



In summer 2012, as part of the Poverty is Not a Crime campaign, Housing Rights Watch conducted a survey of national laws that penalise or criminalise the behaviour of people who are homeless. Legal experts prepared country reports that describe the nature of anti-social behaviour laws, as well as other regulations or ordinances that affect homeless people.

The information in these reports was gathered from as many sources as available at the time they were prepared with publically available information only; some sections are incomplete due to the inaccessibility of the required data or lack thereof.

Slovak Republic

1. Introduction

The Slovak legal system does not directly impose sanctions against homelessness or related activities, such as begging or sleeping in a public place. Offences which might be committed by the homeless, such as causing a public nuisance, are addressed by provisions within the Act on Offences. However, this act allows the authorities discretion, and offences are usually punished by a warning.

2. Criminal Offences

The summary provided in this chapter is based on a review of the following laws at the national level (Acts), legal regulations of the municipality of Bratislava – Staré Mesto (Ordinances)¹ and constitutional case law, with the Slovak in parentheses:

Constitution No. 460/1992 of the Slovak Republic, as amended (the “Constitution”) (*Ústava č. 460/1992 Z. z., Slovenskej republiky v znení neskorších predpisov*);

Act No. 300/2005 Coll., the Criminal Code, as amended (the “New Criminal Code”) (*zákon č. 300/2005 Z. z., Trestný zákon v znení neskorších predpisov*);

Act No. 140/1961 Coll., the Criminal Code, as amended (the “Former Criminal Code”) (*zákon č. 140/1961 Zb., Trestný zákon v znení neskorších predpisov*);

Act No. 372/1990 Coll. on Offences, as amended (the “Act on Offences”) (*zákon č. 372/1990 Zb. o priestupkoch v znení neskorších predpisov*);

Act No. 369/1990 Coll., the Act on Municipal Administration, as amended (the “Act on Municipal Administration”) (*zákon č. 369/1990 Zb. o obecnom zriadení v znení neskorších predpisov*);

¹ The municipality of Staré Mesto was chosen due to the fact that the greatest number of homeless people are concentrated in the centre of the city of Bratislava.

Act No. 219/1996 Coll. on Protection Against the Abuse of Alcoholic Beverages and on the Establishment and Operation of Alcoholic Detoxification Rooms, as amended (the “Act on Protection Against the Abuse of Alcoholic Beverages”) (*zákon č. 219/1996 Z. z. o ochrane pred zneužívaním alkoholických nápojov a o zriadení a prevádzke protialkoholických záchytných izieb v znení neskorších predpisov*);

Act No. 448/2008 Coll. on Social Services and on Amendment of Act No. 455/1991 Coll. On Trade Licenses, as amended (the “Act on Social Services”) (*zákon č. 448/2008 Z. z. o sociálnych službách a o zmene a doplnení zákona č. 455/1991 Zb. o živnostenskom podnikaní (živnostenský zákon) v znení neskorších predpisov*);

Ordinance of Municipality of Bratislava – Staré Mesto No. 12/2011 on Maintaining Cleanliness and Order within the Territory of Municipality of Bratislava – Staré Mesto (the “Ordinance of Bratislava – Staré Mesto on Maintaining Cleanliness”) (*Všeobecne záväzné nariadenie mestskej časti Bratislava – Staré Mesto č. 12/2011 o dodržiavaní čistoty a poriadku na území mestskej časti Bratislava – Staré Mesto*);

Ordinance of Municipality of Bratislava – Staré Mesto No. 2/1996 Stating that Harassment is a Violation of Public Order, as amended by Ordinance No. 3/2002 (the “Ordinance of Bratislava – Staré Mesto on Harassment”) (*Všeobecne záväzné nariadenie mestskej časti Bratislava – Staré Mesto č. 2/1996, ktorým sa ustanovuje, že obťažovanie osôb je priestupkom proti verejnému poriadku v znení všeobecne záväzného nariadenia č. 3/2002*);

