Response of the Slovak Republic to Questionnaire on domestic servitude

Question 1:

Slovak national legal framework criminalises all contemporary forms of slavery. National legislation is based on international and EU principles. This part also partly describes remedies and rights for victims of all types of human trafficking, including slavery and forced labour:

- **International level:**

  Trafficking in human beings is internationally recognized as a criminal offence and its definition is based on the UN Convention against Transnational Organized Crime and its Additional Protocol on the Prevention, Suppression and Punishment of Trafficking in Persons, Especially Women and Children (so-called Palermo Protocol).

  The abolition and definition of forced labour was already included in ILO Conventions No. 105 and No. 29 of 1930 on forced or compulsory labour. Under Article 1 of the ILO Convention No. 105: "Any member of the International Labour Organization which ratifies this Convention undertakes to suppress and not to use any form of coercive or compulsory labour."

- **EU level:**

  The Charter of Fundamental Rights of the European Union in Article 5 prohibits slavery and forced labour.


The European Social Charter

- **National legislation**

  The Constitution of the Slovak Republic prohibits forced labour in the Article 18 (1) “No one can be sent for forced labour or forced services” in conjunction with Article 16 (2) “No one can be tortured or subjected to cruel, inhuman or degrading treatment or punishment.”

  Contemporary forms of slavery (e.g. forced labour, bonded labour, domestic labour, serfdom, etc.) are not expressly defined in the Slovak Criminal Code – Act No. 300/2005 Coll. as separate criminal offences. However, forms of conduct that can be recognized as contemporary forms of slavery are criminalised under various provisions of the Criminal Code such as criminal offences of trafficking in human beings, restricting personal freedom, restricting freedom of residence, extortion, duress, or battering a close person and a person entrusted into one’s care, production of child pornography or procuring and soliciting prostitution.
Section 179 of the Criminal Code defines the criminal offence of Trafficking in Human Beings as follows:

“(1) Any person who, by using fraudulent practices, a trick, restriction of personal freedom, violence, threat of violence, threat of grievous bodily harm or other forms of coercion, by accepting or offering monetary payment or other benefits, in order to get approval of a person on whom another person depends, or by misusing his position, or abusing of defencelessness or other vulnerable position, entices, transports, harbours, hands over or takes over another person, even upon his consent, for the purposes of his prostitution or another form of sexual exploitation, including pornography, forced labour and services including beggary, slavery or practices similar to slavery, servitude, forced marriage, misuse for committing criminal activities, removal of organs, tissues or cells or other forms of exploitation, shall be liable to a term of imprisonment of four to ten years.

(2) The same sentence as referred to in paragraph 1 shall be imposed on any person who entices, transports, harbours, hands over or takes over a child, even with his consent, for the purposes of his prostitution or other form of sexual exploitation, including child pornography, forced labour or forced services including beggary, slavery or practices similar to slavery, servitude, forced marriage, misuse for committing criminal activities, illegal adoption, removal of organs, tissues or cells or other forms of exploitation.

(3) The offender shall be liable to a term of imprisonment of seven to twelve years if he commits the offence referred to in paragraphs 1 or 2,
  a) and obtains larger benefit for himself or another through its commission,
  b) and puts another person at risk of grievous bodily harm or death by such act,
  c) as a public official
  d) against a protected person,
  e) with a specific motive, or
  f) in a more serious manner of conduct.

(4) The offender shall be liable to a term of imprisonment of twelve to twenty years if he commits the offence referred to in paragraphs 1 or 2,
  a) and obtains substantial benefit for himself or another through its commission,
  b) and causes grievous bodily harm or death, or other particularly serious consequence through its commission, or
  c) as a member of a dangerous group.

(5) The offender shall be liable to a term of imprisonment of twenty to twenty-five years or to life imprisonment if he commits the offence referred to in paragraphs 1 or 2,
  a) and obtains large-scale benefit for himself or another through its commission, or
  b) and causes grievous bodily harm or death to several persons through its commission.

The protected person shall mean child, pregnant woman, close person, dependent person, elderly person, ill person, person enjoying special protection under the international legal instruments, public figure or a person who fulfils his/her obligations prescribed by law, witness,
expert, interpreter or translator, or health professional when performing a health profession directed at rescuing life or protecting health. The close person shall include any direct relative, sibling and spouse, and other persons in family relation or similar relation shall be considered close persons if harm suffered by one of them the other felt as his/her own.

