



NGO submission to the Committee on the Elimination of Racial Discrimination concerning shortcomings in the implementation of the Convention in Slovakia

Poradňa pre občianske a ľudské práva (Center for Civil and Human Rights) Slovakia

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Background

The Center for Civil and Human Rights (Poradňa) – Slovak independent NGO focusing on the protection of rights of Roma minority and protection from discrimination¹ - presents this submission to the Committee on the Elimination of Racial discrimination (Committee) for its consideration in the context of its examination of Slovakia's thirteenth periodic report on compliance with the International Convention on the Elimination of All Forms of Racial Discrimination (Convention) at the upcoming 107th session.

The submission results particularly from ongoing human rights field monitoring, strategic litigation and advocacy efforts of our NGO and outlines the selected issues of concern regarding equal enjoyment of human rights of Roma minority in Slovakia guaranteed by the Convention:

- Racially motivated police violence and lack of effective investigation in this area
- Discrimination of Roma women in reproductive and maternal health care
- Shortcomings in ensuring full access to justice including financial compensation for survivors of forced sterilisations
- Discriminatory legislation in the area of social security disproportionately impacting Roma women and children
- Discrimination of Roma children in primary education
- Lack of effective access to justice in cases of racial discrimination
- Shortcomings in the effective functioning of the Slovak National Centre for Human Rights in the context of protection against racial discrimination
- The measures of the Slovak state authorities against the Covid-19 pandemic and their disproportionate impact on marginalised Roma communities

Very most if the given issues have been raised in the Committee's list of themes sent to the State Party in June 2022. We are concerned that Slovak government authorities have fallen short of addressing these issues effectively over recent years and that progress in implementing the Convention in this regard is insufficient.

¹ The Center for Civil and Human Rights (Poradňa pre občianske a ľudské práva, "Poradňa") from 2002 has addressed discrimination against Roma minority in Slovakia in various areas of public life. It has also been active in the protection of reproductive rights of Roma women and protection from police ill-treatment. Poradňa pursues its mission by human rights monitoring, strategic litigation as well advocacy activities. It closely links its work with extensive cooperation with many local Roma activists, community engagement with Roma women, and support to Roma communities in pursuing their rights. For more information please visit us at <https://www.poradna-prava.sk/en/>

a.) Racially motivated police violence and lack of effective investigation in this area

Based on our long and ongoing experience of monitoring racially motivated police violence and representing Roma ill-treated by the police in criminal proceedings – we argue that the Slovak Government has been insufficient to effectively address these practices and secure access to justice in this regard.

We would like to bring to the attention of the Committee the chapter a.) of our advocacy submission to the Advisory Committee on the Framework Convention for the Protection of National Minorities from September 2021, in which we – following our experience - discussed ongoing racially motivated police violence and lack of effective investigation in this area in Slovakia. We emphasize that this information remains still relevant and applicable.² We reiterate that we still document cases of alleged police violence against Roma living in marginalized communities and we have been encountering serious shortcomings in the investigation of such cases which does not sufficiently meet criteria for effective investigation laid down by the international law. Possible racial motive is generally downplayed and falls short of effective investigation as well.³

The criminal investigations into almost all cases, in which we have represented the affected Roma in previous years, have been stopped at certain stage of the proceedings, not reaching the court, and we found the investigations ineffective. Some of them ultimately led to the recent judgments of the European Court of Human Rights (ECtHR) in favour of our Roma clients, confirming failures of the Government in this area.⁴ Some of them are still pending before the ECtHR. However, we still do not observe significant progress in the quality of investigation.⁵

Lately, in February 2022, the responsible inspection body (Office of the Inspection Service) after almost two years discontinued the criminal investigation into a widely reported case of the alleged police violence against several Roma children in the town Kropachy occurred in April 2020 during the Covid-19 pandemic, where the whole local Roma community was under area quarantine.⁶ While directly representing the aggrieved children in this criminal proceeding and thus knowing its development in detail - we consider it insufficient and as such ineffective.