Ordinance of Municipality of Bratislava – Staré Mesto No. 5/2011 on the Prohibition of the Consumption, Sale and Serving of Alcoholic Beverages in publicly accessible places in the territory of Bratislava – Staré Mesto (the “Ordinance of Bratislava – Staré Mesto on the Prohibition of Alcoholic Beverages”) (*Všeobecne záväzné nariadenie mestskej časti Bratislava – Staré Mesto č. 5/2011 o zákaze požívania, predaja a podávania alkoholických nápojov na verejne prístupných miestach na území mestskej časti Bratislava – Staré Mesto*); and

Constitutional Court Ruling No. II. ÚS 45/96 dated 4 February 1997 (*Nález Ústavného súdu Slovenskej republiky II. ÚS 45/96 zo dňa 4.2.1997*).

The offences legislated against through criminal and contravention (administrative) norms are generally related to everyday activities of homeless people. The latter cover administrative offences generally punishable with administrative fines.

In practice, due to the lack of relevant case law, it is difficult to ascertain either the degree to which the legislation in force is applied or what sanctions offenders receive.

Under criminal law, as mentioned above, the only relevant offence is begging, which is generally determined by police officers and subsequently prosecuted by public office prosecutors. The prosecutor may apply a criminal fine, decide not to prosecute or refer the case to the court.

The Slovak legal system distinguishes between criminal acts which are defined in the New Criminal Code and offences which are defined in the Act on Offences. Criminal acts and offences may only be committed by individuals. Criminal acts constitute a greater danger to society and may be punished by imprisonment. Offences are usually resolved or punished by the imposition of a fine, reprimand or warning; imprisonment is not an available punishment.

2.1. Decriminalisation of homelessness

After World War II, Czechoslovakia became part of the sphere of influence of the Soviet Union, with a totalitarian political regime completely controlled by the Communist party.

According to the philosophy of the communist regime at that time, every person was obliged to work and have a permanent residence. Homelessness was considered an unacceptable way of living and certain aspects of homelessness constituted the criminal act of parasitism (*príživníctvo*) under the Former Criminal Code, which was then in force.

The criminal act of parasitism was defined pursuant to section 203 of the Former Criminal Code, which provided that; “anyone who permanently avoids honest work and acquires resources for living by dishonourable means shall be punished by up to three years of imprisonment.” Begging was considered a “dishonourable means” of acquiring resources for living and thereby constituted the criminal act of parasitism.

After the fall of the communist regime in 1989, a number of laws were adopted and amended in Slovakia in order to enforce democracy, the rule of law and human rights. The relevant provision of the Former Criminal Code outlawing homelessness was repealed by Act No. 175/1990 Coll. which took effect on 1 July 1990.

The New Criminal Code does not contain any provision specifically criminalising homelessness or activities typically associated with the homeless such as begging, camping, bathing or sleeping in public spaces.

3. Administrative Offences

3.1. Act on Offences

The Act on Offences also does not specifically impose sanctions against homelessness or its related activities. It does contain provisions which address offences which might be committed by the homeless, such as causing a public nuisance (*vzbudenie verejného pohoršenia*)² or the obstruction of public spaces (*poškodenie alebo neoprávnené zabratie verejného priestranstva, verejne prístupného objektu alebo verejnoprospešného zariadenia*)³ but doesn't provide examples of prohibited conduct; this allows the authorities considerable discretion. Based on interviews with the police officers of the municipality Staré Mesto, we understand that some of the activities of homeless people are classified as the offences of “causing public nuisance” or “obstruction of public spaces.” However, since in practice it is almost impossible to punish the offences of the homeless by fines, we were told that police officers usually only warn or reprimand homeless people and request that they leave the public space in question.

Pursuant to the Act on Offences, an offence may be committed by any individual older than 15 years of age. Depending on the type and gravity of the offence, the relevant authority may resolve the offence by reprimanding or warning the offender to refrain from such acts or imposing a fine. Fines may be up to €33 in the case of an offence “causing a public nuisance” or €99 in the case of an offence causing “obstruction of a public space” in expedited proceedings (*blokové konanie*), or €250 where ordered as a result of administrative proceedings (*rozkazné konanie*).⁴ If it is decided following administrative proceedings to impose a fine exceeding €60, this may be converted to a community sentence following a

² Section 47(1)(c) of the Act on Offences.

