

Electoral system and COVID-19 pandemics in the Slovak Republic

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1 Introduction

Slovak Republic and its government reacted to the COVID-19 pandemics by proclaiming an extraordinary situation as early as on March 11, 2020, subsequently introducing a state of emergency by a government resolution on September 30, 2020. While the extraordinary situation holds until these days, allowing for some economic measures, the state of emergency definitely terminated on May 14, 2022. It was proclaimed mostly in order to be able to force the health workers to perform their duties, not allowing them to terminate their employment during the state of emergency. These concerns were solved by introducing an amendment to the Act on economic mobilization, which allows to meet the same goals without introducing the state of emergency. Of course, many other important measures were introduced to mitigate the risks of spreading the pandemics, by prohibiting assemblies, forcing citizens to wear facemasks, and by completely shutting down the economy of the Republic – closing all shops and service providers in the country, limiting their economic activities on online and at-distance provision of goods and services.

The whole period of COVID-19 pandemics was hence marked with important interferences in fundamental rights, mostly performed via binding ordinances of the Public Health Authority, which was entrusted the task to coordinate the fight against pandemics. The legality and constitutionality of the measures was subsequently confirmed by the Constitutional Court of the Slovak Republic, hence the measures themselves are now considered to have been appropriate.

The measures introduced during the pandemics thereby mostly concerned limitation of basic human rights and freedoms, and in fact exerted far lesser influence on the government and on the parliament of the Slovak Republic. These bodies continued to fulfil their duties and continued their activities in a standard manner even during the pandemics, and no major obstacle arose in their performance of duties.

Interestingly, no general elections were taking place in Slovakia in the years 2020-2022 on a nation-wide level – only some interim elections on local levels of municipalities took place. Therefore, no special legislation was necessary to cope with the pandemics and electoral rights. Still, an explicit obstacle to electoral rights was introduced by an amendment to the respective Act of the Parliament, which allowed to deprive of electoral rights those who were in quarantine. These obstacles were in practice not widely used, given the limited scope of interim elections on municipal level only.

However, in 2022, nation-wide elections are planned to take place in Autumn, combining elections to municipalities and regional bodies, which indeed require a new legislation, taking into account potential problems with quarantine and connected deprivation of the people of their right to vote – which is no longer perceived a viable solution. Therefore, as of writing this policy brief, new legislation was introduced on possibilities to exert the right to vote from home, using a special ballot box transported by a special electoral commission formed for those who report to the municipality their quarantine and express their wish to vote even while in quarantine. Hence, a solution was proposed to allow the exercise of the right to vote even to people who will be confined in quarantine during the Autumn 2022 elections.

However, before introducing the new legislation, the general framework of the electoral system in Slovakia need to be addressed first, to be able to point to potential risks of the newly

introduced electoral measures, which might be easily abused, and also made inefficient in case the numbers of people in quarantine would rise substantially.

2 Development of the electoral system in the territory of Slovakia since 1989

After the fall of the former communist regime in 1989, there was an evident demand to change the existing electoral system in Slovakia. The elections served only as a means of manifesting the status of the ruling Communist Party during the pre-November period. Their statement about the state of public opinion at the time was zero, as evidenced by the election results of the Communist Party at the level of more than 99.9 %.¹ Moreover, the old electoral system with a majoritarian character did not meet the demands of new parties and the public in the post-November period.

Therefore, a new Act No. 80/1990 Coll. on elections to the Slovak National Council was adopted immediately in the first phase of the transformation of the legal order. On the basis of this, a **documentary proportional electoral system** was introduced for the elections to the National Council of the Slovak Republic (since 1993).² A 3 % clause was set to enter parliament, with no increase for potential coalitions. The state territory was divided into four constituencies, which were equivalent with the existing regional divisions (Bratislava, West Slovakia, Central Slovakia and East Slovakia). The number of mandates for each district or county was not fixed, but depended on the number of votes cast in the elections.³

For the 1992 parliamentary elections, the electoral law made relatively significant adjustments. This is especially true of smaller political parties. Compared to the previous period, the closure clause was increased to 5 % and was also graduated for candidate coalitions. A level of 7 % was set for two- and three- members, up to 10 % for four or more members. In the following period, its form remained essentially preserved, with only slight and rather formal adjustments for the subsequent 1994 elections.⁴

Fundamental changes to the electoral system then took place before the 1998 elections, when the decreasing preferences of the previously governing political parties (the Movement for Democratic Slovakia, the Slovak National Party, the Association of Workers of Slovakia) prompted them “to use the attribute of parliamentary elections in a purposeful way to maintain its position.”⁵ The amendment of the Electoral Act, adopted shortly before the elections, amended and re-adapted the main contours of the electoral framework:

- a) The previous division into four electoral regions was abolished and replaced by the introduction of a single constituency in which all 150 members of the National Council of the Slovak Republic were elected.

¹ SPÁČ, P.: *Priama a zastupiteľská demokracia na Slovensku. (Direct and representative democracy in Slovakia.)* Brno: CDK, 2010, p. 46.

² The voting system is one of the most common. Among its basic features are:

- a) elections are held in a multi-mandate constituency/multi-mandate constituency;
- b) political parties (or coalitions) draw up mass lists on which candidates are ranked in the order determined by the political party;
- c) voters primarily vote for political parties, not their candidates (this then partially corrects the so-called “priority vote”)
- d) mandates shall be allocated to political parties according to the proportion of votes obtained in the elections;
- e) within political parties, mandates are usually allocated to candidates in the order in which they appear on the list (except for the occupation of mandates on the basis of priority votes).

See for more details OROSZ, L. — MOLEK, P. — SVÁK, J. — ŠIMÍČEK, V.: *Volebné právo a súdny prieskum volieb v Českej republike a v Slovenskej republike. (Electoral law and judicial review of elections in the Czech Republic and the Slovak Republic.)* Bratislava: C. H. Beck, 2016, p. 168 et seq.

³ Ibid., p. 47.

⁴ Ibid.

⁵ Ibid., p. 48.

- b) Although the 5 % closure clause was retained, it was extended to every member of the candidate coalition, which meant their de facto elimination.⁶
- c) The election campaign could only be conducted in public media (with strong government influence, or the Movement for Democratic Slovakia influence), private media were excluded from this process.
- d) The structure of electoral bodies with the superior status of the state administration has been reorganised at the expense of the self-government.⁷

Despite these changes, opposition parties succeeded in the 1998 election, and from them the new government pushed for a change in the rules for coalitions, with a reinstatement of 7 % and 10 % percent depending on the number of their members. On the contrary, one constituency remained until now. Neither the subsequent Electoral Act No. 333/2004 Coll. nor the current Electoral Code 180/2014 Coll. did change the situation.