In a rare case on this nature reaching the court – in December 2020 The Regional Court in Kosice dismissed the Prosecutor's appeal against the acquittal judgment of the District Court Košice II in a widely reported high profile case of ill-treatment against six Roma boys at a police station in Košice from 2009. The assessed evidence including the audio-visual recording capturing the part of the violent incident was insufficient for the condemnation of those accused. The criminal proceedings lasted almost 12 years. Given we have been providing the aggrieved Roma boys with free legal representation over these years - we argue that Slovak courts have been unable to decide fairly, without delay and

² Center for Civil and Human Rights (2021) Submission to the Advisory Committee on the Framework Convention for the Protection of National Minorities concerning shortcomings in the implementation of the Convention in Slovakia, chapter a.), pp. 1-3. Available at <https://bit.ly/3NjZoSk>

³ For overview of shortcoming in the investigation of racial motive, see a joint statement to the Committee of Ministers of the Council of Europe concerning Slovakia that we submitted in cooperation with the partner NGOs in November 2020. We are confirming that the described shortcomings in this statement remain relevant. Available at <https://bit.ly/3c7SguG>

⁴ E.g. Decision of the ECtHR in a case M.B. a others against Slovak republic from 1 April 2021, no. 45322/17. Decision of the ECtHR in a case R.R. a R.D against Slovak republic from 1 September 2020, no. 20649/18. Decision of the ECtHR in a case A.P. against Slovak republic from 28 May 2020, no. 10465/17.

⁵ See also recent NGO report of the European Roma Rights Centre: Brutal and Bigoted: Policing Roma in the EU (2022) pp. 74 – 81, also referring to the concrete ineffectively investigated cases of police violence, which is consistent with our ongoing experience and findings. Available at <https://bit.ly/3o1SrdH>

⁶ For details about this case in English see media article: <https://bit.ly/3nTFbrx>

within reasonable time and were unable to provide victims with effective access to justice. The case is currently pending before the ECtHR.⁷

In June 2021, the Slovak Government - arguably in response to the widely reported judgment of the Strasbourg court in favour of our two Roma clients from September 2020 - apologised for the widely reported violent police raid in Moldava and Bodvou from 2013.⁸ However, this welcome public gesture has not been followed by the resolute systemic measures that would rapidly improve the overall quality of investigation and enhance the prevention of police violence.

In February 2022 - in response to the above referred series of judgments of the ECtHR against Slovakia - we addressed the Slovak Government a letter calling on the immediate adoption of effective measures to ensure independent and effective investigation of the alleged police violence including the investigation of the possible racial motive and systemic measures for the prevention of police violence as such. The Government ministries forwarded our letter to the Presidium of the Police Forces, which further forwarded it to the Office of the Inspection Service itself being responsible for investigation, which replied. It informed us that in order to ensure the better independence and effectiveness of this body the Security Council of the Slovak Republic established a working group analysing the measures in this area and the process of reforming the Office of the Inspection Service is still in progress.⁹ The very fact that the Government forwarded our letter to the current inspection body indicates that it may only consider making internal changes in functioning of the current inspection body (still being an institutional part of the Police Forces), rather than fundamentally transform it into the new fully independent institution, which is a viable systemic solution we advocate for. We found it concerning that the Government only forwarded our letter to the institution, which full transformation we actually proposed, did not give it direct attention and neither provided us with comprehensible information about adopted or planned measures to prevent police violence against Roma.

We are convinced that shortcomings in this area have deep systemic character and requires resolute steps from the government authorities.

Proposed recommendations for the State Party:

- Establish a fully independent autonomous institution, outside of the structures of the Ministry of Interior and Police Forces that will be responsible for investigation of complaints of alleged ill-treatment by the police officers as well as all complaints alleging possible racial motive;
- Introduce a mechanism for the external evaluation of the effectiveness of investigations of police ill-treatment with an aim to identify systemic deficiencies in the investigation process of such cases in Slovakia and secure continuous education of all persons investigating cases of police ill-treatment as well as state prosecutors and judges on standards of effective investigation of torture, cruel and inhuman treatment laid down by the jurisprudence of the European court of Human Rights and the UN Istanbul protocol.

⁷ For additional details in English see our press release informing about the acquittal of the policemen from December 2020: <https://bit.ly/3c8dwQY>

⁸ For additional information in English see media article: <https://bit.ly/3awcNsp>

⁹ Written replies of the Office of the Inspection Service from 24 February 2022 and 25 May 2022 in response to the call of the Centre for Civil and Human Rights for the adoption of effective measures to strengthen independence and quality of investigation of the police officers, following the recent judgments of the ECtHR from 13 February 2022(on file with our NGO).

b.) Discrimination of Roma women in reproductive and maternal health care

Roma women in Slovakia are particularly marginalized and are at risk of multiple, and intersecting, forms of gender and racial discrimination, which - based on our ongoing monitoring - is especially widespread and pronounced in the area of reproductive health care.

