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CENTRE FOR
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OBSERVATIONS OF THE SLOVAK NATIONAL CENTRE FOR HUMAN RIGHTS

in relation to the thirteenth periodic report of Slovakia to the Committee on the Elimination of Racial Discrimination

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1. INTRODUCTION

The Slovak National Centre for Human Rights (the Centre) is a national human rights institution established in the Slovak Republic, accredited with status B by the Global Alliance of National Human Rights Institutions. As an NHRI, the Centre is a member of the European Network of NHRIs (ENNHRI). The Centre was established by the Act of Slovak National Council No. 308/1993 Coll. on the Establishment of Slovak National Centre for Human Rights. Pursuant to the Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and on Protection from Discrimination, as amended (the Anti-Discrimination Act), the Centre also acts as the only Slovak equality body. As an NHRI and equality body, the Centre performs a wide range of tasks in the field of protection and promotion of human rights and fundamental freedoms including the observance of the principle of equal treatment.

This report has been prepared by the Centre utilizing the first-hand information gathered (i) during the annual monitoring and evaluation of the observance of human rights, fundamental freedoms and equal treatment principle, (ii) gathered while providing legal services to victims of discrimination and (iii) gathered as part of conducting research and providing human rights education. In respect to annual evaluation of the observance of human rights, fundamental freedoms and principle of equal treatment, the Centre has been regularly consulting with key stakeholders such as civil society organizations, academia, public authorities, think tanks, media, businesses, and social services providers. The information gathered during the monitoring has been utilized in this report.

The alternative report of the Centre reflects on the thirteenth periodic report submitted by Slovakia under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/SVK/13) and its Annex, as well as on the Concluding observations on the combined eleventh and twelfth periodic reports of Slovakia of the Committee on the Elimination of Racial Discrimination (CERD/C/SVK/CO/11-12) and List of themes in relation to the thirteenth report of Slovakia (CERD/C/SVK/Q/13).

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2. NATIONAL HUMAN RIGHTS INSTITUTION

1. Recommendations to ensure legislative compliance with the Paris Principles have not been implemented by Slovakia. The amendment of the Act No. 308/1993 Coll. on Establishment of the Slovak National Centre for Human Rights (Act on the Centre) was proposed by the Slovak Government in 2019. Upon request of the Centre, the draft law was reviewed by the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE-ODIHR), which underlined certain problematic aspects and proposed recommendations to improve the draft law in line with the international standards.¹ The bill was, however, rejected in the Parliament in June 2019. Since then, there have been no legislative efforts to strengthen the mandate and independence of the Centre in full compliance with the Paris Principles.
2. In July 2022, a proposal for a minor amendment of the Act on the Centre was submitted to the inter-ministerial commenting procedure as part of the draft bill providing for the establishment of the National Preventive Mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.² The draft bill proposes to specify that reports prepared and published by the Centre under Article 1 (2) (h) of the Act on the Centre are independent reports in line with recommendations of the European Commission addressed to the Slovak Republic within the EU Pilot 4446/13/JUST procedure. This amendment does not have significant impact on implementation of the Paris Principles.
3. In the monitoring period, the Centre has, however, been financially strengthened. Its budget has been gradually increased since 2018, which is demonstrated in the chart below. In 2022, in addition to operational budget (EUR 870 287) the Centre was also allocated EUR 74 000 for capital expenditures to modernize its ICT infrastructure.

Financial Year	Budget in EUR
2018	565 356
2019	787 215
2020	797 822
2021	849 874
2022	870 287

4. Consequently, the Centre gradually increased the number of its expert staff since 16 in 2018 to 25 in 2022.³ The increased human capacities and financial resources were divided between all areas of the Centre's mandate, both as NHRI and equality body, but most notably in relation to research, legal aid, promotion and awareness-raising.

¹ E.g. to define the relationship between the Centre and the Public Defender of Rights, to include opinions and recommendations on legislative proposals and review of existing legislation within the mandate of the Centre, to include an explicit investigative function covering the Centre's human rights mandate in the list of functions etc. See: OSCE/ODIHR: *Opinion on the Draft Amendments to the Act on Establishment of the Slovak National Centre for Human Rights*, 2019, available at <https://www.osce.org/files/f/documents/5/0/434804.pdf>

² See legislative proposal LP/2022/336 on Act amending and supplementing the Act No. 564/2001 Coll. on Public Defender of Rights as amended and amending and supplementing certain acts. The proposal was open for comments until 11 July 2022. Available in Slovak at <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2022/336>

³ Average numbers of employees per year were: 2018 – 16, 2019 – 18, 2020 – 21, 2021 – 23, 2022 – 25.



Overview of key activities of the Centre in relation to combating racial discrimination

5. In relation to the List of themes in relation to the thirteenth report of Slovakia⁴, the Centre hereby provides a brief overview of the key activities in the area of combating racial discrimination for the period 2019 – 2021.
6. In its annual reports on the observance of human rights including the principle of equal treatment in the Slovak Republic, the Centre regularly addresses issues concerning discrimination and segregation of Roma communities. In its 2019 report, the Centre covered segregation of Roma children in education as well as access to drinking water in selected Roma communities.⁵ In 2020, it addressed disproportional impacts of the COVID-19 measures on Roma communities, particularly with regards to quarantines of Roma settlements and access to distant education for Roma children, including adapted conditions to secure access of children from socially disadvantaged environment to education.⁶ The reports include concrete recommendations to public authorities.
7. The Centre raises concerns and suggests recommendations to strengthen the protection of Roma rights and eliminate racial discrimination also through its alternative reports to international monitoring mechanisms. Most recently, in the Individual submission to the Mid-term review of the fulfilment of recommendations from the third cycle of the Universal Periodic Review of the UN Human Rights Council by the Slovak Republic in 2021, underlying persisting discrimination of Roma in education and health care, as well as unlawful quarantines of Roma settlement as a result of COVID-19 measures.⁷ In 2019, in its Observations to the Third periodic report of the Slovak Republic concerning implementation of the International Covenant on Economic, Social and Cultural Rights, the Centre addressed discrimination of Roma in education (school segregation) and in housing, including structural issues such as forced evictions or construction of the so called anti-Roma walls or fences.⁸
8. One of the main areas of racial discrimination in Slovakia is education. Segregation of Roma children in education has been addressed by the Centre across its reporting, legal, awareness-raising and research activities. Since 2020, the Centre organized a working group gathering national experts to prepare indicators to monitor the right to education. As a result of its work, individual consultation and data collection, the Centre published a research study “*The Right*