3 Valid regulation of the exercise of the right to vote in the Slovak Republic⁸

The basic line of electoral law in the Slovak Republic can be inferred from the organic link between the provisions of Article 1(1), Article 2(1) and Article 30 of the Slovak Constitution. However, the right to vote is regulated **in detail and systematically only at the statutory level, namely Act No. 180/2014 Coll. on conditions for the exercise of the right to vote and Act No. 181/2014 Coll. on Electoral Campaign.**

Act No 180/2014 on the conditions for the exercise of the right to vote codified the regulation of individual types of elections and national referendums, previously scattered into several legislations (these are elections to the National Council of the Slovak Republic, elections to the European Parliament, elections of the President of the Slovak Republic, popular vote on the dismissal of the President of the Slovak Republic, elections to local self-government bodies and a referendum promulgated pursuant to Articles 93 to 100 of the Constitution).⁹

In the conditions of the Slovak Republic, constituencies and their boundaries in elections to the National Council of the Slovak Republic, elections to the European Parliament, the election of the President and the election of the President of the Self-Governing Region and the mayor of the municipality are established *ex lege*. The Act on the Conditions for the Exercise of the Right to Vote provides for one multi-mandate district covering the entire territory of the Slovak Republic for elections to the National Council of the Slovak Republic and for elections to the European Parliament. One single district is provided also for the election of the President (it includes the whole territory of the Slovak Republic), for the election of the president of the self-governing region (it includes the whole territory of the self-governing region) and for the election of the mayor (it includes the territory of the whole municipality).

Multi-mandate **constituencies** are formed for the election of representatives of self-governing regions assemblies and municipal councils. The power to establish constituencies and to determine their boundaries, as well as the number of mandates within them, is conferred

⁶ This particular modification was an apparent attack on the electoral coalition of opposition parties, which was formed under the name Slovak Democratic Coalition (formed by the Democratic Union, the Christian Democratic Movement, the Democratic Party, the Social Democratic Party of Slovakia and the Green Party). Following this change, these parties were forced to “transform” from a coalition to a political party with the same name and exclusive membership. At that time, only 150 candidates became members of the SDC.

⁷ Ibid.

⁸ This part conceptually and content is largely based on the processing of valid electoral rights in the publication OROSZ, L. — MOLEK, P. — SVÁK, J. — ŠIMÍČEK, V.: *Electoral law and judicial review of elections in the Czech Republic and the Slovak Republic*. Bratislava: C. H. Beck, 2016, p. 294 et seq.

⁹ According to the explanatory memorandum to the draft law, the reasons for such unification were the legislator’s different approach in the regulation of electoral institutes, terminological inconsistencies, differences in procedures and the need for guarantees of legality and democratic principles in the exercise of the right to vote.

on the local authorities or municipal councils, which must apply it within the time limit specified in the decision to declare elections (see further Sections 134 and 166 of Act No 180/2014).

As regards **electoral districts**, the principles for their formation are established uniformly for all types of elections. The formation of electoral districts and the designation of polling stations are entrusted to the mayors of municipalities within the time limits set by the decision to declare elections. The Act stipulates that the electoral district should be constituted in such a way as to include, as a rule, 1000 voters (see further Section 8 of Act No 180/2014).

3.1 Active and passive suffrage

It can be inferred from the provisions contained in the special sections of the Act on the conditions for the exercise of the right to vote in conjunction with its general provisions as well as from the relevant provisions of the Slovak Constitution that **active suffrage (right to vote) is reserved to:**

- citizens of the **Slovak Republic** who reach the **age of 18** at the latest on the day of the elections (Sections 3, 42 and 98 of the Act) to the National Council of the Slovak Republic and at the time of the election of the **President**;
- **citizens of the Slovak Republic** who have permanent residence in the territory of the Slovak Republic, **as well as citizens of another Member State of the European Union** who have permanent residence in the territory of the Slovak Republic and also citizens of the Slovak Republic who do not have permanent residence in the territory of the Slovak Republic or in the territory of another Member State of the European Union if they reside in the Slovak Republic on the day of the elections (Sections 3 and 72 of the Act);
- **citizens of the Slovak Republic and foreigners who have permanent residence in a municipality belonging to the territory of the self-governing region or have permanent residence in a military district, which belongs to region for the purposes of elections to the organs of the self-governing region** (Sections 3 and 131 of the Act in conjunction with Article 30 (1) and Article 69 (4) and (5) of the Constitution of the Slovak Republic);
- the **municipalities residents** (citizens and foreigners) who have permanent residence in the municipality (Sections 3 and 163 of the Act in conjunction with Article 30(1) and Article 69(2) and (3) of the Slovak Constitution).

It can be inferred from the provisions contained in specific parts of the Act on the Conditions for the Exercise of the Right to Vote in conjunction with the relevant provisions of Constitution, that **passive suffrage (right to stand as a candidate) is reserved to:**

- **citizens of the Slovak Republic who are 21 years** old at the latest and have permanent residence in the territory of the Slovak Republic (Article 74(2) of the Constitution and Section 43 of the Act), with regard to elections to the **National Council of the Slovak Republic**
- as regards elections of the **President of the Slovak Republic, citizens of the Slovak Republic** who are eligible to the National Council of the Slovak Republic and have reached the age of 40 on the date of election (Article 103(1) of the Constitution of the Slovak Republic),
- as regards elections of **a Member of the European Parliament, citizens of the Slovak Republic** who reached the **age of 21** at the latest on the date of the elections, as well as **citizens of another Member State** who reached the **age of 21** at the latest on the date of the elections and have not been deprived of the right to vote in a Member State of the European Union of which they are nationals (Section 73 of the Act),

- as regards elections of **a member of the council of the self-governing region, residents** of the self-governing region (citizens and foreigners) who have permanent residence in the municipality or military district, which belongs to the territory of the constituency in which they stand, and reach the **age of 18** at the latest on the day of the elections (Article 30 (1) of the Constitution of the Slovak Republic and Section 132 of the Act),
- as regards elections of the **president** of the self-governing region, **residents of the self-governing region** (citizens and foreigners) who are **25 years** old at the latest on the day of the elections (Article 30(1) of the Constitution of the Slovak Republic and Section 133 of the Act),
- as regards elections of **a member of the municipal council, residents** of the municipality (citizens and foreigners) who have permanent residence in the municipality in which they stand and reach **18 years** of age at the latest on the day of the elections (Article 30(1) of the Constitution of the Slovak Republic in conjunction with Section 164 of the Act),
- as regards elections of a **mayor of the municipality**, the **inhabitants** of the municipality (citizens and foreigners) who have permanent residence in the municipality and reach the **age of 25** at the latest on the date of the elections and fulfil “... *the conditions for the performance of the office of mayor in accordance with a special regulation*” (Article 30 (1) of the Constitution of the Slovak Republic in conjunction with Section 165 of the Act).

3.2 Obstacles to the exercise of the right to vote

Pursuant to Section 4 of Act No 180/2014, an obstacle to the **right to vote** is:

- a) the restriction of personal freedom provided for by law on grounds of public health protection (meaning the quarantine imposed due to COVID-19 pandemics);
- b) execution of a custodial sentence imposed for committing a particularly serious crime;
- c) disqualification of legal capacity.

The law also provides for three obstacles to the **right to stand as a candidate** (Section 6):

- a) execution of a custodial sentence,
- b) a final conviction for an intentional offence if the conviction has not been extinguished;
- c) disqualification of legal capacity.

3.3 Proclamation of elections

The promulgation of elections represents the first stage of the electoral process, followed by further steps and procedures in a logical sequence. In accordance with Article 89(2) (d) of the Constitution of the Slovak Republic, the Act on the Conditions for the Exercise of the Right to Vote, law confers the power to declare all types of elections to the **President of the National Council of the Slovak Republic**.

