



LEGISLATIVE PROCESS IN SLOVAKIA

The adoption of laws must be a systematic process and the capacities for its preparation should correspond to its societal impact. The result of such a procedure should be conceptual and rational as good laws lead to a stable regulatory environment.

Slovak Authorities with the power to adopt legal provisions (statutory bodies)

- **National Council of the Slovak Republic** – constitution, constitutional acts, acts, international treaties higher than acts, international treaties with the force of an act
- **Government of the Slovak Republic** – government regulations
- **Ministries and other central government bodies** - decrees, declarations and measures
- **Municipal and city authorities** – generally binding regulations
- **Citizens (voters) of the Slovak Republic** – results of a referendum with the force of a constitutional act, results of a referendum with the force of an act
- **Residents of a municipality or city** – results of a local referendum with the force of a generally binding regulation

The stages of the legislative process in Slovakia are following:

1. Tabling of a bill – initiation of legislation
2. Discussion of the bill
3. Voting (decision on the bill)
4. Signing of the adopted bill
5. Promulgation (publication) of the normative legal instrument

1. Initiation of legislation

Under the Slovak Constitution bills may be tabled by:

a. committees of the National Council of the Slovak Republic

b. members of Parliament

c. the Government of the Slovak Republic

Bills submitted are set out paragraph by paragraph with an explanatory memorandum. While only one MEP can initiate legislative process and submit a bill, as it is possible to observe from the table below, the government dominates the legislative initiative. The government starts the legislative process and amends laws according to the plan of legislative tasks of the government. It is the legislative council of the government prepares the plan of legislative tasks of the government for each year. The

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governmental plan of legislative tasks should reflect the social need for new legislation or stipulate the amendment of ineffective rule of law. Under the right of legislative initiative, the entity that proposed the bill can withdraw it at any stage of legislative process, unless the bill had reached the stage of being voted for as a whole.

Legislative intent

In some cases, the legislative intent, which has to be prepared and approved, precedes the drafting of a bill or potential legislative amendment. The legislative intent analyses the impact of the legislative change in cases of bills or laws with expected strong economic and financial impact (for example it takes into consideration the impact on the state budget). It can be also drawn down based on the governmental decision. The legislative intent eventually becomes the binding basis for the drafting of the bill or legislative amendment itself.

2. Legislative process

Most of the bills are drafted and prepared by ministries – a particular department of ministry drafts a bill and then subjects the draft to intra-ministerial commenting procedure of other departments within the ministry. A working group of representatives from various ministries, other public institutions (as for example the Supreme Audit Office or the National Bank of Slovakia, the Institute for approximation of law, the Supreme Audit Office, the Supreme Court, Attorney General Office), trade unions, professional chambers or representatives of NGO sector might be established. The entity that drafts the new regulation decides who is going to participate in penning down the bill. This is not very transparent and does not provide quality of access; there is a need of setting down rules or principles about who should be, which actors, taking part in the working groups or to whom should the entity that drafts the bill or legislative amendment consult or sent it for commenting at this stage of legislative process. In general, it is possible to state that majority of the bills are drafted without any prior consultations with actors or sectors that would be primarily influenced by the bill.

Furthermore, while the plan of legislative tasks of government provides an outline when government is going to discuss which legislation, it does not provide information of when did the drafting of the bill or legislative amendment started and by whom. The information about this process, whether a working group has been established and who are its participants, are scarce. Public usually learns about the intention of legislative amendment or new legislation when it is published online for the Interdepartmental Comments Procedures on legislation portal.

Interdepartmental Comments Procedure

One of the procedural regulations that have a direct connection to lobbying is the Interdepartmental Comments Procedure. The Slovak Interdepartmental Comments Procedure takes place at the designated legislation portal administered by the Ministry of Justice of the Slovak Republic. The rules and procedures of the Interdepartmental

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Comments Procedure and the government sessions are set in the Legislative Directive of the Government of the Slovak Republic (Legislatívne pravidlá vlády Slovenskej republiky). The Slovak Interdepartmental Comments Procedure and its accompanying Directive require that all official documents designated for government sessions have to be first published online for consultation. These materials are: bills proposed by government or Ministries; government regulations; decrees; edicts and measures (implementing rules); statements of government on proposed bills, which are in the legislative process in the Parliament; amendment of governmental bills, which did not pass the Parliament; international treaties or incorporations of EU directives.

The compulsory commentators to the bills are the following bodies:

- a) deputy Prime Ministers, Ministries, and other central bodies of state administration,
- b) the Government Office of the Slovak Republic, section of government legislation - a field approximation,
- c) the National Bank of Slovakia,
- d) the Supreme Audit Office of the Slovak Republic,
- e) the Supreme Court of the Slovak Republic,
- f) General Prosecutor of the Slovak Republic,
- g) other bodies and institutions, if it is set in a special regulation, or if it is designated by the Government or Prime Minister,
- h) Economic and Social Partnership (Tripartite Act).

Furthermore, other interested parties are allowed to comment including nongovernmental institutions, civic organizations or public at large. The comments themselves can be provided through the legislative portal after compulsory registration, or via email at a designated address. The standard period for consultation depends on the materials subjected for comments and the type of commenting process they are subjected to.

