to constitutionality principles.

24. Is the public defender of rights entitled to review the procedure and decision-making of regional court and regional prosecution?

The competence of a public defender of rights does not apply to the prosecution and courts excepting for state administration of courts and reasons anticipating a disciplinary misdemeanour of a judge. The public defender of rights may not interfere with activities and decision-making of prosecution, he is even not entitled to intervene into the court proceeding, examine the decisions of the court or revise them and has no means which he could to cancel or modify the decisions of courts or prosecution or replace them with his own decisions.

Where and how can you obtain the information concerning the public defender of rights?

On the **website** of public defender of rights: www.vop.gov.sk

On this website you can find the information concerning the activity and competence of the public defender of rights as well as the forms for complaint submitting which can be completed and sent to the public defender of rights directly through the internet and which are published also in the languages of national minorities living in Slovakia, with respect to which the provisions of Convention No 588/2001 Coll. of **European Charter for Regional or Minority Languages** have been ratified, i.e. **Bulgarian, Czech, Croatian, Hungary, German, Polish, Romany, Ruthenian and Ukrainian language**. Besides mentioned languages, the information about activity and operation of the public defender of rights are available also in **English, French, Spain, Russian and Arabic**.

Information concerning the activities of the public defender of rights is accessible also in the headquarters of the **Secretariat of Public Defender of Rights** at:

Kancelária verejného ochrancu práv

P. O. BOX 1, 820 04 Bratislava 24
tel. No.: 02/48287239, 02/43634906
fax: 02/48287401
e-mail: sekretariat@vop.gov.sk



You can personally visit the Secretariat of the Public Defender of Rights at Nevädzova 5 in Bratislava – municipal part Ružinov on each working day from 8.00 a.m. to 4.00 p.m. without need to agree on visitation time in advance. Complaints are also received in business days in **regions of Slovakia**. Detailed information can be obtained using contact telephone numbers of the Secretariat of the Public Defender of Rights.