The Act uniformly lays down the requirement that elections to the National Council of the Slovak Republic, elections to the European Parliament and elections to local self-government bodies should be declared at least 110 days before the date of their holding. However, such an adjustment does not apply in relation to the election of the President, which the President of the National Council of the Slovak Republic must declare pursuant to Section 106(1) of the Act at the latest 55 days before the day of their holding.

Section 20(2) of the Act on the conditions for the exercise of the right to vote also lays down what the decision to declare the elections must contain (in particular, the date of the election, the time limit for the formation of the precincts and the designation of the rooms, the deadline for the formation and the meeting of the electoral commissions) and the fact that, for all types of elections, it is uniformly determined that the elections are held on Saturday between 7 a.m. and 10 p.m., whereas the mayor of the municipality is entitled, in view of local conditions, to determine the start of the vote differently, at a maximum difference of two hours (Section 20(3)). The decision on the declaration is published in the Collection of Laws of the Slovak Republic (Section 20(1)).

3.4 Registration of voters

For the correct conduct of elections, it is necessary to have a set of specific natural persons (authorised voters) who have (or will have) active electoral rights at the time of the elections. To this end, voter registration is carried out, resulting in a list of voters containing basic data on each eligible voter. Only a natural person on the electoral roll is entitled to vote (subject to the exceptions listed below). A voter can only be enrolled on one voter list to ensure that he is unable to vote several times in the same elections. From that point of view, it can therefore be concluded that the institute of electoral lists is one of the key organisational and legal means by which, on the one hand, universality and, on the other, equality of the right to vote are guaranteed.¹⁰

The Act on the conditions for the exercise of the right to vote distinguishes *ex officio* **registration** (*ex officio* are registered those voters who have permanent residence in the Slovak Republic) and **voluntary registration**, which applies to voters who do not have permanent residence in the territory of the Slovak Republic and, for the purposes of elections to the European Parliament, also to citizens of the Member States of the European Union who have permanent residence in the territory of the Slovak Republic:

- **Ex officio registration** is entrusted to municipalities which, of their own motion, draw up and maintain the so-called **permanent electoral register**, according to the rules laid down in Section 9 of the Act on the Conditions of Exercise of Electoral Rights.
- As far as **voluntary registration** is concerned, these voters may, on their own initiative, i.e. voluntarily register for the purposes of elections to the National Council of the Slovak Republic. Pursuant to Section 45 of the Act, the Ministry of the Interior of the Slovak Republic is tasked with drawing up and maintaining a so-called **special electoral** register, which includes citizens of the Slovak Republic who do not have a permanent residence in the territory of the Slovak Republic and who have submitted an **application for elections by post** (such an application can be submitted in paper or electronic form, and must be delivered to the Ministry of the Interior no later than 50 days before the date of the election and must contain the data provided for by law). Voluntary registration is provided for **also in the context of elections to the European Parliament**. For the purposes of elections to the European Parliament, citizens of Member States of the European Union who have permanent residence in Slovakia may register voluntarily. Specific rules (Section 75) are laid down in **the Act for the establishment of a list of voters for the purposes of elections to the European Parliament**, precisely because citizens of other EU Member States who reside in the relevant municipality in the territory of the Slovak Republic have the right to be included in this list. Citizens of other EU Member States must apply for entry on the electoral roll no later than 40 days before

¹⁰ OROSZ, L. — MOLEK, P. — SVÁK, J. — ŠIMÍČEK, V.: *Electoral law and judicial review of elections in the Czech Republic and the Slovak Republic*. Bratislava: C. H. Beck, 2016, p. 301.

the election day (otherwise, their right to enrol on the electoral roll expires). The application for entry on the electoral roll must contain the data laid down by law, which includes a **statement** that the voter will exercise his right to vote only in the territory of the Slovak Republic and that he has not been deprived of the right to vote in the EU Member State of which he is a national.

3.5 Drafting and registration of lists and candidates

The drafting and registration of lists and candidates is one of the most important stages of the electoral process. It is crucial from a political point of view, as it will definitively outline the circle of candidates who will wage a political struggle for citizens' votes in elections.¹¹

1. As regards elections to the National Council of the Slovak Republic, Sections 50 to 54 of the Act on the Conditions of Exercise of Electoral Rights provide that only political parties and political movements may submit candidate lists, no later than 90 days before the election date. Political parties may also form a coalition for election purposes and submit a joint list of candidates. The candidate list must contain:

- the name of the political party or the names of the political parties forming the coalition;
- a list of candidates containing the first name, surname, title, date of birth, job of the candidate at the time of submission of the candidate's list, address of permanent residence of the candidate and ranking on the list expressed in Arabic number for all candidates,
- the first name, surname, function, signature of the person authorised to act on behalf of the political party and the stamp of the political party; in the case of a coalition, the name, surname, office, signature of the person authorised to act on behalf of each political party forming the coalition and the stamp of each political party forming the coalition.

The candidate list must be accompanied by:

- a self-signed declaration by each candidate appearing on the list that he/she agrees to his/her candidacy, does not stand as candidate on another list and has no impediment to the right to stand as a candidate;
- confirmation of payment of the electoral deposit of EUR 17 000;¹²
- notification of the designation of a proxy for a political party or coalition and its alternate, indicating the name, surname and address at which documents may be served; a candidate cannot be a proxy for a political party or coalition or a substitute for him.

No more than 150 candidates may be listed by a political party or coalition on the list. At the same time, a political party may indicate its graphic emblem; the coalition's nominee list may indicate the emblems of the political parties forming the coalition. After submission of the candidate list, it is not possible to supplement it with other candidates or to change their ranking.

¹¹ Ibid.

¹² The electoral deposit shall be paid into account set up for this purpose by the Ministry of the Interior; this account number will be published by the Ministry of Interior on its website. The Ministry of Interior shall return the bail paid within one month of the announcement of the outcome of the election to a political party or coalition whose candidate list has not been registered, or to a political party or coalition that received at least two percent of the total number of valid votes cast. Bails that are not returned are revenue of the state budget.

The submitted lists shall be reviewed by the National Commission no later than 80 days before the date of the election and it shall decide not later than 70 days before the date of the election, to:

- a) register candidate lists that are in accordance with the law,
- b) register candidate lists that have been modified according to the requirements of the law (e.g. removes from it candidates who do not comply with the statutory conditions of candidacy), or
- c) refuse to register a candidate list.

2. The conditions for drawing up and registering lists of **candidates for elections to the European Parliament** are essentially the same as in the case of elections to the National Council of the Slovak Republic. Of the differences, it is perhaps worth noting only that on the candidate list, political parties and their coalitions can propose, in addition to Slovak citizens, also citizens of other EU Member States who have permanent residence in the territory of the Slovak Republic, as well as the amount of the electoral deposit, which was set at EUR 700.

3. In relation to the nomination and registration of candidates **for the election of the President of the Slovak Republic**, the legal regulation and the terminology of the Act are different from those of other types of elections, which may be partly related to the fact that certain questions of nomination for the election of the President are regulated directly in the Constitution of the Slovak Republic.