In November 2017 our NGO in cooperation with an international NGO the Center for Reproductive Rights published an advocacy report titled *Vakeras Zorales – Speaking Out: Roma Women’s Experiences in Reproductive Health Care in Slovakia*. The report documented a wide range of human rights violations that Roma women experience in reproductive health care in Slovakia. That included practices of segregation in maternity wards, racial harassment and humiliation, neglect, physical restraint and abuse during childbirth and failures related to informed consent and decision making with regard to medical treatment.¹⁰ The report drew considerable attention of domestic and international human rights bodies to the given issues. Recently, in July 2021 Slovak Public Defender of Rights (Ombudswoman) reiterated the problem of ill-treatment of Roma women in maternity health care including their segregation in her report exploring the observance of human rights in reproductive health care.¹¹

Addressing instances of discrimination against Roma women in maternity health care by legal means remains largely ineffective due to the shortcomings in the implementation of antidiscrimination legislation as well as in decision making of courts (see chapter f. below). Our NGO litigates an *actio popularis* lawsuit based on the domestic Anti-discrimination Act targeting segregation of Roma women in the maternity ward of the Prešov hospital, which is strikingly pending before domestic courts without significant progress from 2013.¹² We find it regrettable that the Ministry of Health as one of the defendants in this court proceeding opposes the lawsuit for years, instead of recognizing Government's positive obligation to prevent racial discrimination and making necessary effort to change the existing practice.

We are concerned that despite of advocacy efforts of our NGO in this area towards the Slovak Government from 2017 as well as later engagement of the Ombudswoman – no systemic policies and measures that would effectively prevent the given shortcomings have been taken. While being in contact with many Roma women from marginalised communities and conducting ongoing monitoring in this area, the practices of segregation of Roma women in separate rooms, disrespectful treatment and other documented exposures of discrimination against Roma women in reproductive and maternal health care, remain common and widespread. In addition, segregation of Roma children in podiatric wards has been reported in some hospitals.

We are firmly convinced that discrimination of Roma in reproductive and maternal health care have deep structural character the Government has to take action without delay.

Proposed recommendations for the State Party:

- Establish effective programs, procedures, and mechanisms to assess, monitor, eliminate, prevent, and sanction the segregation, disrespectful treatment and abuses of Roma women in maternity care settings and eradicate the harmful consequences of such practices.

¹⁰ Center for Civil and Human Right and Center for Reproductive Rights (2017) *Vakeras Zorales – Speaking Out: Roma Women’s Experience in Reproductive Health Care in Slovakia*. Available in English at <https://bit.ly/3O0wfuV>

¹¹ Public Defender of Rights (2021) *Lets talk about childbirth: a human rights-based approach in the context of childbirth*, pp. 47-50. Available in English at https://vop.gov.sk/wp-content/uploads/2021/06/Sprava_porody_ENG_FINAL.pdf

¹² The District court Bratislava III is expected to announce its decision on 29 July 2022.

c.) Shortcomings in ensuring full access to justice including financial compensation for survivors of forced sterilisations

The widespread practice of forced sterilization of Roma women was reported in Slovakia in the past, suggesting that significant proportions of Roma women in Slovakia had been subject to forced sterilization. Since then this practice has been repeatedly condemned by international human rights mechanisms including the Committee itself and judgements of the European Court of Human Rights.¹³ The Slovak Government has been repeatedly called upon to provide effective remedies, including reparation, for the human rights violations involved. Most recently, in July 2022, the CoE Advisory Committee on the Framework Convention for the Protection of National Minorities recommended the Slovak Government to take immediate action to investigate cases of forced sterilisation of Roma women and compensate without further delay women who have undergone forced sterilisation.¹⁴

In close collaboration with a group of Roma women activist, our NGO intensively advocated towards the Slovak Government to take responsibility for this practice and provide effective justice for its survivors. We appreciate that recently the Government authorities finally started to act. The Slovak Parliamentary Committee for Human Rights in July 2021 discussed this issue in presence of representatives of our NGO and two affected Roma women and recommended to take decisive measures that would ensure justice for survivors. Following its recommendations, in November 2021 the Slovak Government adopted a resolution in which it apologized to Roma women for forced sterilizations and condemned the practice.¹⁵ The Ministry of Justice later on reportedly assessed possible solutions to financially compensate the affected women and in May 2022 in this regard established a working group. It appears that the Ministry of Justice is currently in favour of proposing the legislation, based on which the forcibly sterilised women could be compensated.