⁴ Committee on the Elimination of All Forms of Racial Discrimination: *List of themes in relation to the thirteenth report of Slovakia*, CERD/C/SVK/Q/13, June 2022, para. 4, available at https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/SVK/CERD_C_SVK_Q_13_48931_E.pdf

⁵ Slovak National Centre for Human Rights: *Report on the Observance of Human Rights including the principle of Equal Treatment in the Slovak Republic for the Year 2019*, p. 209 and following and p. 230 and following, available in Slovak at <https://www.snslp.sk/wp-content/uploads/Sprava-o-LP-v-SR-za-rok-2019.pdf>

⁶ Slovak National Centre for Human Rights: *Report on the Observance of Human Rights including the principle of Equal Treatment in the Slovak Republic for the Year 2020*, p. 22 and following and p. 77 and following, available at <https://www.snslp.sk/wp-content/uploads/HR-Report-2020.pdf>

⁷ Slovak National Centre for Human Rights: *Individual submission to the Mid-term review of the fulfilment of recommendations from the third cycle of the Universal Periodic Review of the UN Human Rights Council by the Slovak Republic in 2021*, 2021, p. 7-11, available at <https://www.snslp.sk/wp-content/uploads/UPR-Mid-term-Report-3rd-cycle.pdf>

⁸ Slovak National Centre for Human Rights: *Observations to the Third periodic report of the Slovak Republic concerning implementation of the International Covenant on Economic, Social and Cultural Rights*, 2019, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fNHS%2fSVK%2f37148&Lang=en



to Education” that also identifies structural discrimination of disadvantaged groups of pupils.⁹ In 2022, the Centre participated at preparation of a binding definition of school segregation and provided its opinion and comments to the civil society organization eduRoma that leads the drafting work. Once finalized, the definition should be proposed to the Ministry of Education, Science, Research and Sports of the Slovak Republic. The Centre is currently conducting an independent investigation of a possible case of segregation of Roma students at an elementary school in Eastern Slovakia. It is conducted as a response to the findings of the State School Inspectorate, which during the general inspection found that the school had classes in which only Roma students were educated. The Centre conducted a direct monitoring of the situation and met with the school management and the local government. Both actors undertook to resolve the situation shortly. The Centre will conduct a follow-up monitoring at the beginning of the school year 2022/2023 to establish whether the school has changed the placement of Roma students to prevent the existence of Roma-only classes.

9. In the area of housing, the Centre conducted a situation testing concerning segregation practices against Roma in dormitories for workers in 2021. It concluded that discrimination of Roma in accessing accommodation services for workers is most common in Bratislava, Trnava and Košice Region.¹⁰
10. The Centre has been implementing specific activities concerning the area of health care and the right to health under its 2022 Activity Plan, including for instance a manual to address human rights violations and discrimination in healthcare and related awareness raising activities. In 2021, the Centre also prepared an expert opinion for the purposes of civil litigation in a case concerning segregation of Roma women in maternity-wards in the Hospital of Prešov upon request of a civil society organization Centre for Civil and Human Rights that represents the victims in a public action.¹¹
11. In the area of employment, the Centre currently implements a project “Affirmative actions to increase employment and training of Roma” together with a non-profit organization Labor Agency of Banská Bystrica Self-Governing Region and a Norwegian civil society organization Stiftelsen Mangfold i Arbeidslivet co-funded from the Norwegian Financial Mechanism and the state budget of the Slovak Republic. The aim of the project is to increase technical capacities of employers to adopt and implement effective affirmative actions to employ Roma, particularly from marginalized communities, and thus tackle persisting discrimination of Roma in the area of employment.¹²
12. The Centre develops also awareness raising activities aimed at combatting racial stereotypes and prejudice against Roma. In 2020, it prepared a social media campaign to celebrate the International Roma Day promoting cultural diversity and awareness of Romani language and issued a podcast episode with representatives of civil society organizations active in the area

⁹ Slovak National Centre for Human Rights: ‘Right to Education’, 2021, p. 67-73, available in Slovak at https://www.snslp.sk/wp-content/uploads/Pravo-na-vzdelanie_web_.pdf

¹⁰ Slovak National Centre for Human Rights: ‘Situation Testing in the Area of Short-term Accommodation of Roma in Workers’ Dormitories’, 2021, available in Slovak at http://www.snslp.sk/wp-content/uploads/Situacny_testing_ubytovne.pdf

¹¹ The public action was filed in 2013 and there is still no ruling at the time of preparation of this report.

¹² More information about the project is available at <https://www.snslp.sk/en/projects/ongoing-projects/>



of Roma rights (Divé Maky and eduRoma). Elimination of harmful practices in the area of employment causing discrimination of various groups, including Roma, was also subject to a campaign¹³ promoting non-discrimination and inclusion at workplace implemented by the Centre in cooperation with the civil society organization Pontis Foundation in 2020.

13. The Centre regularly provides human rights training and educational activities for students, public servants, expert entities and other stakeholders. The issues of racial discrimination and racism are covered in various training modules, including Non-discrimination or Human Rights in general, however, the Centre also offers a specific training on Racism and Extremism. In 2019, it trained 3 624 participants on this issue and delivered 134 training events, among them those for primary and secondary school students and those for adult audiences (e. g. Extremism Screening Centre of the National Criminal Agency, Academy of the Police Force or Methodical and Pedagogic Centre in Bratislava). In 2020, the Centre delivered 25 training events on Racism and Extremism to 476 participants, both online and in person, including students and adult audiences (e. g. pedagogic workers). In 2021, the Centre delivered 34 training events on Racism and Extremism to 676 participants, mostly students.¹⁴

Recommendations

1. **To renew efforts to adopt legislative amendments providing full compliance of the law on functioning of the Slovak National Centre for Human Rights with the Paris Principles and to ensure that the legislation is a result of a transparent participatory process.**
2. **To continue with strengthening of its financial resources to allow the Centre to effectively implement its wide mandate with adequate personal resources.**

3. ILL-TREATMENT AND EXCESSIVE USE OF FORCE

14. Institutional racism is still deeply embedded in the criminal justice system of Slovakia.¹⁵ In particular, the excessive use of force and ill-treatment against persons from marginalized Roma communities¹⁶ remains an issue throughout the years in Slovakia. Several international

¹³ See the website of the campaign available in Slovak at www.zapeknepondelky.sk

¹⁴ Annual activity reports of the Centre Slovak National Centre for Human Rights available in Slovak at <https://www.snslp.sk/onas/o-stredisku/>

¹⁵ See for example: Fair Trials, 'Uncovering anti-Roma discrimination in criminal justice systems in Europe', 2020, available at <https://www.fairtrials.org/articles/publications/uncovering-anti-roma-discrimination-in-criminal-justice-systems-in-europe/>; European Roma Rights Center, 'Brutal and bigoted: policing Roma in the EU', 2022, available at http://www.errc.org/uploads/upload_en/file/5397_file1_brutal-and-bigoted-policing-roma-in-the-eu.pdf; European Roma Rights Center and Fair Trials, 'Justice denied: Roma in the criminal justice system', 2021, available at <http://www.errc.org/reports--submissions/justice-denied-roma-in-the-criminal-justice-system>.