4. As regards the election of deputies of municipal councils, the Act (Sections 139 to 142) grants the right to propose candidates to **political parties**, which may also submit **a joint list of candidates** (in this regard, the law requires that if members of the council are elected in two or more constituencies, the political party must act in the same way in all of them, i.e. either submit a candidate list in constituencies individually or in a coalition with the same political party or parties as in other constituencies). **Independent candidates** who must attach a special list signed by 400 voters who support their candidacy and reside in a municipality or military district belonging to the territory of the constituency in which they stand. Candidates for representatives of self-governing regions must have permanent residence in a municipality or military district belonging to the territory of the constituency in which they stand. Candidates' lists shall be submitted no later than 55 days before the date of the election, to the Registrar of the Election Commission of the Self-Governing Region that presents them to the electoral commission of the self-governing region. The Electoral Commission of the Self-Governing Region shall examine the lists of candidates and shall decide not to register or register the candidate no later than 45 days before the date of the election.

The process of proposing and registering candidates **for the election of presidents of self-governing regions** is in principle regulated by analogy (Sections 144-147), i.e. candidates can be submitted **by political parties** (which may also submit a joint list) and **independent candidates** no later than 55 days before the date of the election to the recorder of the electoral commission of the self-governing region. The law lays down the particulars of the lists of candidates, in which the candidate list of each independent candidate must include a special list signed by 1000 voters of the self-governing region who support his candidacy. The candidate for president of the self-governing region must have permanent residence in the municipality or military district belonging to the territorial district of the self-governing region in which he stands. The law does not prevent a candidate for the president of a self-governing region from running for a member of the council. The recorder of the electoral commission of the self-governing region shall submit the candidate lists to the electoral commission of the self-

governing region, which shall examine them and decide not to register or to register the candidates no later than 45 days before the date of the election.

5. The rules governing the nomination and registration of candidates **for elections to municipal bodies**, that is to say, for the election of municipal councillors and mayors, are comparable to those applicable to elections to the bodies of self-governing regions (Sections 171 to 179), i.e. nominations of candidates for municipal and mayor elections may be submitted by the political parties and their coalitions, as well as independent candidates no later than 55 days before the date of the election to the Registrar of the Local Electoral Commission. Independent candidates are obliged to attach to the candidate list a special document signed by voters who support their candidacy and have permanent residence in the municipality in which the independent candidate stands. The number of necessary signatures, depending on the size of the municipality, is specified in Annex 1 to the Act. Candidates must be permanent residents in the municipality or village. The candidate for mayor may also stand as a candidate for a member of the council. The recorder of the local electoral commission shall submit the candidate lists to the local electoral commission for examination and registration. No later than 45 days before the date of the election, the Local Electoral Commission shall decide whether or not to register candidates.

3.6 The Electoral Authorities

In the context of the organisation and management of elections, **electoral commissions** shall fulfil an irreplaceable task. The Law on the conditions for the exercise of the right to vote presupposes, for all types of elections, the establishment of **district electoral commissions**, and for the purposes of the elections of the authorities of the self-governing region, the **establishment of electoral commissions of self-governing regions and district electoral commissions** and, for the purposes of the elections of municipal self-government bodies, **the establishment of local or city commissions** (hereinafter referred to as ‘lower-level electoral commissions’). The supreme authority for all types of elections is the **State Commission for Elections and Control of Political Party Financing**. In addition to the electoral commissions, the Act also designates as electoral bodies a) the Ministry of the Interior of the Slovak Republic, b) the Statistical Office of the Slovak Republic, c) district offices, d) self-governing regions and e) municipalities.

Among these bodies, the **State Commission for Elections and Control of Political Party Financing plays a key role**. It is an independent body for controlling the financing of political parties and political movements, managing elections and determining the results of elections. The State Commission has 14 members, of whom 10 delegates are appointed by political parties that received representation in the National Council of the Slovak Republic in the last elections, in proportion to the number of parliamentary mandates obtained. The number of members of the State Commission delegated by the political parties that formed the government must be equal to the number of members of the State Commission delegated by other political parties represented in the National Council of the Slovak Republic. This equality (5+ 5) must be maintained throughout the term of office of the State Commission. One member of the State Commission is delegated by the President of the Constitutional Court, the President of the Supreme Court of the Slovak Republic, the Prosecutor General and the President of the Supreme Audit Office of the Slovak Republic.

A member of the State Commission can only be a citizen of the Slovak Republic who has permanent residence in the territory of the Slovak Republic, has not been convicted of a criminal offence, has full legal capacity, has a university degree of second degree and has reached the age of at least 35 years. The same person may become a member of the State Commission for a maximum of two consecutive terms. Section 14 of the Act on the conditions

for exercising the right to vote also provides for the incompatibility of the function of a member of the State Commission with other public functions.

Under Paragraph 16(1) of the Law on the conditions for the exercise of the right to vote, the State Commission is entrusted with a broad remit, which is specified in other provisions of that law, as well as in the Electoral Campaign Act and the Law on Political Parties. The State Commission

- a) examines and registers candidate lists for elections to the National Council of the Slovak Republic and for elections to the European Parliament,
- b) supervises the readiness of lower-level election commissions to carry out tasks under this Act,
- c) manages the technical unit in the performance of tasks under this Act,
- d) controls the financing of political parties;
- e) controls the financing and conduct of the election campaign;
- f) is an appeal body against decisions of the Ministry of the Interior issued under special regulations in matters of political party financing and electoral campaign matters;
- g) discusses the allocation of broadcasting times in television and radio broadcasting during an election campaign on the basis of a proposal from the broadcaster;
- h) determines the results of the elections by post by persons entitled to vote who do not have a permanent residence in the territory of the Slovak Republic, and draws up the minutes of the result of the vote by post by persons entitled to vote who do not have a permanent residence in the territory of the Slovak Republic,
- i) identifies and publishes the interim and overall results of the elections;
- j) draws up minutes of the outcome of the elections;
- k) issues certificates of election to candidates elected as Members of the National Council of the Slovak Republic and Members of the European Parliament,
- l) declares the appointment of an alternate member of the European Parliament;
- m) notifies the President of the National Council of the Slovak Republic on the appointment of an alternate or the non-execution of the mandate in the case provided for by the Act in special sections;
- n) directs the processing of voting results;
- o) forwards the electoral documents to the Ministry of the Interior for keeping in custody;
- p) performs other tasks according to specific parts of this Act and special regulations.

The **lower-level election commissions** are formed on the so-called “delegation principle”, which is based on the fact that political parties registered for election purposes (in the election of the President also the petition committee that proposed the candidate for the office of president) delegate the same number of representatives or alternates to the different levels of the election commissions. A member of the Electoral Commission may be one who has reached the age of 18, is eligible for legal acts and has permanent residence in the territory of the Slovak Republic; however, it cannot be a candidate for an elected office. Lower-level election commissions are therefore “laic” commissions, since the law does not lay down any professional or educational preconditions for membership.

Lower-level election committees must have at least five members. If the minimum number is not reached, the mayor of the municipality shall appoint the missing members in respect of district electoral commissions and local electoral commissions. The mayor, the head of the district office and the chairman of the self-governing region are not constrained in complementing the members of the commissions (it could be the case, for example, that the

mayor of the municipality will complement the commission with his closest relatives, which is certainly not desirable).