Domestic servitude as a form of contemporary slavery is punishable as any violation of personal freedom or freedom of residence under provisions of the Section 183 and 184 of the Criminal Code. Restriction of personal freedom of any person constitutes a criminal offence of Restricting Personal Freedom under Section 183 of the Criminal Code. According to its paragraph (1) whoever illegally restricts the personal freedom of another person shall be punished by a prison sentence of six months to three years. More serious forms are defined in following paragraphs 2, 3, 4.

(2) A prison sentence of three to eight years shall be imposed upon an offender if he commits an act referred to in paragraph 1
a) in a more serious manner of conduct,
b) with a specific motive,
c) as a public official,
d) against a protected person, or
e) and thus causes larger damage.

(3) A prison sentence of seven to twelve years shall be imposed upon an offender if he commits an act referred to in paragraph 1
a) and causes grievous bodily harm or death, or
b) and thus causes significant damage.

(4) A prison sentence of twelve to twenty-five years or a life prison sentence shall be imposed upon an offender if he commits an act referred to in paragraph 1
a) and thus causes the death of several persons,
b) and thus cause damage of large extent, or
c) as a member of a dangerous group.

Section 184 of the Criminal Code criminalize Restriction of the Freedom of Residence and defines this criminal offence as follow:

(1) Whoever through deception or violence, threats of violence or any other harm
a) illegally forces another person to reside in a particular location, or
b) illegally prevents another person from residing in a particular place,
shall be punished by a prison sentence of six months to three years.

(2) A prison sentence of one to five years shall be imposed upon an offender if he commits an act referred to in paragraph 1
a) in a more serious manner of conduct,
b) with a specific motive, or
c) as a public official.

(3) The same punishment referred to in paragraph 2 shall be imposed upon a person who illegally forces another person to leave the territory of the Slovak Republic or illegally restricts another person from residing in the Slovak Republic.

Another type of conduct that may be considered as contemporary form of slavery is Extortion punishable under the Section 189 of the Criminal Code. According to its paragraph (1) Any person who forces another person by violence, threat of violence or threat of other serious harm to do anything, omit doing or endure anything being done shall be liable to a term imprisonment of two to six years. More grievous means of committing this criminal offence are set out in paragraphs 2, 3 and 4 of this Section.

(2) The offender shall be liable to a term of imprisonment of four to ten years if he commits the offence referred to in paragraph 1
   a) acting in a more serious manner,
   b) against a protected person,
   c) with a specific motive, or
   d) and causes larger damage through its commission.

(3) The offender shall be liable to a term of imprisonment of ten to twenty years if he commits the offence referred to in paragraph 1,
   a) and causes grievous bodily harm or death through its commission, or
   b) and causes substantial damage through its commission.

(4) The offender shall be liable to a term of imprisonment of twenty to twenty-five years or to life imprisonment if he commits the offence referred to in paragraph 1,
   a) and causes grievous bodily harm or death to several persons through its commission,
   b) and causes large-scale damage through its commission, or
   c) as a member of a dangerous group.

Any person who, forces another to do, omit doing or endure something being done while abusing his material need or urgent non-material need, or distress caused by his adverse personal circumstances, commits the criminal offence of Duress under Section 192 (1) of the Criminal Code and shall be liable to a term of imprisonment of up to three years. More grievous means of committing are set out in paragraph 2, 3 and 4 of the Section 192 of the Criminal Code.

(2) The offender shall be liable to a term of imprisonment of one to five years if he commits the offence referred to in paragraph 1
   a) acting in a more serious manner,
   b) against a protected person,
   c) with a specific motive,
d) with the intention to obtain larger property benefit or other benefit for himself or another, or
e) by denying an employee in an employment relation or a similar working relation to exercise his right to safe and healthy working conditions, to annual leave or to the creation of statutory working conditions for women and juvenile workers.

(3) The offender shall be liable to a term of imprisonment of four to ten years if he commits the offence referred to in paragraph 1,
a) and causes grievous bodily harm or death through its commission, or
b) and causes substantial damage through its commission.