¹⁶ According to the Strategy of Equality, Inclusion and Participation of Roma until 2030, it has to be underlined that Roma population in Slovakia is very diverse and it may be stigmatizing to consider all Roma to be disadvantaged in terms of poverty and social exclusion. This assumption is also incorrect in relation to all inhabitants of all settlements considered as Roma settlements. At the same time, Roma in Slovakia are among the most structurally disadvantaged and discriminated groups, regardless of their socio-economic background or living conditions. For this reason, marginality is not understood solely through the prism of socio-economic conditions, but more broadly, involving disadvantages (and multiple disadvantages) in various dimensions of life (including education, employment, participation and in terms of fight against anti-Roma racism). Accepting this fact, the 2030 Strategy defines marginalized



and regional monitoring bodies have previously concluded that investigations into allegations of law enforcement brutality remain inadequate and the existing police investigation mechanism is not sufficiently independent.¹⁷ Additionally, they called on the Government to ensure prompt, impartial, thorough, and effective investigations into all such allegations, to punish the perpetrators, and to compensate the victims.

15. Number of complaints alleging excessive use of force and ill-treatment by law enforcement authorities have been taken to courts by concerned individuals represented by various civil society organizations. Most of the cases included law enforcement interventions for example, in April 2013 in Vrbnica¹⁸, June 2013 in Moldava nad Bodvou¹⁹, February 2015 in Rudňany²⁰, May 2017 in Zborov²¹, July 2019 in Milhost' or April 2020 in Krompachy.
16. Despite the substantial number of complaints relating to serious acts of violence directed against persons from marginalized Roma communities and committed by members of law enforcement authorities, none of the subsequent investigations resulted in a conviction or disciplinary sanction against the authorities involved.²² In its Fourth periodic report to the Committee against Torture, the Slovak Government addressed the law enforcement intervention in Roma settlement in Zborov in 2017. However, it concluded that it was determined in the pre-trial stage of the criminal proceedings lodged that the law enforcement intervention was legal as it was a result of a massive brawl between Roma groups, and therefore the criminal proceedings were terminated as the action was not a crime.²³ Many other cases of excessive use of force and ill-treatment had a similar outcome, either the Police Inspectorate or the courts²⁴ found no wrongdoing on the side of law enforcement authorities.

Roma communities as: (a) segregated settlements which are considered to be Roma by their environment and in which there are accumulated various structural disadvantages; (b) settlements considered by their environment to be Roma, located on the outskirts and within municipalities or places where various structural disadvantages accumulate; (c) the Roma population not living in settlements but faces disadvantaging socio-economic conditions due to structural inequalities. This group also includes municipalities with a majority of Roma population. See: Government of the Slovak Republic: *Strategy of Equality, Inclusion and Participation of Roma until 2030*, p. 7, available in Slovak at <https://www.minv.sk/?strategia-pre-rovnost-inkluziu-a-participaciu-romov-do-roku-2030>.

¹⁷ UN Human Rights Council, Universal Periodic Review, Third Cycle - Slovakia, 2019; UN Human Rights Committee, 'Concluding observations on the fourth report of Slovakia', 2016, CCPR/C/SVK/CO/4, 7; Committee on the Elimination of Racial Discrimination, 'Concluding observations on the ninth to the tenth periodic report of Slovakia', 2013, CERD/C/SVK/CO/9-10, paras 10-13; Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 'Concluding observations on the third periodic report of Slovakia', CAT/C/SVK/CO/3, 2015; Council of Europe, Advisory Committee on the Framework Convention for the Protection of National Minorities, 'Fifth Opinion on the Slovak Republic', ACFC/OP/V(2022)8, 2022, available at <https://rm.coe.int/5th-op-slovak-republic-en/1680a6e4ee>; Council of Europe, European Commission against Racism and Intolerance, 'ECRI Report on the Slovak Republic (sixth monitoring cycle)', 2020, available at <https://rm.coe.int/ecri-6th-report-on-the-slovak-republic/1680a0a088>.

¹⁸ ECtHR, *T.K. and Others v. Slovakia*, App. No. 57085/18, lodged on 28 November 2018, available at: <https://hudoc.echr.coe.int/eng?i=001-194151>.

¹⁹ ECtHR, *R.R. and R.D. v. Slovakia*, App. No. 20649/18, Judgment, 1 September 2020, available at <https://hudoc.echr.coe.int/eng?i=001-204154>.

²⁰ ECtHR, *A. P. v. Slovakia*, App. No. 10465/17, Judgment, 28 January 2020, available at <https://hudoc.echr.coe.int/eng?i=001-200556>.

²¹ ECtHR, *Kováčová and Others v Slovakia*, App. No. 31975/19, lodged on 31 May 2019, available at <https://hudoc.echr.coe.int/eng?i=001-203620>.

²² Council of Europe, European Commission against Racism and Intolerance, 'ECRI Report on the Slovak Republic (sixth monitoring cycle)', 2020, available at <https://rm.coe.int/ecri-6th-report-on-the-slovak-republic/1680a0a088>.

²³ Committee against Torture, *Fourth periodic report submitted by Slovakia under article 19 of the Convention pursuant to the simplified reporting procedure*.