The tasks of the lower-level election commissions are registration, maintaining order, control and summary of results. The lower-level election commissions and, above all, the district electoral commissions play a particularly important role in ensuring the voting process and in the counting of votes, i.e. in determining the results of the elections. At the preparatory stage of the elections, decisions of the Election Commission of the Self-Governing Region and of the Local Electoral Commission on the registration of candidates (candidate lists) subject to judicial review are of fundamental importance in the elections of the local self-governing authorities.

3.7 The Electoral Campaign

The rules governing the conduct and financing of the election campaign under the Act on Conditions for the Exercise of the Right to Vote **are further regulated by Special Act No. 181/2014 Coll. on Electoral Campaign.**

1. For the purposes of this Act, an election campaign shall mean ‘any activity of a political party, a political movement, a coalition of political parties and political movements, candidates and third parties under Section 8, for which payment is normally payable, aimed at promoting their activities, objectives and programmes in order to obtain an office elected under a special regulation’ (Section 2(1)). The activity in question may be to the benefit or to the detriment of the elected entities. **The activities of entities other than those mentioned above shall be prohibited** at the time provided for the election campaign.

2. The Act defines the duration of the election campaign, which begins on the date of publication of the decision on the declaration of elections in the Collection of Laws of the Slovak Republic and ends 48 hours before the date of the election (Section 2(2)). In this way, a so-called electoral moratorium is established uniformly for all types of elections. The law also knows the so-called moratorium on the publication of the results of electoral surveys, which is established for the period from 14 days before the date of the election until the end of the vote (Section 17).

3. The Electoral Campaign Act lays down maximum limits on the funds that may be spent by entities authorised to conduct an election campaign for each type of election, as follows:

- a) in elections to the National Council of the Slovak Republic and elections to the European Parliament, political parties, political movements and their coalitions may spend no more than EUR 3 million (including VAT) on the electoral campaign and so-called third parties up to a maximum of EUR 100 000,
- b) in the election of the President of the Slovak Republic, individual candidates may spend up to EUR 500 000 (including VAT) on the electoral campaign together for both rounds of elections and so-called third parties EUR 100 000 (political parties and political movements also have third party status for the election of the President),
- c) in municipal elections, political parties and political movements may spend up to EUR 500 000 for the electoral campaign, so-called third parties EUR 25 000 and independent candidates:
 - for the post of President of the Self-Governing Region, up to a maximum of EUR 250 000 for both rounds of elections,
 - no more than EUR 250 000 for the post of Mayor of Bratislava and Mayor of Košice,

- for the post of mayor, mayor of a municipality or mayor of a district with a population:
 1. between 60 001 and 120 000 inhabitants, up to a maximum of EUR 100 000,
 2. between 30 001 and 60 000 inhabitants, up to a maximum of EUR 70 000,
 3. between 16 001 and 30 000 inhabitants, up to a maximum of EUR 50 000,
 4. between 10 001 and 16 000 inhabitants, up to a maximum of EUR 20 000,
 5. between 5 001 and 10 000 inhabitants, up to a maximum of EUR 10 000,
 6. between 2 001 and 5 000 inhabitants, up to a maximum of EUR 5 000,
 7. up to 2 000 inhabitants up to a maximum of EUR 2 000.

4. Act No. 181/2014 Coll. lays down **rules for keeping and registering funds earmarked for the campaign**. Election campaign funds must be led by political parties, political movements and their coalitions, presidential candidates, independent candidates for elected positions in local authorities and so-called third parties in **a special payment account**, which is free of charge, remotely and continuously accessible to third parties, and funds can only be deposited into this account by transfer from another account. Entities authorised to conduct an election campaign must keep a **special record** of the use of electoral campaign funds in the statutory breakdown, with an overview of the costs required to be published on their website. On the use of funds for the election campaign, candidates prepare a **final report** (in the case of elections to the National Council of the Slovak Republic and elections to the European Parliament) or **report** (for the other types of elections) and are obliged to deliver it to the Ministry of the Interior, which will publish these documents on its website and keep them open to the public for five years.

5. The Electoral Campaign Act lays down **rules for the broadcasting of political advertising and discussion programmes during the election campaign in the public television (RTVS), as well as for licensed broadcasters**, which are based on equality and on the principle that RTVS must, and other licensed broadcasters may set aside time for the broadcasting of political advertising and discussion programmes (Section 10). In the same way, the rules for the placement of election posters are also laid down in the law on the principle of equality (Section 16).

6. A **control mechanism** has been established to comply with the obligations and limitations laid down by the Electoral Campaign Act. State control of the election campaign is entrusted to the Ministry of the Interior and, on its behalf, the district office, and it is carried out in accordance with the rules laid down by law (Section 7). State control is complemented by public control, which is primarily based on public access to information on the financing of election campaigns and the obligation for candidates to keep records of the financing of the election campaign and the obligation to publish or make available to the public the required documents.

7. The Electoral Campaign Act contains **a relatively strict sanctioning mechanism** by which infringements of the electoral campaign rules are sanctioned. Administrative offences may be committed by entities authorised to conduct an electoral campaign, and sanctions in the form of financial penalties for their commission are imposed in the first instance either by the State Commission (for the administrative offence of violating the electoral moratorium) or by the Ministry of the Interior of the Slovak Republic (for other administrative offences) and also by the Ministry of Culture of the Slovak Republic (in relation to administrative offences committed by publishers of periodic or non-periodical publications or press agencies). Offences

may be committed by natural persons and legal persons, and penalties in the form of financial penalties for their commission are imposed by the competent district office.

3.8 Voting

From the standpoint of the electorate, voting is the most fundamental moment in the entire process. The Act on conditions for the exercise of the right to vote distinguishes:

1. **voting at the polling station;** and
2. **voting by post in elections to the National Council of the Slovak Republic** (for other types of elections this method of voting is not allowed).

Ad 1. The **voting method at polling stations** is based on the basic rule that the voter fundamentally votes at **the polling station according to his/her permanent residence**, i.e. in his electoral district. In elections to the National Council of the Slovak Republic, elections to the European Parliament and elections of the President, the voter may also vote in another polling station in the territory of the Slovak Republic (i.e. outside his electoral district) on the basis of **a voting card**. The card serves to ensure the voting of those voters who will not be in their electoral district on election day; these voters may apply to the municipality in which they are resident for a voting card (in writing and electronically no later than 15 days before the date of the election or in person no later than the last working day before the election). At the same time as issuing the voting card, the municipality shall remove the voter from the electoral roll. The ballot card entitles entry of the voter to any electoral roll in any electoral district.

In addition to the traditional voting method, the Act on the conditions for exercise of the right to vote also includes **so-called voting outside the polling station**, which takes place through a portable ballot box. Within the meaning of Section 24(7) of the Act, such a form of voting may be requested by the voter alone or through another person only for serious, in particular medical reasons. In such a case, the district electoral commission sends to the voter two of its members with a portable ballot box, ballot papers, an envelope and a list of those voters who have asked to vote outside the polling station. Precisely this model served to solve also the potential problem of quarantined voters in the forthcoming Autumn 2022 elections.