(4) The offender shall be liable to a term of imprisonment of ten to twenty-five years or to life imprisonment if he commits the offence referred to in paragraph 1,
a) and causes large-scale damage through its commission,
b) and causes death to several persons through its commission,
c) as a member of a dangerous group, or
d) under a crisis situation.

The criminal offence of Battering a Close Person and a Person Entrusted into one’s Care criminalize, besides various violent acts against close persons, children or other persons entrusted into offender’s care, also forcing to begging. These forms are set out in Section 208 of the Criminal Code.
Pursuant to Subsection (1) of the Section 208 of the Criminal Code Any person who causes physical or mental suffering to a close person or a person who is in his custody or charge
a) through repeated beating, kicking, hitting, inflicting various types of wounds and burn wounds, humiliating, disregarding, continuous stalking, threatening, evoking fear or stress, by forced isolation, emotional extortion or by other improper conduct endangering his physical or mental health, or putting his safety at risk,
b) through unjustified deprivation of food, rest or sleep or denial of necessary personal care, clothing, hygiene, health care, housing, upbringing or education,
c) through forcing to begging or to a repeated performance of activities causing excessive physical strain or psychological stress for the person with regard to his age or health or capable of harming his health,
d) by exposing him to the effects of substances that could harm his health, or
e) through unjustified restriction on his right of access to the assets that he is entitled to use and enjoy,
shall be liable to a term of imprisonment of three to eight years.

(2) The same punishment referred to in paragraph 1 shall be imposed upon a person who commits an act similar to that referred to in paragraph 1, although he was previously convicted for a similar act in the last twelve months.

(3) The offender shall be liable to a term of imprisonment of seven to fifteen years if he commits the offence referred to in paragraph 1,
a) and causes grievous bodily harm or death through its commission,
b) with a specific motive,
c) in spite of having been convicted for the same offence during the past twenty-four months or released from the service of a term of imprisonment imposed upon him for such offence, or
d) acting in a more serious manner.

(4) The offender shall be liable to a term of imprisonment of fifteen to twenty-five years or to life imprisonment if he commits the offence referred to in paragraph 1, and causes grievous bodily harm or death to several persons through its commission.

Exploitation of persons for prostitution is prohibited under Section 367 of the Criminal Code as a criminal offence of Procuring and Soliciting Prostitution and it is defined as follow:

(1) Whoever hires, solicits, seduces, exploits, elicits or offers another person to perform prostitution, or who exploits the prostitution performed by another person, or facilitates its performance, shall be punished by a prison sentence of up to three years.

(2) A prison sentence of one to five years shall be imposed upon an offender if he commits such act in a more serious manner of conduct.

(3) A prison sentence of three to ten years shall be imposed upon an offender if he commits the act referred to in paragraph 1 against a protected person.

(4) A prison sentence of seven to twelve years shall be imposed upon an offender if he commits the act referred to in paragraph 1
a) and thus obtains a significant benefit for himself or another person, or
b) as a member of a dangerous group.

(5) An offender shall be punished by a prison sentence of ten to fifteen years if he causes grievous bodily harm or death by committing an act referred to in paragraph 1.

Exploitation of children for producing pornography is a criminal offence of Production of Child Pornography under Section 368 of the Criminal Code. The Section reads as follows:

(1) Whoever exploits, obtains, offers or otherwise abuses a child for the production of child pornography or child pornographic performance or facilitates such exploitation, or otherwise participates in such production, shall be punished by a prison sentence of four to ten years.

(2) A prison sentence of seven to twelve years shall be imposed upon an offender if he commits the act referred to in paragraph 1
a) on a child younger than twelve years,
b) in a more serious manner of conduct, or
c) publicly.
(3) A prison sentence of ten to fifteen years shall be imposed upon an offender if he commits
the act referred to in paragraph 1
a) and thus causes grievous bodily harm or death, or
b) thus obtains a significant benefit.

(4) A prison sentence of twelve to twenty years shall be imposed upon an offender if he com-
mits
the act referred to in paragraph 1
a) and thus causes grievous bodily harm or death to several persons,
b) thus obtains a benefit of a large extent, or
c) as a member of a dangerous group.