²⁴ See for example, Judgment of the District Court of Košice II of 4 December 2019 and the Judgment of the Regional Court of



Such approach remains alarming. In November 2021, two new investigations into the ill-treatment against persons from marginalized Roma communities by law enforcement authorities which occurred in Milhost' in 2019 were closed by the Office of the Inspection Service of the Ministry of Interior and the decision of the Inspection Service upheld by the prosecutor.²⁵

17. Besides unsuccessful litigation domestically, some of the victims of the law enforcement ill-treatment and excessive use of force in raids had been also subsequently charged for allegedly giving a false statement. This was the case of six persons to marginalized Roma communities who were victims of excessive use of force by law enforcement authorities in Moldava nad Bodvou and who were subsequently prosecuted for their allegedly false statement.²⁶
18. Nevertheless, number of cases were referred to the European Court of Human Rights (ECtHR) by the applicants and resulted in founding violations of the Convention on the Protection of Fundamental Rights and Freedoms (ECHR). It is inevitable to mention the judgment of the ECtHR of September 2020 in the case of *R. R. And R. D v. Slovakia*, which concerned the above-mentioned police raid in the eastern-Slovak town Moldava nad Bodvou in 2013.²⁷ The ECtHR found violation of Articles 3 and 14 due to police ill-treatment and excessive use of force in a police operation carried out on a street in a Roma community, and the subsequent lack of proper investigation into the alleged discrimination in the planning of such operation.
19. As a result, in March 2021, the Prosecutor from the District Prosecutor's Office Košice I dismissed the charges against five of the six previously prosecuted victims of law enforcement raid and ill-treatment in Moldava nad Bodvou in 2013. The prosecutor did so after the opinion of the Office of the Prosecutor General of the Slovak Republic and the ECtHR's findings in the case of *R. R. and R. D. V. Slovakia*.²⁸ In December 2021, the District Court of Košice I terminated the proceedings also against the sixth victim.²⁹
20. In June 2021, the Slovak Government published an "Apology of the Government of the Slovak Republic for the manner of intervention of the police forces in the case of Moldava nad Bodvou in 2013".³⁰ However, as regards the implementation of judgments, according to the

Košice of 11 December 2020, Case No. 4To/54/2020.

²⁵ Bernard Rorke, 'No case to answer: Slovak authorities dismiss another two police brutality cases against Roma', 2021, available at <http://www.errc.org/news/no-case-to-answer-slovak-authorities-dismiss-another-two-police-brutality-cases-against-roma>.

²⁶ See for example: Michaela Pisova, 'Moldava – from police raid to ECHR ruling', in: *Minority Policy* vol. 2, 2020; Amnesty International, '5 rokov (ne)spravodlivosti: z obeti spravili vinnikov', press release, 18 June 2018, available in Slovak at <https://www.amnesty.sk/5-rokov-nespravodlivosti-z-obeti-spravili-vinnikov/>.

²⁷ ECtHR, *R.R. and R.D. v. Slovakia*, App. No. 20649/18, Judgment, 1 September 2020, available at <https://hudoc.echr.coe.int/eng/?i=001-204154>.

²⁸ Equity, o.z., European Roma Rights Center, ETP Slovakia, Amnesty International Slovakia, Centre for the Research of Ethnicity and Culture, '8 rokov nespravodlivosti po razii v Moldave: Rozsudok ESLEP pomohol piatim zo šiestich obetí slobodit' sa spod obžaloby, inak sa nič nezmenilo,' press release, 18 June 2021, available in Slovak at <http://policajnarazia.sk/blog/tlačová-správa-8-rokov-čakania-na-spravodlivosť>; See also: Equity, European Roma Rights Center, Amnesty International Slovakia, ETP Slovakia, Centre for the Research of Ethnicity and Culture, 'Prokuratúra ustúpila od žalôb piatich zo šiestich obžalovaných', 2021, available in Slovak at <http://policajnarazia.sk/blog/prokuratúra-ustúpila-od-žalôb-piatich-zo-šiestich-obžalovaných>.

²⁹ Equity, o.z., European Roma Rights Center, ETP Slovakia, Amnesty International Slovakia, Centre for the Research of Ethnicity and Culture, 'Poslednú obeť zbavil súd obvinenia, ďalšia sa dočkala odškodnenia za nezákonnú väzbu', 2022, available in Slovak at <http://policajnarazia.sk/blog/poslednú-obet-zbavil-súd-obvinenia-dalšia-sa-dočkala-odškodnenia-za-nezákonnú-väzbu>.

³⁰ Resolution of the Government of the Slovak Republic No. 367/2021 on the Excuse of the Government of the Slovak Republic



Committee of Ministers of the Council of Europe, the judgment of 1 September 2020 in the case of *R.R. and R.D. v. Slovakia* remains under enhanced supervision by the Committee of Ministers.³¹

21. In April 2021, the ECtHR ruled in *M.B. and Others v. Slovakia* that Slovakia had failed to investigate allegations that police officers ill-treated six Roma boys in a police car after arresting them in 2009 in the city of Košice.³² This incident was followed by another incident of ill-treatment of six Roma boys at the police station. The allegations of ill-treatment at the police station were considered separately in different proceedings and are pending before the ECtHR.³³
22. Most recently, in June 2022, in the case of *M.H. and Others v. Slovakia*,³⁴ ECtHR took note of the friendly settlement reached between the Slovak Government and the applicants regarding their complaints linked to a police operation that took place in June 2013 in Moldava nad Bodvou and the ensuing investigation into allegations of abuse of authority, ill-treatment and discrimination by the law enforcement officers involved. According to the friendly-settlement declarations signed by the parties, the applicants agreed to waive any further claims against Slovakia in respect of the facts giving rise to this application against an undertaking by the Government to pay them ex gratia jointly EUR 110 000 to cover any non-pecuniary damage, plus any tax that may be chargeable.

The lack of use of body cameras

23. The Centre has previously reported on the issue of ill-treatment by law enforcement authorities concerning the ill-treatment and excessive use of force in Moldava nad Bodvou as well as in Vrbnica.³⁵ In its recommendations, the Centre repeatedly reiterated that there is an urgent need to fundamentally improve the approach of the public authorities to the protection of fundamental rights and freedoms, particularly those belonging to vulnerable groups. In essence, the Centre stressed the importance of usage of body cameras and videotapes of all law enforcement interventions where the use of coercive means is foreseen.
24. In 2022, the legislation concerning the Police Force³⁶ was amended, replacing the name badge

for the manner of intervention of the police forces in the case of Moldava nad Bodvou in 2013, 23 June 2021, available in Slovak at <https://rokovania.gov.sk/RVL/Resolution/19340/1>.

³¹ Secretariat of the Committee of Ministers of the Council of Europe, 'Table of cases and groups of cases under enhanced supervision', available at https://search.coe.int/cm/pages/result_details.aspx?ObjectId=0900001680a3e32a.