Importantly, over two decades forcibly sterilised Roma women have never been so close to achieving justice as this time. However, the legislative proposal, eventually other concrete effective solution, have not been proposed yet. We urge the Committee to raise this particular issue with the Slovak government representatives during the review and emphasize the absolute necessity to promptly introduce the legislation that would establish an independent body to investigate the full extent of this practice and ensure financial and other reparations for survivors through an *ex-gratia* compensation procedure that would be effective and accessible for the survivors.¹⁶ We find it crucial that the government authorities will propose such law in the forthcoming weeks without delay and the Slovak parliament will subsequently adopt it, so that the process of *ex-gratia* compensation starts as soon as possible.

Proposed recommendations for the State Party:

- Establish without delay an independent body to investigate the full extent of the practice of forced sterilisations of Roma women and provide financial and other reparations for its survivors through an effective and accessible *ex-gratia* compensation procedure.

¹³ V.C. v. Slovakia, No. 18968/07 Eur. Ct. H.R. (2011); N.B. v. Slovakia, No. 29518/10 Eur. Ct. H.R. (2012); I.G. and Others v. Slovakia, No. 15966/04 Eur. Ct. H.R. (2013).

¹⁴ Advisory Committee on the Framework Convention for the Protection of National Minorities: Fifth Opinion on the Slovak Republic, para. 15. Available at <https://rm.coe.int/5th-op-slovak-republic-en/1680a6e4ee>

¹⁵ Resolution no. 674/2021 to the apology of the Government of the Slovak republic for sterilizations in conflict with law. Adopted on 22 November 2021. Available at <https://rokovania.gov.sk/RVL/Material/26642/1> See also our press release in English in this regard <https://bit.ly/3cduQ79>

¹⁶ In line with the recommendation of the Human Rights Committee, Concluding Observations: Slovakia, para. 27, U.N. Doc. CCPR/C/SVK/CO/4 (2016).

d.) Discriminatory legislation in the area of social security disproportionately impacting Roma women and children

The Committee on the Rights of the Child in its recent concluding observations on Slovakia expressed particular concern over discriminatory legal provisions which have made the payment of child benefit, parental care allowance and childbirth allowance conditional on compliance with preventive measures aimed at reducing child criminality, securing compulsory school attendance and supporting responsible parenthood have been largely ineffective. The Committee also particularly stressed their negative impact on marginalised Roma families and their children.¹⁷

We note that these provisions are still in force and the Slovak Government rejects to recognize their discrepancy with the domestic and international antidiscrimination legislation.¹⁸

The Slovak Government introduced these legal provisions in order to achieve a specific and allegedly legitimate aim, however the means in achieving this aim have disproportionately impacted on the socio-economic well-being and right to social security of marginalized Roma families and their children. The conditions for obtaining the above mentioned social benefits and/or the related accompanying sanctions resulting in their withdrawal, do not take into account the broader social context and specific circumstances of marginalized Roma families, including discrimination of Roma children in education, lack of safe and effective school transportation and discrimination of Roma women and girls in health care including also their segregation, verbal abuse and harassment experienced. The given legislative provisions deepen poverty and social exclusion of marginalized Roma families.

In February 2022, our NGO turned to the Ministry of Labour with a written call for removing these discriminatory provisions. However, the Ministry rejected our legal reasoning and clearly does not intend to initiate legislative changes in this regard.¹⁹

Moreover - in similar conceptual line - in June 2022, the Slovak parliament adopted the legislation including the provision stipulating that the financial supplement to child allowance – when paying through the established institute of special receiver (usually a local municipality) - is halved in case of neglected compulsory school attendance of children. The Slovak President paced a veto on the overall legislation, pointing also at its interference in the children's rights. The proposal was also publicly opposed by Roma rights activists, but the Slovak parliament broke the veto of the President and the legislation was adopted.²⁰

Proposed recommendations for the State Party:

- Amend the discriminatory legislation making the rates of payment of child benefits, parental care allowance and childbirth allowance in order to remove their discriminatory impact on marginalized Roma families and their children.