Within the prevention of secondary victimization, for example: Under the Criminal Code
competent national authorities are authorized to de-criminalize or overlook involvement in
criminal activities of victims of trafficking in human beings. In this regard, a special regulation
was introduced to stop the prosecution (Section 215 (2) (d) of the Criminal Procedure Code).

The Social Services Act No. 455/2008 provides and declares fulfillment of the needs of victims
in the field of social services, in particular by providing accommodation and specific form of
assistance. In particular, it is about providing an emergency housing facility.

Victim of trafficking in human beings may also be provided under the terms of Section 53 of
the Social Services Act for assistance in the event of crisis through telecommunication
technologies (telephone, fax, internet).

The Social Child Protection and Social Care Authority provides social counselling, mediates
participation in victim assistance programs, and provides psychological counselling and
psychological assistance to rehabilitate the biological family. The Act No. 448/2008 Coll. on
social services introduces a whole range of social services that have a common purpose and
character, and that is to provide help for victims of trafficking in human beings.

Act No. 215/2006 Coll. on compensation for persons affected by violent crimes, which
regulates one-off financial compensation for persons injured as a result of intentional violent
crimes. The injured person may seek redress at the Ministry of Justice of the Slovak Republic
if the offense is not fully paid through different means.

- Non - legislative measures (examples):

To ensure a comprehensive and effective fight against trafficking in human beings the Slovak
Republic introduced another National Program to Combat Trafficking in Human Beings
2015 – 2018. This National Program promotes cooperation between state and other related
offices and organisations in order to tackle problems of trafficking in human beings.

The National Reference Framework – contains a structure of co-operating bodies through
which the public authorities fulfil their commitments regarding the protection and promotion
of the human rights of persons (victims).

Information support and advising (campaigns):
“A program for the victim” providing information on the possibility of granting international protection, financial assistance, social assistance, psychosocial counselling, psychotherapeutic services, interpretation and translation services, legal counselling, health care, retraining courses, possibility to be included in the program of witness protection pursuant and more.
A campaign in radio and television spot with motto "Without information you can become a Slave".

Question 2:

Slovak national legislation does not include the category of domestic workers nor does it include specific definition. The reason of absence of such category in Slovak regime is due to the historical and geographical development of the Slovak Republic in which this category has never been present. Therefore, there are no distinct rights for domestic workers, including migrant domestic workers in regards of salary or working hours, freedom of movement, freedom of association or limitation to change employees.

Question 3:

The main regulation of injured party is provided for in Section 46 and fol. of the Code of Criminal Procedure (Act No. 301/2005 Coll.), where the rights and obligations of a victim as an injured party to the criminal proceeding are set out. A victim who, under the law, is entitled to compensation against the accused for the damages caused by the criminal offence is also entitled to propose the court to order the defendant an obligation to cover the damages in the convicting judgment. The petition must be clear on what grounds and to what extent the claim for damages applies. According to Section 288 of the Code of Criminal Procedure, if, based on the outcome of the evidence, there is no basis for the court to decide on the damages or if further evidence would be necessary to decide on the obligation to pay damages (evidence which would exceed the needs of the criminal prosecution and would extend it), the court shall refer the victim to the civil proceeding or proceedings before another competent authority.

Besides the regulation in the Code of Criminal Procedure, rights of victims are regulated by new Act No. 274/2017 Coll. on Victims of Crimes that came into effect as of 1st of January 2018 with aim to help and support victims. The provisions of this act contain definitions, rights of victims, mechanism of compensation for victims of violent crimes, and support of organizations providing assistance to the victims. It introduces the concept of "victim" and "particularly vulnerable victim" into the law, both of which were absent. The main general principle of this act is that a person is considered a victim until proven otherwise, or unless it is clear beyond doubt that a person wants to abuse the status of a victim of crime pursuant to the act, regardless of whether the offender was identified, prosecuted or convicted. Victim shall generally means a person that suffered bodily harm, material, moral or other damage, or whose rights and freedoms have been infringed upon or endangered as well as family members including persons living in the same household and dependants in case of death.
caused by the offense. The term moral damage is specific and only applies to the victims of crimes of human trafficking and various crimes of sexual violence.