³² ECtHR, *M. B. and Others v. Slovakia*, App. No. 45322/17, Judgment 1 April 2021, available at <https://hudoc.echr.coe.int/eng?i=001-208879>.

³³ ECtHR, *M. B. and Others v. Slovakia*, App. No. 63962/19, lodged on 6 December 2019, available at <https://hudoc.echr.coe.int/eng?i=001-202691>.

³⁴ ECtHR, *M. H. and Others v. Slovakia*, App. No. 14099/18, Decision, 3 May 2022, available at <https://hudoc.echr.coe.int/eng?i=001-217769>.

³⁵ See for example, Slovak National Centre for Human Rights, 'Report on the Observance of Human Rights Including the Principle of Equal Treatment in the Slovak Republic for the Year 2013', available in Slovak at <https://www.snslp.sk/wp-content/uploads/Sprava-o-LP-za-rok-2013.pdf>; Slovak National Centre for Human Rights, 'Report on the Observance of Human Rights Including the Principle of Equal Treatment in the Slovak Republic for the Year 2015', available in Slovak at <https://www.snslp.sk/wp-content/uploads/Sprava-o-LP-za-rok-2015.pdf>.

³⁶ Act No. 171/2003 Coll. on the Police Force, as amended, available in Slovak at <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1993/171/>.



of the law enforcement authorities on their uniform with an identification number. However, the use of body cameras has still not been implemented. This significantly hampers the possibility of victims to objectify the facts in case of doubts about the legality of intervention of use of force by law enforcement authorities.

25. According to the Centre, body cameras on the uniforms of law enforcement authorities could help to clarify the course of police interventions and increase the credibility of the Police Force of the Slovak Republic. Body cameras can be used both to protect individuals from excessive use of force as well as to protect law enforcement authorities from unfounded accusations of excessive use of force. In 2021, the Public Defender of Rights also addressed a letter to the Ministry of Interior of the Slovak Republic, regretting the lack of body cameras for the law enforcement authorities, which affects monitoring of law enforcement authorities.³⁷

Recommendations

1. **To ensure systematic public condemnation of racism and ill-treatment by law enforcement authorities and to ensure that any allegations of excessive use of force or ill-treatment as well as misconduct by law enforcement authorities is sufficiently and systematically addressed and sanctioned.**
2. **To ensure equal access to courts and to effective judicial remedies for Roma victims of excessive use of force and ill-treatment, as well as to ensure effective implementation of existing judgments of the European Court of Human Rights.**
3. **To ensure collection of statistical information on reported submissions and ongoing investigations of excessive use of force and ill-treatment against ethnic minorities by law enforcement officers.**
4. **To adopt necessary measures to prevent ill-treatment by law enforcement authorities, as well as to ensure capacity-building activities, including ensuring sufficient training opportunities on human rights and non-discrimination to law enforcement bodies.**

4. RIGHT TO HEALTH

Major health inequalities of people from marginalized Roma communities

26. According to the OECD's country health profile of Slovakia, health status of Roma from marginalized communities is worse than that of a general population, although they are generally covered by a public health insurance. Roma in Slovakia have shorter life expectancies at birth than the general population (by seven years less for women and ten years

³⁷ Public Defender of Rights, 'Správa o činnosti verejného ochrancu práv za obdobie roka 2021', 2021, available in Slovak at https://vop.gov.sk/wp-content/uploads/2022/03/VOP_VS21_SK_Digital-2.pdf.



less for men) and infant mortality of Roma is twice the national average and almost four times higher than the EU average.³⁸ Lack of access to healthcare is also reported – e.g., in 2019, only around 53% of Roma from marginalized communities had access to a general practitioner and 44 % in case of pediatric practitioner in the distance within 2 km.³⁹

27. A lack of access to and use of health care by Roma from marginalized communities stems from a number of contributing structural and material factors. In terms of material barriers, these include poverty (people's incomes are often not enough for even small co-payments for medicines or a trip to the doctor) and environmental factors, including exposure to toxic materials and waste, lack of access to clean water and access to sanitation.⁴⁰ Structural factors include discrimination and exclusion, lack of information and awareness,⁴¹ cultural/language barriers and affordability challenges,⁴² spatial segregation, and lower social capital and lack of opportunities,⁴³ and intersectional factors, including discrimination in employment, education and social services. Racial/ethnic discrimination prevails also in attitudes and behaviors of healthcare workers in various forms, such as separate waiting rooms or outspoken personal racism and hostility of staff, which results in avoidance of healthcare settings by Roma.⁴⁴ Frontline professionals providing healthcare for Roma may also provide substandard practices, including substandard communication and commitment to care.⁴⁵ Importantly, root causes of deteriorating health conditions are exclusion, including a long history of oppression on basis of ethnicity, various manifestations of direct and indirect ethnic discrimination against Roma, the emergence of excluded settlements or negative racialized cultural norms, including Antigypsyism.⁴⁶
28. By a Resolution No. 181/2021 of 7 April 2021, the Government of the Slovak Republic approved the new *Strategy of Equality, Inclusion and Participation of Roma until 2030* (the

³⁸ OECD/European Observatory on Health Systems and Policies: *Slovak Republic: Country Health Profile 2021*, State of Health in the EU, 2021, p. 24 and p.5, available at <https://www.oecd-ilibrary.org/docserver/4ba546fe-en.pdf?expires=1656492663&id=id&accname=guest&checksum=B551A312C7847134FEB5480B4797DFF6>.

³⁹ Government of the Slovak Republic: *Strategy of Equality, Inclusion and Participation of Roma until 2030*, p. 34, available in Slovak at <https://www.minv.sk/?strategia-pre-rovnost-inkluziu-a-participaciu-romov-do-roku-2030>.

⁴⁰ People in Need: 'Are Roma in the settlements healthier than the majority?', 12 October 2021, available in Slovak at <https://clovekvozhrozeni.sk/su-romovia-v-osadach-zdravsi-nez-majorita/>.

⁴¹ Belák A.: *Segregated Roma and health policies: ethical and practical conflicts*, 2015, In Government of the Slovak Republic: *Strategy of Equality, Inclusion and Participation of Roma until 2030*, p. 33, available in Slovak at <https://www.minv.sk/?strategia-pre-rovnost-inkluziu-a-participaciu-romov-do-roku-2030>.