¹⁷ Committee on the Rights of the Child, Concluding observations on the combined third to fifth periodic reports of Slovakia, CRC/C/SVK/CO/3-5, 20 July 2016, para. 42-43.

¹⁸ For additional details see monitoring report of our NGO from 2015 assessing a range of these discriminatory legal provisions, pp. 10-19. Available in Slovak at <https://bit.ly/3IA8cSo>

¹⁹ See the written reply of the Ministry of Labour from 9 March 2022 to the written call of our NGO from 21 February 2022. Available in Slovak at <https://bit.ly/3PtivWm>

²⁰ For details about this provision see the call of the representatives of the NGOs to the Members of the Parliament in this matter from 13 June 2022. Available in Slovak at <https://bit.ly/3o6KXG4>

e.) Discrimination of Roma children in primary education

In previous years our NGO has monitored the occurrence of segregation of Roma children in primary education, advocated for necessary desegregation measures, conducted strategic litigation in this area to spur public and policy discussion about this issue in Slovakia and push the Government authorities to take effective action.

Following our findings from the field - we argue that segregation of Roma children still remains widespread in Slovakia and manifests itself in a range of forms. In particular, many Roma children are disproportionately placed and segregated in special schools for children with “mild intellectual disabilities” or segregated special classes established within mainstream primary schools. Many Roma children remain to be segregated in mainstream classes within schools or in ethnically homogenous Roma-only schools often established close to residentially segregated Roma communities or which have gradually arisen due to *white flight* of non-Roma children to distant schools outside local neighbourhoods and other social factors. We also document that education of Roma children in segregated primary schools and classes is commonly connected with lower quality of provided education in comparison to primary schools and classes attended by children from the majority.

The very fact that European Commission continues to lead infringement proceedings against Slovakia for violating the EU Racial Directive for persisting segregation of Roma children in mainstream schools as well as special schools and classes essentially confirms that the Slovak Government has been unable to effectively address the given problem and ensure Roma children equal access to education without segregation.²¹

The Government essentially acknowledges these shortcomings and in 2021-2022 adopted several strategic policy documents, which contains commitments to address segregation of Roma children in education and develop inclusive education in Slovak schools.²²

We appreciate declared commitments of the Government in this area, but we are concerned that these documents may lack effective implementation in the coming years and that the declared measures and financial allocations may not be sufficient to disrupt the segregation of Roma children in its current large extent and structural character and factual necessity to reform the whole educational system into inclusive. In terms of financing the measures in the adopted action plans, the Government heavily relies on the financial sources from EU structural funds and additional EU funds for Recovery and resilience plan. Though these are viable, the Government must be committed to invest sufficient funds from the state budget to ensure effectiveness as well as long term sustainability of the planned reforms.

Although the Government i.a. plans to implement 30 pilot desegregation projects on all levels of educational process till 2024²³, we find it unclear, whether these include complex long term efforts to desegregate schools on the level of more municipalities/microregions, i.a. engaging also municipalities continuously ignoring this problem, addressing local *white flight* trends, systematically balancing ethnic and social composition of children in schools, raising awareness of Roma minority and the majority about benefits of school inclusion and social cohesion, alleviating possible interethnic

²¹ European Commission’s decision to initiate infringement proceedings against Slovakia, ‘Non-conformity with Directive 2000/43/EC on Racial Equality - Discrimination of Roma children in education’ from 29 April 2015.

²² The Strategy for equality, inclusion and participation of Roma till 2030 adopted by the Slovak Government on 7 April 2021: <https://bit.ly/3z5VGqA>. Its related action plan for 2022-2024 adopted by the Slovak Government on 6 April 2022: <https://bit.ly/3o2tnDk> Strategy of an inclusive approach in upbringing and education adopted by the Slovak Government on 8 December 2021: <https://bit.ly/3Phsfay>. Its related action plan for 2022-2024 released by the Ministry of Education in June 2022 is available at <https://bit.ly/3IJAGte> Recovery and resilience plan of Slovakia adopted within Slovakian membership in the European Union: <https://bit.ly/3IEZfHq>

²³ Action plan to the Roma inclusion strategy by 2030, Activity 4.2.2.

tensions, addressing residential segregation often severely influencing school segregation, ensuring broader overall social inclusion of marginalised Roma including their adequate housing and access to water and other interlinked measures. Such complex approach is immensely needed to bring about tangible changes.