In the list of victim’s rights we can find the right to information and the scope of information that the Police, prosecutors and/or organizations providing services to victims are required to provide to victims at first contact. Emphasis is placed on the provision of information in a comprehensible manner. Further the act introduced the right to access professional services, distinguishing between general assistance provided to all victims of crime and specialized expert assistance for particularly vulnerable victims. List of particularly vulnerable victims is fairly long and it includes children, elderly older than 75, persons with disabilities, hate crime victims, sexual violence victims, domestic violence victims, victims of terrorism or organized crime, victims of trafficking in human beings or other victims which face an increased risk of repeated victimisation based on individual assessment of the victim, his or her character, relationship to the offender, dependency on the offender or other relevant circumstances of the crime.

The Act provides for a right to professional assistance, which includes access to general professional assistance and specialized professional assistance. General assistance includes providing basic information, including legal information, psychological help, consultation regarding avoiding secondary and repeated victimization and providing assistance to the victim when exercising their rights, while specialized assistance is to be provided for particularly vulnerable victims and includes crisis intervention, risk assessment, social services including shelter and general assistance services.

The right to professional assistance can be exercised irrespective of whether the victim initiates criminal proceedings or takes active part in criminal proceedings or not.

Apart from access to services of a psychologist for the victim, the Code of Criminal Procedure also states that a psychologist must be appointed to take part in the proceedings when a particularly vulnerable victim as defined by this act is to be questioned by the authorities. Legal assistance may be provided to victims by NGOs, attorneys, as well as Centre for Legal Aid under the Ministry of Justice, which provides legal aid to persons in material need.

The act on Victims of Crimes states that police, prosecutors and support services are obliged to ensure their actions will not cause secondary victimization and to take measures to avoid repeated victimization. These include special official premises designated for victims as well as limiting medical examinations to an objectively necessary minimum. In case of crimes of sexual violence, trafficking in human beings and domestic violence the interrogation is to be done by an officer of the same sex.

The act also covers rules of compensation provided by the state to victims of violent crime, who suffered bodily harm, unless they were able to receive compensation during criminal or civil proceedings. Main condition is that the claim for compensation has to be made during criminal proceedings, except in cases of crimes of human trafficking and crimes of sexual violence. These are also crimes for which the victim shall receive compensation for “moral
damages”. The law specifies the upper limit of any compensation provided by state in total to up to 50 times minimum wage (as of the 1st of January 2018, the minimum wage is set to 480 euros, thus the upper limit of compensation shall be 24 000 euros).

The Act also addresses support for organizations/NGOs providing services to victims of crime. Such organizations are able to petition the Ministry of Justice for accreditation. The aim is to be able to guarantee a higher quality services for victims. Accredited entities will also be able to apply for financial support. If an accredited organization receives financial support, it is obliged to perform selected services as stipulated by law free of charge. However, all service providers listed in the registry held by the Ministry of Justice are required to provide free specialized services for particularly vulnerable victims if the victim asks for it.

Police officers, particularly from border and foreign police, as well as social workers and NGOs may identify possible victims of trafficking in human beings by their work.

Trafficking in human beings in the Slovak Republic is within the Ministry of Interior of the Slovak Republic in competence of the National unit for fight against Illegal Crime of the Bureau of Border and Foreign Police of the Presidium of the Police Force (from 1st July 2013). Special Unit of fight against Trafficking in Human Beings was created, together with special units for investigation of this type of crime, for Western part, Central part and Eastern part of the Slovak Republic. National Unit for Fight against Illegal Migration does not register any case of labour abuse of domestic workers or migrants employed in domestic relations.

One form of support to victims of trafficking in human beings in the Slovak Republic is the possibility to be placed under programme of support and protection of victims of trafficking. This programme is from the point of view of law, institutionally and financially secured by the Ministry of Interior of the Slovak Republic. Programme serves to persons, by whom there is a due suspicion, that they have become victims of trafficking whether in the Slovak Republic or in abroad. These persons my voluntarily enter to the abovementioned program and on the basis of individual plan of support, they are being served with services of various and necessary kinds.


National helpline for victims of trafficking in human beings – +421 800 800 818, with an emphasis on forced labour.

The Public Protector – Ombudsman is an independent body in the Slovak Republic who protects the fundamental rights and freedoms of natural persons and legal entities in proceedings before public authorities and other public authorities when their conduct, decision or inaction is contrary to the legal Regulations.
**Reporting mechanisms** – within ratified ILO conventions, within legally blinded documents of Council of Europe (European social Charter).