The rules enabling the shortened commenting process are set in the Constitution of the Slovak Republic. According to the Constitution, "state authorities may act only on the basis of the Constitution, within its limits and to the extent and in the manner provided by law." In compliance with the principle of legality, the prerequisites for the hearing of the bill or legislative proposal in a shortened legislative procedure are:

1. formal prerequisite:

- a) a government proposal for such a procedure and
 - b) the approval resolution of the National Council,
- AND

2. material prerequisite:

- a) the existence of exceptional circumstances that threaten the fundamental human rights and freedoms or the safety of citizens, or

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b) threat of significant financial damage to state. Furthermore, the National Council has the competence to agree upon the shortened legislative procedure only if both of the formal prerequisites are fulfilled and at least one of the material conditions. If the conditions for the shortened legislative procedure were fulfilled, in that case, the principle of legality as well as the principle of legal certainty were breached. Depending on the commentators the comments during the Interdepartmental Comments Procedure are distinguished as:

- Comments of Ministries
 - o Essential (relevant)
 - Dispute settling procedure
 - Expert – with the participation of managers and technical staff
 - Ministerial – at the level of the members of government or the heads of other state administration bodies, respectively another statutory body
 - o Ordinary
 - Comments of other subjects (public)
- o Collective comment
 - Dispute settling procedure with the representative of public

Depending on the objective, there are six types comments that could be submitted: general; particular; material; legal; legislative-technical; technical and linguistic. Furthermore, depending on the relevance, the commentator identifies the comment as **essential or ordinary** during the submission process. The proposer has to consider all essential comments, but does not have taken into consideration those identified as ordinary. The comment is identified as essential when the commentator states for example that :”(ministry) insists on this comment or considers it to be essential”. By identifying the comment as essential, the commentator proclaims categorical disagreement and indicates refusal to vote for the particular bill. Comments that were identified as ‘essential’ by the commenting entities and are a subject of conflict have to be discussed between the ministries, the Government Office, and the Deputy Prime Minister, and also the public bodies with the material scope in the matter. The category of Collective Comment stipulates a situation when there was a particular view expressed by at least 500 natural and/or legal persons who via petition (either electronic or paper) have delegated and authorized their representative to stand in on their behalf and defend their objectives during the dispute settling procedure. The entity that drafts the new regulation is also responsible for the evaluation procedure of comments. After the evaluation procedure and eventual resolution of comments that are subjects of conflict, the legislation is sent to the government. If the proposer, the entity that drafts the new regulation, refuses to apply the essential comment classified and the negotiations at the ministerial or expert level have failed the bill is proposed

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with a dispute for government session. In addition, the bills or legislative change can be proposed by any member of Parliament or Committee of the National Council of the Slovak Republic. In that case, a bill is not submitted to interdepartmental commenting process, but to the Legislative Council and later on the session of the government.

Governmental Session

At first, it is the Legislative Council of the governments that analyses the “legislative purity” of the bill or legislative proposal. It has 75 days to provide its statement on a particular bill. It can send the bill back to the drafting entity for bill’s finalization and amendments, before it recommends the bill to be presented and discussed at the session of the government. The government settles the comments in disputes and adopts a resolution. After the bill is approved by the government, it is signed by the Prime Minister and the relevant minister and is sent to the Parliament. The bill is submitted to the Parliament in an articulated written and electronic format together with its explanatory memorandum.

Legislative process in the Parliament

In accordance with the rules of procedure of the National Council of the Slovak, bills go through three readings. **The first reading** involves a general debate on the substance or what is known as the “philosophy” of the proposed act. At this stage no amendments or additions may be tabled. **On the second reading** the bill is discussed by the National Council committees to which it has been assigned. Every bill must pass through the Constitutional Committee, in particularly as regards its compatibility with the Slovak Constitution, constitutional acts, and international treaties binding on the Slovak Republic, acts and European Union law. On the second reading amendments and additions may be tabled and these are voted on after the committee discussions are completed. This is why the various positions have to be brought together before discussion of the bill in the National Council; this is the job of the Coordination Committee, which then approves the committees’ joint report by special resolution. The report forms the basis for the National Council’s debate and vote on the second reading bill.

Since any MEP can submit addition or amendment to the bill, which needs to be supported by total 15 MEPs, no limitations are implied. This process is not open to public discussion and bypasses the previous interdepartmental commenting procedure or the idea of legislative plan. **The third reading** is restricted to those provisions of the bill for which amendments or additions were approved on the second reading. On the third reading the only changes members of parliament can put forward are corrections of legislative drafting errors and grammar and spelling mistakes. Amendments and additions intended to eliminate any other errors must be put forward by at least 30 members of parliament. Once these have been debated, the bill is voted on as a whole.

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3. Voting on a bill

- The Constitution may be adopted or amended and individual articles repealed only if passed by a qualified majority, which means three-fifths of all the members of the National Council.
- For a law to be passed, it must be voted for by at least half the members present.
- The National Council is quorate if at least half its members are present.

4. Signing

- The adopted bill is signed by:
 - a. the President of the Slovak Republic;
 - b. the Speaker of the National Council;
 - c. the Prime-Minister.
- This step in the procedure serves the function of checking the content, procedural correctness and final form of the adopted bill. By signing, these highest-ranking constitutional officers endorse the act as it is worded.
- The President has the right to exercise what is called a suspensive veto and refuse to sign an adopted act on the grounds of faulty content. Together with his comments, he sends the adopted act back to the National Council to be debated again. The returned act goes through the second and third reading stages, as it concerns only the President's comments. At this point the National Council may – but does not have to – take the President's comments into account. The National Council may overturn the suspensive veto by voting again; in that case the act must be promulgated, although the President does not have to sign it.

5. Promulgation

- Is the final stage in the legislative process;
- Legal provisions of nationwide territorial application are formally published in the Collection of Laws (Codex) the Slovak Republic; this publication falls within the remit of the Slovak Ministry of Justice. The Collection of Laws is published in a printed version by the Ministry of Justice. They are also fully accessible online in a “PDF” format here (access free of charge). Moreover, the Ministry of Justice runs an online free of charge system, where consolidated versions of legislation are available (Slov-lex).

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