For illustration, in December 2021 – based on strategic litigation of our NGO - the District court in Prešov by its ground breaking decision upheld the anti-discrimination lawsuit of three Roma children from the village of Hermanovce, who were illegally educated at a local primary school in special classes for children with mild intellectual disabilities. According to the court, the defendant Private Center for Special Pedagogical Counseling in Prešov, which performed psychological diagnostics of children, as well as the primary school in Hermanovce, discriminated against them on the ground of their ethnicity. In addition, the court confirmed the school's responsibility for segregating Roma children in special classes, which were located outside the main school building and attended exclusively by Roma children.²⁴ While this decision re-affirms the existing school segregation of Roma children (spatial as well as in special classes) in Slovakia - it also shows that realistically without massive long term intervention of the state institutions the local municipality and the school are hardly able to remove the segregated school building and inclusively educate all Roma children from special classes jointly with children from the majority. Moreover, this municipality showed little interest in addressing issues of local Roma community in recent years and many Roma children attending segregated special classes live in inadequate living conditions, which must also be necessarily resolved.

Notably, from 2015 onwards our NGO has been litigating three additional strategic *actio popularis* lawsuits based on domestic Anti-discrimination Act against the state and local municipalities, addressing school segregation of Roma children in selected localities in Slovakia. We find it concerning, that The Ministry of Education in these court proceedings essentially rejects the government's responsibility to take positive measures to remove and prevent segregation. We consider the position of the Ministry in these court proceedings inconsistent with the declared Governments' commitments in the recently adopted strategic policy documents and as such it raises questions, whether the Government is indeed committed to make sufficient effort in this area in the coming years.²⁵

Proposed recommendations for the State Party:

- Condition the distribution of national, regional and local funds for education on the development and realisation of complex desegregation projects, including i.a. effective transportation of disadvantaged Roma children to non-segregated schools, targeting the phenomenon of *white flight*, balancing the ethnic composition in primary schools and other necessary measures reflecting structural and multifaceted character of the segregation in particular localities. Address segregation of Roma children in education, accounting for its close relationship with housing segregation and discrimination of Roma in other areas;
- Provide primary schools with complex support to effectively include all Roma children into mainstream educational system so that their individual educational needs and learning potential can be fulfilled.

²⁴ For additional details see press release of our NGO in English. Available at <https://bit.ly/3P9aHh1>

²⁵ Two of these court proceedings address segregation of Roma children in mainstream schools, which are attended solely by marginalised Roma children. The third one challenges the decisions of a regional school office and the Ministry of Education that have set a local school district in a way that concentrates Roma children in one school. See our recent press release to one of these cases in English: <https://bit.ly/3aAhP75>

f.) Lack of effective access to justice in cases of racial discrimination

Despite the fact that Roma in Slovakia continue to face racial discrimination in various areas of public life, they rarely defend themselves by legal means. Based on our monitoring, reasons for that are manifold, ranging from lack of information about legal remedies and possibilities of legal aid, fear of victimisation, lack of trust in justice system to overall social deprivation and poverty forcing them to focus on other daily issues. Last but not least, Roma as well as other discriminated persons in Slovakia continue face serious legal barriers to effectively achieve justice in domestic courts, which discourage them to take legal action.

Based on our extensive experience of representing discriminated Roma in court proceedings from 2004 - we argue that domestic Anti-discrimination Act continues to be poorly implemented in practice. We keep observing the following barriers in access to justice, which have been symptomatic and persistent over years:

- Widespread reluctance of courts to determine racial discrimination, and if this is the case, the application of reversed burden of proof continues to fall short of a legal consistency;
- Extreme reluctance to award financial compensation for non-pecuniary damages; if compensation is awarded, it is generally symbolic;
- The courts tend to downplay the seriousness of racial discrimination, overlooking or not understanding its *prima facie* impact on human dignity. In some instances there remains a certain bias or preoccupation since they deal with cases of discrimination against Roma minority;
- Extreme length of the judicial proceedings (usually at least several years) and extreme endurance required on the side of the complainants and their legal representatives to carry on with the proceedings;
- Lack of engagement of the Slovak Equality body/NHRI institution in addressing cases of racial discrimination in courts, even though it has this competence.