³ Section 47(1)(g) of the Act on Offences.

⁴ Pursuant to section 84 of the Act on Offences a fine may be imposed in expedited proceedings (*blokové konanie*) if an offence was reliably ascertained and the offender is willing to pay the fine. Under section 87 of the Act on Offences if it is indubitable that the individual committed the offence and if the matter was not settled in expedited proceedings, an administrative body may make an order as to what penalty should be imposed (*rozkazné konanie*).

petition from the offender. An offender is required to perform one hour of community work for each €3 of the fine.

This Act provides that contraventions are determined and recorded through a procedural document (contravention minutes) by mayors, police officers and other persons so empowered under applicable laws. Usually, the authority who determines the contravention applies the sanction on the spot.

The contraventions which may be relevant in the context of everyday activities of homeless people are contained within various types of legislative acts such as laws, bye-laws and government ordinances. The regulated activities include certain types of begging, drinking, vandalism and disturbance of public order.

3.2. **Municipal Regulations**

In order to enable self-administration, municipalities are authorised to adopt ordinances on the basis of an act and within its limitations (*všeobecne záväzné nariadenia*).⁵ The regulation of such ordinances must be, *inter alia*, in compliance with the Constitution, Slovak laws and international treaties which are binding on the Slovak Republic.

Pursuant to section 48 of the Act on Offences, in addition to the offences against public order enumerated in section 47 of the Act, a breach of provisions specified in the ordinances of municipalities is also considered to be an offence against public order, if the breach of such provisions endangers or disturbs public order. A fine of up to €33 may be imposed in such a case in expedited proceedings. As examples, bathing in public places,⁶ any action leading to the defiling of public places and disrupting the public order⁷ are considered public offences pursuant to ordinances adopted by the Municipality of Bratislava – Staré Mesto.

3.3. *Offences directly affecting homeless people*

There are also administrative offences created under the Public Order Law that apply to the activities of the homeless. These offences are ascertained by the mayor, the mayor's empowered representatives, police officers or agents, military officers, warrant officers, constabulary sub-officers and border police. The contravention minutes may be challenged within 15 days of the date of their communication before a competent courthouse. The courthouse judge's decision regarding the contravention minutes is final and may not be contested further.

3.3.1. **Begging**

The Municipality of Bratislava – Staré Mesto tried to outlaw begging in public areas in its Ordinance No. 3/1995. However, in 1997, this was declared unconstitutional by the Constitutional Court of the Slovak Republic. It ruled that the prohibitions in Ordinance No. 3/1995 contravened the Constitution, and in particular those articles guaranteeing freedom to perform any acts not prohibited by law and which cannot be considered to endanger or disturb public order. Thus, begging in public areas may only be proscribed if the conditions of offences against public order have been satisfied.⁸

⁵ Articles 68 and 71 of the Constitution and section 6 of the Act on Municipal Administration.

⁶ Section 2(2)(j) of the Bratislava – Staré Mesto Ordinance on Maintaining Cleanliness.

⁷ Section 2(2)(l) of the Bratislava – Staré Mesto Ordinance on Maintaining Cleanliness.

⁸ Constitutional Court Ruling No. II. ÚS 45/96 dated February 4, 1997.

3.2. *Offences indirectly affecting the homeless*

3.2.1. **Drinking**

The Act on Protection Against the Abuse of Alcoholic Beverages allows municipalities to restrict or prohibit the sale, serving or consumption of alcoholic beverages in public eating facilities, grocery stores or other publicly accessible places during certain hours or days. Pursuant to the Ordinance of Bratislava – Staré Mesto on the Prohibition of Alcoholic Beverages, the consumption of alcoholic beverages in publicly accessible places (with the exception of permitted outdoor restaurants) from 5:00 a.m. to 3:00 a.m. the next day is prohibited.⁹ A breach of such provisions constitutes an offence pursuant to section 48 of the Act on Offences if such conduct endangers or disturbs public order.