⁴² Bednarik M., Hidas S., and Machlica G: *Enhancing the social integration of Roma in Slovak Republic*, OECD Economics Department Working Papers, No. 1551, In: OECD/European Observatory on Health Systems and Policies: *Slovak Republic: Country Health Profile 2021*, State of Health in the EU, 2021, p. 14, available at <https://www.oecd-ilibrary.org/docserver/4ba546fe-en.pdf?expires=1656492663&id=id&accname=guest&checksum=B551A312C7847134FEB5480B4797DFF6>.

⁴³ People in Need: 'Are Roma in the settlements healthier than the majority?', 12 October 2021, available in Slovak at <https://clovekvozhrozeni.sk/su-romovia-v-osadach-zdravsi-nez-majorita/>.

⁴⁴ Ibid.

⁴⁵ Belák, A., Filakovska Bobakova, D., Madarasová Gecková, A., Dijk, Jitse P., and Reijneveld, S.A.: 'Why don't health care frontline professionals do more for segregated Roma? Exploring mechanisms supporting unequal care practices', *Social Science & Medicine*, 246:112739, p.1, available at https://www.researchgate.net/publication/338044208_Why_don't_health_care_frontline_professionals_do_more_for_segregated_Roma_Exploring_mechanisms_supporting_unequal_care_practices

⁴⁶ Belák, A.: Levels of conditions for health and health needs in excluded Roma settlements in Slovakia, 2020, p. 11, available in Slovak at https://www.zdraveregionu.eu/wp-content/uploads/2018/04/ZK_potreby_e-verzia.pdf. English summary on p. 19-27.



2030 Strategy).⁴⁷ The stated goal is to achieve a visible change in the field of equality and inclusion of Roma, with the four priority areas of employment, education, health and housing. The strategy is supplemented by action plans, which specify policies and measures to be implemented in the selected and prioritized areas.⁴⁸ The main goal of the Action Plan on health is to reduce inequalities in health in all dimensions between Roma, specifically Roma from marginalized communities, and the general population. It includes measures for monitoring of inequalities in health, reducing infant mortality, improvement of conditions for health on a community level, information on lodging cases of discrimination in healthcare or strengthening the professional qualification of community workers in the field of health promotion.⁴⁹ Currently a national project on monitoring and evaluation of inclusive policies and their impact on marginalized Roma communities is ongoing since 2016 until November 2022.⁵⁰

29. State strategies and related Action Plans are supplemented by state-subsidized programs, such as *Healthy Regions*⁵¹ - a state contributory organization of the Ministry of Health of the Slovak Republic. It has a mission to implement and develop temporary compensatory measures in the field of health, and to systematically improve the extremely poor health status of people from segregated Roma communities via community health work, including health mediators to help reduce the challenges.⁵² First and foremost however, “*no temporary compensatory measures can eliminate the root cause of the deteriorating health of people in excluded communities, that such places exist at all and that so many Roma live there. It is no coincidence, but a result of systematic exclusion on the principle of ethnicity - in the past and present.*”⁵³ Policies aimed at addressing inequalities in health between Roma and non-Roma, including national strategies of Roma integration have been also criticized for a insufficient implementation, non-execution of planned activities and lack of concise data and evaluation of programs and their efficiency (similarly to other countries of the Central and Eastern European region).⁵⁴

⁴⁷ Government of the Slovak Republic: *Strategy of Equality, Inclusion and Participation of Roma until 2030*, available in Slovak at <https://www.minv.sk/?strategia-pre-rovnost-inkluziu-a-participaciu-romov-do-roku-2030>.

⁴⁸ Government of the Slovak Republic: *Action Plans on the Strategy of Equality, Inclusion and Participation of Roma until 2030*, available in Slovak at https://romovia.vlada.gov.sk/site/assets/files/1113/akcne_plany_strategie_2030_na_roky_2022_2024_final.pdf?csrt=1532119360806125632

⁴⁹ Ibid., p. 44-52.

⁵⁰ Plenipotentiary of the Government of the Slovak Republic for Roma Communities: 'National project: Monitoring and evaluation of inclusive policies and their impact on marginalized Roma communities (2016-2022)', available in Slovak at <https://www.romovia.vlada.gov.sk/narodne-projekty/narodny-projekt-monitorovanie-a-hodnotenie-inkluzivnych-politik-a-ich-dopad-na-marginalizovane-romske-komunity-2016-2022/?csrt=915504553846783267>.

⁵¹ Information in Slovak available at <https://www.zdraveregiony.eu/poslanie-a-ciele/>.

⁵² OECD/European Observatory on Health Systems and Policies: *Slovak Republic: Country Health Profile 2021*, State of Health in the EU, 2021, p. 14, available at <https://www.oecd-ilibrary.org/docserver/4ba546fe-en.pdf?expires=1656492663&id=id&accname=guest&checksum=B551A312C7847134FEB5480B4797DFF6>.

⁵³ People in Need: 'Are Roma in the settlements healthier than the majority?', 12 October 2021, available in Slovak at <https://clovekvochrozeni.sk/su-romovia-v-osadach-zdravsi-nez-majorita/>.

⁵⁴ Belák, A.: Levels of conditions for health and health needs in excluded Roma settlements in Slovakia, 2020, p. 209-210, available in Slovak at https://www.zdraveregiony.eu/wp-content/uploads/2018/04/ZK_potreby_e-verzia.pdf.



Mandatory quarantine of whole Roma communities during the COVID-19 pandemic

30. During the COVID-19 pandemic, the Centre monitored the state practice of compulsory quarantine of several whole Roma communities in Slovakia (in place of personal isolation) and its negative impacts on human rights, based on structural discrimination and racial prejudice against Roma.⁵⁵ After cases of coronavirus infections had been confirmed in a number of Roma communities in Slovakia, several of the communities have been locked down as a whole and put under mandatory quarantine. In the first two waves of the COVID-19 pandemic in 2020, mandatory quarantine involved several municipalities, including Bystrany, Žehra, Ratnovce and the towns of Krompachy and Bánovce nad Bebravou. The quarantine measures have had a negative impact on the situation of people from the segregated settlements, including worsening of the access to health care or the access to medicines.⁵⁶
31. The Centre as well as the Public Defender of Rights⁵⁷ repeatedly contested the inadequacy and lack of sufficient justification of the measures regulating the isolation of Roma communities. The Public Defender of Rights found that the fundamental rights and freedoms of the inhabitants in these areas had been violated, after examining particular cases of settlements in Žehra, Krompachy and Bystrany in 2020.⁵⁸

Forced and coercive sterilization of Roma women

32. The issue of informed consent has been highly debated and subject to criticism and evaluations by number of international and regional monitoring mechanisms in relation to cases of forced and coercive sterilization of Roma women. As documented by numerous reports⁵⁹ and further highlighted by the case law of regional and international courts and monitoring mechanisms, Roma women have been particularly at risk of such practices.
33. Pursuant to Section 40 of Healthcare Act⁶⁰, sterilization may be carried out only upon a written

⁵⁵ For an analysis of the compulsory quarantine of Roma Communities please see the Slovak National Centre for Human Rights: *Report on the Observance of Human Rights Including the Principle of Equal Treatment in the Slovak Republic for the Year 2020* (2021), p. 22, available in English at <http://www.snslp.sk/wp-content/uploads/Human-Rights-Report-2020.pdf>.