For illustration, in June 2021 the Supreme court dismissed an extraordinary appeal of several Roma men concerning their alleged racial discrimination in access to services in a local pub in a village Čaklov.²⁶ The lawsuit was filed in 2006 and it was one of the first cases concerning discrimination on ground of ethnic origin brought before the Slovak courts after the adoption of the Anti-Discrimination Act in 2004. The overall course of this court proceedings and the reported decision points at the ongoing serious barriers in access to justice in cases of racial discrimination in Slovakia, in particular slow and inconsistent decision making of general courts in some of these cases. As well, courts' racial prejudices or stereotypes towards Roma minority can be arguably seen in many cases including this decision. The case is currently pending before the ECtHR.

In the context of overall barriers in access to justice for ethnic minorities in Slovakia, we would like specifically raise with the Committee the implementation of its opinion in a case V.S. vs. Slovakia from 2015 by the Slovak Government.²⁷

In its opinion the Committee considered that the Slovakia violated the Convention by not preventing Roma woman from discrimination in her access to employment and failed to ensure adequate legal

²⁶ Decision of the Supreme Court of the Slovak republic from 29 June 2021, no. 5Cdo/91/2019. The decision is available in Slovak at the website of the Supreme court: <https://www.supcourt.sk/rozhodnutia/5cdo912019/> For its overview in English see the flash report published within the European Equality Law Network.

<https://bit.ly/3z3Lpva>

²⁷ Opinion of the Committee adopted on 4 December 2015. CERD/C/88/D/56/2014.

protection from discrimination and among others recommended that Slovak Government expresses apology to the petitioner and grants her adequate compensation.

While having been provided the petitioner a legal aid - we regret to inform the Committee that despite our intensive advocacy efforts and communication with the Government authorities over previous years – the Government did not compensate the discriminated women at all.

When assessing the position of the Government, we perceive a general reluctance to act in due diligence in respect to international human rights law, but also the fact that there is no specific reparations mechanism within domestic legislation that would establish a comprehensible procedure and responsibilities of the state authorities for providing remedies for individuals in such cases, analogously to the procedure of enforcement of the decisions of the European Court for Human Rights.

Proposed recommendations for the State Party:

- Significantly enhance the speed and efficiency of court proceedings concerning racial discrimination;
- Introduce a legal mechanism that would enable to effectively provide individual remedies for petitioners in cases when UN treaty monitoring bodies find violations of their guaranteed human rights upon the individual complaints procedures.

g.) Shortcomings in the effective functioning of the Slovak National Centre for Human Rights in the context of protection against racial discrimination

Ongoing barriers in access to justice for ethnic minorities, which we describe in the previous chapter, particularly include also a lack of legal engagement of the Slovak National Centre for Human Rights (the Centre) being the domestic equality body and NHRI institution. Within our activities, we have monitored its overall independence and effectiveness.

We consider the overall work of the Centre to be generally independent in practice, since it addresses relevant issues concerning human rights of minorities towards the Government authorities. But we observe shortcomings in its functioning, particularly as for using its valuable legal competences to ensure access to justice in cases of racial discrimination:

- While the Centre particularly in recent two years made effort to increase its overall public visibility and outreach - it has widely insufficient outreach to marginalised Roma facing discrimination in various areas of life;
- The Centre in recent three years received very low number of complaints concerning racial discrimination (which arguably confirms its low outreach to affected persons) and did not litigate these concrete cases in courts at all.²⁸ Importantly, it neither litigated *actio popularis* cases addressing systemic exposures of racial discrimination from their own initiative. In our view, the Centre regrettably does not sufficiently prioritise the fundamental and widespread grounds of discrimination including also racial discrimination.