The law emphasises the **principle of personal voting** (i.e. that the representation of the voter is not permissible), but at the same time allows for an exception where Section 24(6) states: *'A voter who is unable to modify a disability ballot paper himself or because he or she is unable to read or write and notifies the district electoral commission prior to the vote shall have the right to take with him/her another person who is able to modify the ballot paper in accordance with his instructions and law and put it in the envelope; such a person may not be a member of the district electoral commission.'*

Under the law, each district electoral commission is to allow voting only to voters who are registered on the electoral roll. Upon arrival at the polling station, the voter proves his/her identity by means of an identity card or other official. The district electoral commission circles the voter's sequential number in the voter list and hands him over a ballot paper and an envelope. However, the district electoral commission may, in the cases provided for by law, also allow voters who are not included in the electoral roll to vote by adding them to the electoral roll and allowing them to vote. These are the voters who arrived on the day of the election:

- a) to the polling station with a ballot card,
- b) at the appropriate polling station according to their place of residence and are not registered on the electoral roll;
- c) to the appropriate polling station according to their place of residence with a court decision pursuant to Section 10(2) (decision to make corrections or to supplement a permanent voter list issued in the court proceedings),

- d) in the case of the election of the President and the elections to the European Parliament, the citizens of the Slovak Republic who reach the age of 18 at the latest on the day of the elections, who do not have permanent residence in the territory of the Slovak Republic or in the territory of another EU Member State; these voters must submit a Slovak travel document and a solemn declaration of permanent residence abroad (the entry into the electoral register will be recorded by the district electoral commission in the Slovak travel document of that voter).

In order to ensure the secrecy **of the vote**, each voter shall, upon receipt of the ballot paper and the envelope, enter a special area for the modification of the ballot paper in which he adjusts the ballot paper in the manner provided for by law. A voter who does not enter a special area for editing ballot papers shall not be allowed to vote by the district electoral commission. Vote takes place by sliding an envelope in front of the precinct electoral commission into the ballot box after leaving the special area for editing the ballot papers.

The method of adjusting the ballot for each type of election differs. The simplest way is to adjust the ballot for those elections in which the **majority voting system is applied in the single electoral constituencies** (elections of the President, the election of self-governing regions and the election of mayors), where all candidates are placed on a single ballot paper and ranked in alphabetical order, the voter voting by indicating on the ballot paper by rounding the sequential number the candidate for whom he/she is voting (if several candidates were identified, the ballot paper would be invalid).

In principle, the method of adjusting the ballot paper for elections in which the **majority electoral system is applied** in multi-mandate constituencies (elections to the municipal council and municipal elections) is almost identical. All candidates are also placed on a single ballot paper in alphabetical order and the voter votes by circling the sequential numbers to indicate the candidates for whom he votes. However, no more than the number of candidates to be elected in the constituency concerned may be marked (otherwise, the ballot paper is invalid).

In the case of elections to the National Council of the Slovak Republic and elections to the European Parliament, a system **of proportional representation** is in force, whereby for each political party and coalition whose list of candidates has been registered, a separate ballot paper is drawn up indicating the candidates of the relevant political party or coalition in the order in which they were listed on the list (i.e. in the order proposed by the political party or coalition). The electoral commission will hand over to the voter ballot papers of all political parties or coalitions, and the voter votes by placing in the envelope only one ballot paper (political party or coalition for which he/she votes), while on the ballot paper he puts in the envelope he can indicate by circling the serial number of up to four candidates (in respect of elections to the National Council of the Slovak Republic) or two candidates (in respect of elections to the European Parliament) on a single ballot paper to indicate which of the candidates he prefers, i.e. he can use the so-called “**priority vote**”.

Ad 2. Voting by post applies only to elections to the National Council of the Slovak Republic. By post can vote:

- a) voters who do not have permanent residence in the territory of the Slovak Republic and who have been entered on a special list on the basis of an application;
- b) voters who have permanent residence in the territory of the Slovak Republic, are staying outside its territory at the time of the elections and have requested the choice by post from the municipality in which they have permanent residence.

Voters who do not have a permanent residence in the territory of the Slovak Republic and who have been enrolled in a special electoral register on the basis of an application will be sent at least 35 days before the date of the election (i) an envelope bearing the official stamp of the Ministry of the Interior, (ii) ballot papers, (iii) a return envelope and

also (iv) an instruction on the voting method. Similarly to a voter voting in a polling station, voter voting per post puts in the envelope only one ballot paper of a political party or coalition for which he or she is voting, on which he can indicate, by circling the serial number of up to four candidates listed on a single ballot paper, which of the candidates he prefers. The voter puts the ballot paper into the envelope and puts the sealed envelope into the return envelope he sends. The result of the vote shall include the votes on the ballot papers **received by the Ministry of the Interior no later than the last working day preceding the day of the elections**. Return envelopes will be handed over by the Ministry of Interior to the State Commission on the day of the election. The vote by post of voters who do not have a permanent residence in the territory of the Slovak Republic is reviewed and its results are examined by the State Commission.

3.8 Survey of voting results, allocation of mandates and announcement of election results

At the end of the vote, the decisive stage of the electoral process takes place, which consists of the identification of votes, the allocation of mandates and the proclamation of the official election results. Voting results are collected for all types of elections at the level of the local election commissions. In addition, in case of the elections to the National Council of the Slovak Republic, the results of the vote of voters who were enrolled in a special electoral roll and who voted by post are also determined by the State Commission. The survey of the results of the vote, which is laid down in detail in both the general provisions (Section 29) and the special sections of the Act on the conditions for the exercise of the right to vote, consists of an evaluation of the validity of the ballot papers and the subsequent counting of votes cast in favour of individual candidates or political parties and their coalitions in elections to the National Council of the Slovak Republic and elections to the European Parliament.

Each district electoral commission shall draw up a report containing the data laid down by law, in particular the results of the vote. The minutes shall be signed by the President and the other members of the Local Election Commission. If one of the members of the electoral commission does not sign the minutes of the proceedings and the result of the vote in the electoral district, it may state in the minutes the reasons for the non-signature. The failure by some members of the Electoral Commission to sign the minutes of the proceedings does not affect its validity (but this may be relevant in the judicial review of elections).

After the results of the vote at the level of the local electoral commissions have been ascertained and the **minutes were handed** over to the higher-level electoral commissions, the **results** of the vote are summarised first at the level of the local electoral commissions (in the case of the elections of self-governing regions at the level of the district commissions and in the municipal elections at the level of the local electoral commission only) and then in the elections to the National Council of the Slovak Republic, and in the elections to the European Parliament, at the national level within the State Commission, and in the elections to self-governing regions at the level of the electoral commission of the self-governing region.