⁵⁶ EU FRA: *Implications of COVID-19 pandemic on Roma and Travellers communities*, 15 June 2020, p.16, available at https://fra.europa.eu/sites/default/files/fra_uploads/sk_report_-_covid-19_impact_on_roma_en.pdf.

⁵⁷ Office of the Public Defender of Rights: 'Slovakia is the only country in Europe in which entire Roma communities are still quarantined', 25 February 2021, available in Slovak at https://vop.gov.sk/wp-content/uploads/2021/08/2021_05_TS_VOP_sa-obratila_na_GP_pre_karantenzaciu_MRK_FIN.pdf.

⁵⁸ Office of the Public Defender of Rights: 'Ombudswoman turns to the Regional Public Health Authority in Trenčín and the Chief Hygienist on the quarantine of Roma residences', 26 October 2020, available in Slovak at <https://bit.ly/3HYyFZP>.

⁵⁹ Center for Reproductive Rights and Center for Civil and Human Rights, *Body and Soul – Forced Sterilization and Other Assaults on Roma Reproductive Freedom in Slovakia*, 2003, available at https://reproductiverights.org/sites/crr.civicactions.net/files/documents/bo_slov_part1.pdf; see also Center for Reproductive Rights and Center for Civil and Human Rights, 'Vakeras Zorales – Speaking Out, Woma women's experience in reproductive health care in Slovakia', 2017, available at <https://reproductiverights.org/wp-content/uploads/2021/03/GLP-SlovakiaRomaReport-Final-Print.pdf>.

⁶⁰ As a result of a number of advocacy activities and reports documenting the cases of forced and coercive sterilization, in 2004 new regulation of informed consent procedures was adopted, adding a specific provision on informed consent prior to sterilization. See: Act No. 576/2004 Coll. on healthcare and on services related to healthcare, amending and supplementing certain other acts, as amended. Available in Slovak at <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2004/576/20160102>



request and written informed consent after prior instruction of a person with full legal capacity or a legal representative of the person with limited legal capacity to give informed consent, or on the basis of a court decision at the request of the legal representative. Additionally, according to Section 40(5) of the Healthcare Act, sterilization cannot be carried out earlier than 30 days after informed consent.

34. Forced and coercive sterilization of Roma women without their informed consent has been litigated both before domestic courts as well as before by the ECtHR. The ECtHR has considered in a number of cases that forced sterilization constitutes a major interference with a person's reproductive health status, bearing on manifold aspects of the individual's personal integrity or physical and mental well-being.⁶¹ According to ECtHR, such an interference without full and free consent is not compliant with the requirement of respect for human freedom and dignity. In most of the cases, the ECtHR found violation of Articles 3 and 8 of the Convention. In addition, in most of the cases the ECtHR also found a violation of the procedural aspect of Article 3 and held that the State authorities did not meet the standards of an effective investigation laid down by Article 3 of the Convention.
35. With regards to forced sterilization of Roma women, in her letter to the Prime Minister and the Minister of Justice of the Slovak Republic of July 2021, the Council of Europe Commissioner for Human Rights, Dunja Mijatović, stated that „*existing mechanisms, in the form of domestic civil claims, have not provided an effective means of redress for this serious human rights violation, owing to the many obstacles the victims face.*“ Roma women, while not being the only victims of forced/coercive sterilizations, have been at a particular risk, driven by discriminatory attitudes against them.⁶²
36. In the reply to the letter, the Minister of Justice of the Slovak Republic stated that Slovakia takes the issue very seriously and that the Minister is considering options to examine the cases and provide reparations, noting establishment of the committee of experts in 2003, institute of informed consent in 2004 and its translation into nine minority languages, including Romani.⁶³
37. In November 2021, the Slovak Government issued a formal apology to victims of forced sterilization, by approving the material called „*Apology of the Government of the Slovak Republic for sterilization of women in violation of the law*“. Therein, Slovakia apologized for cases of sterilizations and violation of human rights of (in majority of cases) Roma women in years 1966-1989 and 1990-2004, where „*the informed consent to the procedure was not always obtained in an adequate process with understanding, but on the contrary, under*

⁶¹ See for example, ECtHR, *K. H. and Others v. Slovakia*, App. No. 32881/04, Judgment, 28 April 2009, available at <https://hudoc.echr.coe.int/eng-press?i=003-2718812-2971322>; ECtHR, *V. C. v. Slovakia*, App No. 18968/07, Judgment, 8 November 2011, available at <https://hudoc.echr.coe.int/fre?i=001-107364>; ECtHR, *N.B. v. Slovakia*, App. No. 29518/10, Judgment, 12 June 2012, available at <https://hudoc.echr.coe.int/fre?i=001-111427>; ECtHR, *I.G. and Others v. Slovakia*, App. No. 15966/04, Judgment, 13 November 2012, available at <https://hudoc.echr.coe.int/fre?i=001-114514>;

⁶² The letter is available in English at <https://rm.coe.int/letter-to-mr-eduard-heger-prime-minister-of-the-slovak-republic-and-ms/1680a332a3>.