We note that the Ministry of Justice previously elaborated an amendment to the Act on the Centre i.a. to secure its compliance with the Paris principles. However, in June 2019, the Slovak Parliament,

²⁸ In 2019 the Centre dealt with 9 complaints of racial discrimination (all Roma), 2020 - 3 complaints of racial discrimination (all Roma) and in 2021 – 4 complaints of racial discrimination (all Roma). Over these years has provided no legal representation to Roma in court proceedings. The given statistics are taken from the Country reports on non-discrimination concerning Slovakia for years 2022-2020 published by the European Commission based on the data provided by the Centre. Available at <https://www.equalitylaw.eu/country/slovakia>

without publicly giving any specific reasons, rejected this amendment. As the Ministry of Justice reported early this year following our request for information – it currently does not plan to propose into legislative process the complex amendment of the Act on the Centre. The Ministry eventually plans to propose such amendment later, based on the outcomes of the ongoing initiative of the European Commission to strengthen equality bodies by setting minimum standards on how they operate in all grounds of discrimination and areas covered by EU equality rules through the directive.

Proposed recommendations for the State Party:

- Strengthen independence and effectiveness of the Slovak National Centre for Human Rights, while giving particular focus on ensuring its effective engagement in combating racial discrimination and providing effective legal assistance to persons facing racial discrimination including the representation before courts.

h.) The measures of the Slovak state authorities against the Covid-19 pandemic and their disproportionate impact on marginalised Roma communities

From March 2020 the Slovak state authorities have taken a range of measures with an aim to prevent the spread of COVID-19 in the Slovak society, including its spread in marginalised Roma communities. We argue that some of these measures clearly had disproportionate impact on the marginalised Roma communities.

The Slovak state authorities from March 2020 to the spring 2021 (during the first and the second wave of the pandemic in Slovakia) imposed area quarantines on a number of marginalised Roma communities. Considering epidemiological context in the affected communities and the factual reasons on which the decisions of imposing area quarantines were made – the given measures clearly appeared disproportionate in restricting individuals' freedom of movement and other liberties of thousands of Roma as well as discriminatory as they affected only marginalised Roma communities.²⁹ For illustration, one of the Roma activists from quarantined community within our monitoring commented that Roma there felt like "hunted animals somewhere in the reservation", while the police and the army guarded them and drones were flying over their heads patrolling them.

In addition - relying on our ongoing monitoring of situation in many marginalised Roma communities – we argue that the Government has seriously fallen short of taking positive measures that would effectively protect the health of marginalised Roma communities during the pandemic.

The state authorities and many local municipalities have fallen short of promptly and effectively responding to vulnerable position of Roma in many marginalised facing increased health risks during the pandemic e.g. due to lacking adequate housing and access to running and drinking water. Further, the marginalised Roma faced unequal access to vaccines after these started to be gradually available in Slovakia early in 2021. The registration for vaccination has been essentially provided through online registration system, requiring tech skill and access to PC/smart phone and Internet, which many marginalised Roma are missing.

The pandemic created a range of other inequalities, which have not been effectively addressed by the government authorities, such as discrimination of marginalised Roma children in access to education. Due to the pandemic the primary schools were closed for significant periods of time and they introduced online distant forms of home-schooling requiring PC and internet. In practice, many marginalised Roma children were largely excluded from distant educational process due to not having

²⁹ Flash report of the European commission published within the European Equality Law Networks from 6 May 2020 discusses this issue. Available at <https://bit.ly/3cg5s0G>

access to PC and/or Internet.³⁰ We argue that the Ministry of Education has failed to effectively respond to this issue.

Notably, the unequal access of marginalised Roma to online registration for vaccination or Roma children to online education in Slovakia during the pandemic highlighted the broader systemic problem affecting not only marginalized Roma communities but also some other disadvantaged social groups – and that is “digital division” between them and the rest of the society. The digital skills and technologies are increasingly required from the people in a number instances, and the Government is completely overlooking the disadvantages facing by some social group in this area and fails to adopt effective measures to remove them.

Proposed recommendations for the State Party:

- Analyse discriminatory impacts of the Covid-19 pandemic on the marginalised Roma communities and eradicate all the existing inequalities. Address these inequalities in a broader context of ongoing structural disadvantages and discrimination facing by Roma living in marginalised communities also beyond the pandemic;
- Promptly address discrimination of marginalised Roma and other disadvantaged groups resulting from their unequal access to digital technologies and lack of technical skills in all areas of public life.

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³⁰ The Institute of Educational Policy working under the Ministry of Education found that 7.5% of pupils were completely excluded from distant forms of education in the spring 2020 and the most critical situation were on schools with high percentage of socially disadvantaged children and special schools for children with disabilities. Main findings available in Slovak at: <https://bit.ly/3uSm45C>