The rules for determining the results of the elections or determining to whom **mandates will be allocated** on the basis of the results of the vote depend on the electoral system applicable to the different types of elections. Perhaps the easiest way is to determine the winner of the election in cases where a majority voting system with a relative majority is applied, i.e. mayor elections, and municipal council elections. In the election **of** the mayor, the candidate who obtained the most valid votes (regardless of the number of votes) is elected mayor of the municipality (one valid vote is theoretically sufficient), with new elections being held in the event of equal votes (Section 189(4)). Candidates who have obtained the most valid votes in the constituency shall be elected as members of the **municipal council**. If candidates of the same political party or coalition receive the same number of votes in the constituency, the candidate shall be elected as a Member in the order indicated on the candidate list of the political

party or coalition concerned. If in a constituency more than one candidate of several political parties, coalitions or independent candidates receives the same number of valid votes, the local electoral commission shall appoint a member of the municipal council by lot (Section 189(1) to (3)). Similar are the rules for determining the election winners in the election of representatives of self-governing regions, i.e. candidates who have obtained the most valid votes in the constituency are elected as members of the council. If in a constituency more than one candidate of the same political party or coalition receives the same number of valid votes, the candidate shall be elected depending on the order indicated on the candidate list of the political party or coalition concerned. If in a constituency more than one candidate of several political parties, coalitions or independent candidates obtains the same number of valid votes, the electoral commission of the self-governing region shall appoint a member of the council by lot (Section 157(1) to (3)). If, during the parliamentary term, the term of office of a member of the body ceases, the candidate who obtained the closest number of valid votes in the constituency in which the mandate ceased to exist shall take the vacant place (Section 160(2)).

In the election of the **President** of the Slovak Republic and the **presidents of self-governing regions**, a *majority voting system is applied* with an absolute majority, with the rule that if one of the candidates does not obtain an absolute majority of the votes in the first round (in the case of the election of the President, within the meaning of Article 101 (4) of the Constitution, the “*above half majority*” of all eligible voters, and in the election of presidents of self-governing regions within the meaning of Section 162(1) of the Act, “*above half of the valid votes*”, i.e. only those of the eligible voters who took part in the elections), the second round of elections shall take place within 14 days, to which the two candidates with the highest number of valid votes shall pass in the second round of elections. If one of the candidates who has advanced to the second round of elections ceases to be eligible as president or president of the self-governing region, or if the right to stand is waived, the candidate who obtained the next highest number of valid votes shall proceed to the second ballot. If there are no two candidates for the second round of elections, the second round shall not take place and new elections shall be declared. If only one candidate applies for the post of President or President of the Self-Governing Region, the elections shall be held by voting on him/her.

In the second round, one of the candidates who receives more votes is elected as president or president of the self-governing region. If in the second round of elections of the self-governing region the candidates receive the same number of votes, the President of the National Council of the Slovak Republic shall declare new elections (Section 149(3)). The same would seem to be the case for the election of the President, although neither the Constitution nor the law expressly provides for this.

In elections to the National Council of the Slovak Republic and to the European Parliament, the system of proportional representation applies, in both cases the territory of the Slovak Republic consists of one multi-mandate constituency (in the elections to the National Council of the Slovak Republic it is a 150-mandate constituency, the last election to the European Parliament was a 13-mandate constituency). In connection with the identification of the winners of the elections, or the allocation of mandates in the elections to the National Council of the Slovak Republic and the elections to the European Parliament, it is necessary to take into account:

- a) the Electoral Threshold Institute,
- b) the electoral formula,
- c) the system of priority voting,
- d) appointing of substitutes.

The electoral threshold is adjusted differently for the purposes of elections to the National Council of the Slovak Republic and elections to the European Parliament. It is fixed

at 5 % of the total number of valid votes for elections. It means that valid votes cast to political parties, which received less than five per cent of valid votes, are not taken into account in the further examination of the election results (Section 93(2)). In elections to the National Council of the Slovak Republic, the so-called additive model of the electoral threshold continues to be applied, which differentiates between the amount of the closing clause for an individual candidate political party and for electoral coalitions. In order to overcome the electoral threshold in elections to the National Council of the Slovak Republic, it is necessary that:

- a) the individual candidate political party received at least five per cent of the total number of valid votes cast;
- b) a coalition of two or three political parties received at least seven per cent of the total number of valid votes cast.
- c) a coalition of at least four political parties won at least 10 percent of the total number of valid votes cast.

Valid votes cast to political parties and coalitions with fewer votes are not taken into account in the election results (Section 66).

As regards the **electoral formula**, the modified Hagenbach-Bischoff method applies, the application of which is based on the following procedure (see § 68 and 94):

- The sum of the valid votes cast for passing political parties or coalitions shall be divided by 151 ($150 + 1$) in elections to the National Council of the Slovak Republic, and in the case of elections to the European Parliament by the number of Members of the European Parliament to vote for the Slovak Republic increased by one (in the last election $13 + 1$), the number resulting from this division being referred to as the Republic electoral number.
- The total number of valid votes obtained by a political party or coalition shall be divided by the Republic electoral number, and the political party or coalition shall be assigned as many mandates as the Republic electoral number contained in the sum of the valid votes obtained by that political party or coalition.
- If one mandate more is allocated than should have been allocated, the excess mandate of the political party or coalition that reported the smallest balance of the division shall be deducted. With the same balance of divisions, the mandate is deducted from a political party or coalition that received fewer votes. If the number of valid votes is equal, the lot shall be decisive.
- If not all mandates have been allocated in this way, or if a political party or coalition has run with fewer candidates than is to be assigned, those mandates shall be allocated successively to those political parties or coalitions with the largest balance of divisions. In the event of equal balances of votes, a mandate shall be given to a political party or coalition that received a larger number of votes. If the number of votes is equal, the lot shall be decisive.
- Mandates that have been allocated to a political party or coalition shall in principle be allocated to candidates in accordance with the order indicated on the list, except where a candidate(s) obtained a given amount of priority votes.

It follows from the above that both the elections to the National Council of the Slovak Republic and the elections to the European Parliament are based on the model of the tied list, i.e. the voter can cast the vote only to one candidate political party or coalition, which also determines the ranking of candidates on its list. However, the voter may make changes in the order of candidates. According to the legislation laid down in the Act on the conditions for the exercise of the right to vote for elections to the National Council of the Slovak Republic as well as for elections to the European Parliament, analogous rules apply, according to which *“within individual political parties or coalitions candidates shall receive the mandates assigned to the party in the order in which they are placed on the ballot paper.”* However, if voters who cast a

*valid vote for that political party or coalition have exercised the right of priority, the candidate who has obtained **at least three per cent of the preferential votes of the total valid votes** cast for a political party or coalition shall first have a mandate. If a political party or coalition is assigned more than one mandate and more candidates have fulfilled the condition set out in the previous sentence, the mandates will be gradually given to the candidates **in the order of the highest number of** priority votes obtained. If there is equality of priority votes, the ranking on the ballot paper is decisive’ (Paragraphs 68(5) and 93(5)). Candidates who do not receive a mandate on the basis of the above rules shall become alternates.*

As regards the **promulgation of the election results**, the Act on the conditions for the exercise of the right to vote provides in Section 16(1)(i) and (j) that the State Commission shall establish and publish the interim and overall results of the elections and draw up a report on the outcome of the elections. However, those provisions contained in the section of the Act referred to as ‘General Provisions’ must be read in conjunction with those in specific parts of the Act. Thus, the competence of the State Commission under Section 16(1)(i) and (j) of the Act can apply only to elections to the National Council of the Slovak Republic, to the election of the President and to elections to the European Parliament. It is apparent from the relevant parts of the Act relating to those elections that the State Commission draws up minutes on the outcome of the elections to the National Council of the Slovak Republic, on the outcome of the elections to the European Parliament and on the outcome of the election of the President, which contain the statutory requirements, and at the same time issue electoral certificates to elected candidates to the National Council of the Slovak Republic and the European Parliament (see Sections 69 and 70, 95 and 96 respectively, Sections 113 and 114 of the Act).