**Question 4:**

See answer to question 2. Due to the non-existence of the category of domestic workers (domestic migrant workers), such statistics are not available.

**Question 5:**

In order to strengthen the cooperation and intensify the possibilities to identify victims of trafficking, the Agreement on cooperation was signed between the Ministry of Interior and National Labour Inspectorate (2013). According to this Agreement, common controls of enterprises are carried out. On behalf of the Ministry of Interior, police officers of National Unit of fight against Illegal Crime carry out these controls. During carrying out the checks, the police officers focus on searching and identification of victims of trafficking (according to Section 179 of the Criminal Code). Within the work of police officers during control, also different police officers are present (police officers of regional directorates of the Police Force according to Sections 2 and 3 of Act on Police 171/1993 Coll. as amended and by provision of Section 68 para. 6 of the Act No. 5/2004 Coll. on employment services and on amending and supplementing certain laws.

Ministry of Interior of the Slovak Republic organized specialized trainings on identification of trafficking in human beings for labour inspectorates in 2014, 2017 and 2018, together 130 labour inspectors were trained. Trainings organized in 2017 and 2018 were lectured by specialists in trafficking in human beings, labour law and social affairs and alien police.

**Question 6:**

As mentioned above domestic servitude, as well as other forms of contemporary slavery, constitutes criminal liability for various criminal offences. Relevant judgements in this matter are therefore categorized according to particular criminal offence they concern. Considering the fact that all above mentioned criminal offences include besides domestic servitude also other forms of conduct, research in relevant judgements is difficult. It is necessary to read every decision regarding particular criminal offence to find out if it concerns domestic slavery or another form of prohibited conduct. Regarding the compensation of victims, the situation is similar. Victims of crimes may be referred with their claim to a civil court. Such proceedings are categorized as proceedings on compensation for damage without distinction for what damage the compensation shall be made. Therefore again research of compensation of victims in case of domestic servitude is difficult.

**Question 7:**

As of 2008 victims of trafficking in human beings (including for the purpose of forced labour or domestic slavery) have possibility to be included into a specialized Programme of support
and protection of victims of trafficking in human beings if there are reasonable grounds to believe that a person has become a victim of trafficking while the victim does not necessarily need to cooperate with LEA. The only pre-conditions for inclusion into the Programme of support and protection of victims of trafficking in human beings are disconnection from criminal environment and voluntary consent with the inclusion into the Programme.

The services provided to the victims include isolation from the criminal environment, information on the legal possibilities of tolerated stay, residence permit or international protection, assisted voluntary return (including assistance and mediation before and upon assisted voluntary return), financial support, social support, psycho-therapeutic services, interpreting services, legal aid, healthcare services, requalification courses, safe accommodation. The services to the victims included in the programme are financially covered from the budget of the Ministry of the Interior and provided by NGOs on the contractual basis, as a result of public procurement.

There is no difference in provision of services under the above mentioned programme to Slovak nationals, EU nationals or third countries´ nationals.

Moreover, as of 1 January 2018, Victims of Crimes´ Act (Act No. 274/2017 Coll.) came into force which stipulates rights, protection and support of victims of crimes, relations between the state and subjects providing assistance to victims and financial compensation for victims of violent crimes. Victims of trafficking in human beings fall under the category of particularly vulnerable victims who are entitled to be provided with specialized care.

The aim of measures adopted in the field of identification, assistance and protection of victims of trafficking is to ensure in the Slovak Republic ensuring respect of human rights of victims and provision of effective access to services for them. In order to fulfil these goals, the National Reference Mechanism was adopted in 2005. It was followed by drafting and adoption of first National Action Plan of Fight against Trafficking in Human Beings for years 2006 – 2007. Further plans were for years 2008 – 2010, 2011 – 2014 and 2015 – 2018.

Current National Program for Fight against Trafficking in Human Beings contains 4 main areas of fight against trafficking – partnership, prevention, protection of victims and criminal prosecution. At this time, new program for 2019 – 2023 is being prepared.

Victims of contemporary slavery has the same rights as provided for in the Code of the Criminal Procedure and the Act on Victims of Crimes. See also Question 3.