The Act on Protection Against the Abuse of Alcoholic Beverages also provides that individuals who appear to be intoxicated and who have caused a public nuisance or are thought to pose a threat to themselves, others, the public order or property, are obliged to submit to placement in a detoxification room until they are no longer intoxicated, if so requested by a police officer.¹⁰

3.3. *Miscellaneous ordinances and decrees*

3.4. *Repression of offences*

3.4.1. *Sanctions*

4. **Appeals procedure**

5. **National Case Law**

In 2005, the Interior Ministry of the Slovak Republic tried to amend the offence of “causing a public nuisance” in the Act on Offences by providing specific examples of behaviour causing a public nuisance. The amendment proposed to include begging, harassment (*obťažovanie*) and sleeping in public spaces as examples of public nuisances. The opposition of several non-profit organisations to this amendment was instrumental in preventing its adoption. Criticisms were based on the argument that to penalise such behaviour without taking into account other circumstances, *e.g.*, whether such behaviour actually causes a public nuisance, would be in contravention of the Constitution and the Convention for the Protection of Human Rights and Fundamental Freedoms, pursuant to which basic rights may only be restricted if it is necessary in each individual case, within the context of a democratic society, in order to protect established interests such as public order or public security.

6. **International Case Law**

7. **Additional Information**

7.2. **Social assistance**

⁹ Section 2 of the Ordinance of Bratislava – Staré Mesto on Prohibition of Alcoholic Beverages.

¹⁰ Section 8(1) of the Act on Protection Against the Abuse of Alcoholic Beverages.

Most social assistance, financial or otherwise, to homeless people is provided through non-governmental organisations. Such organisations often seek assistance from municipalities, regional governing bodies (*vyšší územný celok*), the EU and the general public. As of January 2009, pursuant to the Act on Social Services, municipalities and regional governing bodies shall, within their competencies, arrange for access to social services for individuals who are not capable of providing basic subsistence for themselves.¹¹ These social services include the provision of shelters or other emergency housing facilities. Pursuant to the Act, municipalities are obliged to search for persons in need of such social services.¹² In Bratislava – Staré Mesto, in practice the assistance of municipalities to the homeless on the street is mostly limited to the provision of immediate help in the event of life or health threatening situations; in such cases, police officers escort the homeless to hospitals or shelters. Such intervention is carried out especially in the winter when living conditions are harsher and the lives of the homeless people are directly endangered.¹³ Despite legislative efforts and the activities of non-profit organisations in the Slovak Republic to reduce homelessness by providing social assistance to the homeless, the problem of homelessness, visible mainly in larger Slovak cities, is still growing.

¹¹ Sections 8 and 24 of the Act on Social Services.

¹² Section 80(r) of the Act on Social Services.

¹³ We were told that police officers don't tend to send the homeless to facilities providing the relevant social services, as police officers do not act as social workers and so will usually only intervene to help in the case of direct threat to health or life. Bratislava – Staré Mesto does not have social street workers who actively seek out people (including the homeless) in social need. The municipality usually takes action upon the initiative of the general public, *i.e.* when a particular social problem is drawn to their attention or they conclude cooperation agreements with NGOs who more closely monitor and take care of issues related to the homeless.

Annexe 1**Activities classified by police officers of Bratislava – Staré Mesto as offences**

	Almost always	Often	Occasionally	Never	No
Camping or sleeping in public spaces?		✓			
Lying in certain public spaces?	✓				
Sitting in public spaces?					✓
Begging?					✓
Aggressive begging? (when it constitutes harassment)			✓		
Loitering or vagrancy?					✓
Public urination/defecation?			✓		
Free meal distribution to homeless people?					✓
Homeless encampments?				✓	
Sleeping in a vehicle?					✓
Does your city selectively enforce otherwise neutral laws against homeless individuals (e.g. public intoxication, littering, jaywalking)?					✓
Does your city ask homeless persons to 'move on' or otherwise limit their access to public spaces when no crime (or offence) has been committed?			✓ ¹⁴		

¹⁴ As long as homeless people do not obstruct the public space, they are not requested to leave, e.g. sleeping is generally considered as an obstruction and so homeless people are likely to be asked to leave the place, whereas sitting (as in the case of any other individual) in public places is not considered to be obstruction.