In relation to elections to the bodies of the self-governing region, the electoral commission of the self-governing region draws up a report of the result of the elections containing the statutory requirements, and shall immediately send it electronically to the State Commission and then within three days ensure the delivery of one copy of the minutes by post (Section 156). At the same time, the electoral commission of the self-governing region is expressly entrusted with the publication of the results of the elections of the deputies of the council and of the president of the self-governing region “*in a manner usual in the place*” and “*results of the elections shall be published on the website of the self-governing region*” (Section 158). In principle, the regulation concerning municipal elections is analogous: The drawing up of the minutes of the results of the elections in the municipality containing the statutory requirements is entrusted by the Act to the local electoral commission (Section 189), which at the same time publishes “*the results of the municipal elections and the results of the election of the mayor of the municipality*” (Section 190) and issues a certificate of election to the elected candidates (Section 191).

4. COVID-19 and Electoral Rules in Slovakia

Although no general elections were anticipated and held in Slovakia during the 2020 and 2021 pandemics, the risk of COVID-19 in the exercise of the right to vote entailed numerous challenges.

It was not until 2021, specifically until December 2, 2021, that a law was adopted amending Act no. 180/2014 Coll. on the conditions for the exercise of the right to vote and on the amendment of certain laws. This law introduced a statutory restriction of personal liberty for the protection of public health as an obstacle to the right to vote. In order to indicate the obstacle to the right to vote, the public health authorities became obliged to notify the relevant municipality of the details of the voter who was required by law to have their personal liberty restricted for reasons of public health protection. The public health authority was required to notify the municipality on the last working day before the election day. However, a special law also allowed explicitly to regulate a special exercise of the right to vote by persons in quarantine.

This goal is pursued by the latest legislation of May 2022, which introduced special rules for the exercise of electoral right by persons in quarantine. Otherwise, these voters would have been deprived of their right to vote.

On May 10, 2022, a government bill was adopted on a special method of voting in elections to municipal self-government bodies and elections to self-governing regional bodies, which takes place in 2022 on the same day and at the same time and which amends certain laws. Hence, special regulation should apply to the local elections taking place in Autumn of 2022.¹³ No general rule applicable for other types of elections (presidential, parliamentary) was introduced by this Act.

In addition, the procedure under this Act shall apply only if, as of September 30, 2022, the Public Health Office of the Slovak Republic decides to isolate in quarantine the COVID-19-positive persons, or persons who have come into close contact with COVID-19, for the sake of the protection of public health. In case of materializing this, special rules will be applicable for the elections in Autumn 2022.

Special constituencies shall be designated to ensure that eligible voters who have requested a special method of voting in joint elections will have the possibility to vote. To ensure a special voting method, a special electoral commission is set up for each special constituency. Special constituencies will have a shape different from the traditional constituencies, depending on the number of COVID-19 positive persons requesting the special electoral procedure.

At the first meeting of the special electoral commission, the mayor of the designated municipality shall determine by lot from among all members of the special electoral commission the order in which the members of the special electoral commission will be sent on the day of the elections with a special portable ballot box to serve those who have requested a special method of voting under this Act. Voting in the special box is namely to be ensured by two seconded members of the special electoral commission. If, on the day of the elections, due to a substantial increase in the number of eligible voters who have requested a special voting method or for other serious reasons, it is necessary to ensure the deployment of additional members of the special electoral commission with a special box, the mayor shall determine the additional members of the special electoral commission in the order determined by a lot, to collect the votes with another portable ballot box. In case of a large number of eligible voters who request a special voting method, the head of the district office appoints additional members of the special election commission in the required number.

For the purpose of performing a special method of voting in elections pursuant to this Act, a special list of eligible voters for elections to local government bodies and a special list of eligible voters for municipal elections (hereinafter referred to as “special voter lists”) shall be prepared for each of the relevant special constituency, according to the place of permanent residence of the eligible voters who have requested a special method of voting. Special voter lists are prepared by the local electoral commission registrar (hereinafter referred to as the “registrar”) at the request of an eligible voter. The eligible voter submits a request for a special method of voting to the registrar of the municipality of his / her permanent residence alone or through another person, by telephone during the office hours of the municipality of his / her permanent residence; at latest on the last working day before the day of the joint elections. They may submit the application no later than at noon on that day.

For the purpose of submitting the application, the municipality shall publish a telephone contact for the registrar no later than five working days before the day of the joint elections, to be published on the official notice board of the municipality and on its website, if it has one. On the last working day before the day of the joint elections, the registrar shall notify the mayor

¹³ Available at: <https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=511131>

of the designated municipality by 2 p.m. of the number of eligible voters who have requested a special method of voting in individual constituencies. The registrar shall ensure the deletion of the eligible voter who has requested a special method of voting from the general list of voters in the municipality of permanent residence of the eligible voter, stating that (s)he has requested a special method of voting.

The special electoral commission sends two of its members to the voter in the order determined by lot. Upon arrival to the site of the special voting method, the seconded members of the special electoral commission shall invite the voter to vote and shall remain in place for ten minutes. If the voter does not appear to vote within this period despite repeated invitations, it means the voter has declined to vote.

Details on the use of protective equipment for members of the special election commission and the driver providing transport of members of the special election commission shall be determined by the Public Health Office of the Slovak Republic.

Thus, with regard to the upcoming elections in 2022, the parliament of the Slovak Republic has adopted a special legal regulation that allows persons in quarantine to vote, either from home or quarantine site, by means of a portable ballot box carried by members of a special electoral commission. However, this adjustment is only to apply if the COVID-19 pandemic persists in September 2022 and the quarantine obligation is still in force.

This minimalistic amendment hence copies the rules applicable previously to those who could not vote due to health reasons. The major differences consists in the fact of special constituencies and special electoral committees being established for the purpose to serve those voters who are confined to isolation in quarantine. The potential problem thereby arises with regard to potential increase in number of such voters, which might make the regulation ineffective, requiring to rise the number of members of special electoral committees as well as their drivers in order to serve all the interested voters in quarantine.

Additionally, upon passing this regulation, concerns were voiced also with regard to simple announcing of the wish to vote into the portable ballot box by a simple phone call to the registrar, without any additional authentication or verification procedure. This might be the place for misuse, especially in case of elections in smaller municipalities where every vote counts. However, in such a case, the problem of being deleted from the list of voters upon the phone call can be reversed in such a way that the voter who was maliciously reported as being in quarantine will come to the ballot box in person and will be additionally returned back to the list of voters in the ballot room.

Still, the procedure seems rather complicated and its efficiency might in the very end depend on the actual numbers of quarantined persons during the Autumn 2022 elections. Be it as it may, it seems the legislator in Slovakia is not willing to introduce any lasting measures or modifications to the electoral system and basically relies on the fact that the pandemics is more or less over.