⁶³ The letter is available in English at <https://rm.coe.int/reply-of-ms-maria-kolikova-minister-of-justice-of-the-slovak-republic-/1680a33c17>.



duress, without sufficient time for reflection and often even at the starting of delivery pain.“⁶⁴
The Council of Europe Commissioner for Human Rights welcomed the apology as a first step, and underlined the need to adopt an accessible and effective compensation mechanism.⁶⁵

38. Such conclusions have been supported also by other international and regional monitoring mechanisms, e.g. the European Commission against Racism and Intolerance (ECRI). However, the authorities have no reliable information about the number of women who have fallen victim to such practices.⁶⁶
39. Questions remain regarding the compensation and further steps to be taken by the state authorities to ensure access to remedies. It must be noted, that in some cases domestic courts have failed to find a substantive violation in accordance with international human rights law or dismissed financial compensation due to 3-years statute of limitation. Only in small number of cases brought before the domestic courts, they found violations of women’s rights under the domestic legislation awarded financial compensation.⁶⁷
40. Moreover, despite the current legal framework provides sufficient legal safeguards, active steps must be taken by state authorities to ensure and monitor the implementation of this legislation by medical practitioners.
41. The issue of illegal sterilizations in Slovakia is a serious violation of the fundamental rights and freedoms of Roma women who have undergone unlawful sterilization and have not yet been compensated. Although there has been a legislative shift in recent years in relation to the prevention of unlawful sterilizations, the fact remains that the current national legal framework does not allow the women affected to obtain effective redress.

Recommendations

- 1. To improve availability and accessibility of healthcare, including by eliminating all forms of direct and indirect discrimination and segregation of Roma in healthcare and raising awareness and support to healthcare staff.**
- 2. To follow-up on the recommendations of international and regional monitoring bodies and to ensure effective and transparent investigation of cases of forced sterilization of Roma women. Moreover, to adopt necessary measures to ensure access to compensation without further delay for women who have been victims of forced and coercive sterilization.**

⁶⁴ Resolution of the Government of the Slovak Republic No. 674 on *Apology of the Government of the Slovak Republic for sterilization of women in violation of the law*, 22 November 2021, available in Slovak at <https://rokovania.gov.sk/RVL/Material/26642/1>.

⁶⁵ Commissioner for Human Rights, tweet, 24 November 2021, retrieved on 18 May 2022, available at <https://twitter.com/CommissionerHR/status/1463569227051421697>.

⁶⁶ European Commission against Racism and Intolerance, ‘ECRI Report on the Slovak Republic (sixth monitoring cycle)’, 2020, available at: https://ec.europa.eu/migrant-integration/library-document/ecri-report-slovak-republic-sixth-monitoring-cycle_en.

⁶⁷ Košice Regional Court recently awarded 16 000 € in damages and interest to a Roma woman who had been sterilised without prior consent. The judicial proceedings had gone on for 15 years, Romea.cz 2020



5. RIGHT TO EDUCATION

42. International human rights instruments ratified by Slovakia, as well as the Education Act⁶⁸ explicitly prohibit all forms of discrimination in education, especially segregation⁶⁹ (segregation itself is however not defined in Slovak legislation). Nonetheless, according to a number of reports,⁷⁰ and findings of the Centre,⁷¹ Roma children continue to be denied inclusive education.
43. According to latest EU MIDIS II data from 2016, 63% of Roma children were educated in classes where a majority or all of their classmates were Roma.⁷² Roma children also form a majority of pupils in “special classes” and “special schools” for children with mild intellectual disabilities, segregated from mainstream education. Roma-only schools continue to exist in spite of educational policies, either due to the demographic development in some towns, but also by defining “catchment areas” of elementary schools, which in some cases copy or even deepen the existing residential segregation. Since the legal representatives of children have a right to choose a school for their children, this further deepens the majority share of Roma children in some schools. In addition, segregation of Roma children in separate classes or schools may also be a consequence of a lack of other supporting tools and mechanisms for schools, and absence of supporting tools in Roma language.⁷³ Segregation in education for Roma children and youth entails all levels of education, including preschool and secondary education. For example, establishment of elocated branches of secondary trade schools in the vicinity of marginalized Roma communities also deepens their social exclusion.⁷⁴
44. In April 2015, European Commission launched an infringement procedure against Slovakia due to the breach of the prohibition of discrimination in education laid down in the Racial Equality Directive.⁷⁵ Despite the pending infringement procedure, situation was not changing

⁶⁸ Act No. 245/2008 Coll. Act on Education and Upbringing (Education Act) and on the amendment of some laws, as amended, available in Slovak at <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2008/245/20150901.html>.

⁶⁹ Ibid., Art. 3 (e).

⁷⁰ See for example, State School Inspection: *Report on the state and level of upbringing and education in school and school facilities in the Slovak Republic in the academic year 2019/2020*, 2020, available in Slovak at https://www.ssi.sk/wp-content/uploads/2020/12/sprava20_web.pdf; It Makes Sense initiative: *Analysis of findings on the state of education in Slovakia*, 2019, available in Slovak at <https://analyza.todarozum.sk/analyza-zisteni-o-stave-skolstva-na-slovensku.pdf>; and Amnesty International and European Roma Rights Centre: *A Lesson in discrimination - segregation of Roma children in primary education in the Slovak Republic*, 2017, available in Slovak at <http://www.amnesty.sk/wp-content/uploads/2017/02/Amnesty-report-Slovak-WEB.pdf>.

⁷¹ See for example, *Report on the Observance of Human Rights including the Principle of Equal Treatment in the Slovak Republic for the Year 2019*, available in Slovak at <http://www.snslp.sk/nasa-cinnost/monitoring-a-reporting/sprava-o-dodrziavani-ludskych-prav/>; and *Right to Education. Evaluation according to the Human Rights Indicators for the Year 2020*, 2021, available in Slovak at https://www.snslp.sk/wp-content/uploads/Pravo-na-vzdelanie_web.pdf.

⁷² European Union Agency for Fundamental Rights: *Second European Union Minorities and Discrimination Survey (EU-MIDIS II). Roma — Selected findings*, 2016, European Union Agency for Fundamental Rights available at <http://fra.europa.eu/en/publication/2016/eumidis-ii-roma-selected-findings> In Hapalová, M.: ‘Segregation of Roma children’ in It Makes Sense initiative: *Analysis of findings on the state of education in Slovakia*, 2019, p. 96, available in Slovak at <https://analyza.todarozum.sk/analyza-zisteni-o-stave-skolstva-na-slovensku.pdf>.

⁷³ Hapalová, M.: ‘Segregation of Roma children’ in It Makes Sense initiative: *Analysis of findings on the state of education in Slovakia*, 2019, p. 98-102, available in Slovak at <https://analyza.todarozum.sk/analyza-zisteni-o-stave-skolstva-na-slovensku.pdf>.

⁷⁴ Balážová, Z.: *Elocated secondary vocational schools in marginalized Roma communities*, 2015, CVEK, p.71, available in Slovak at <http://cvek.sk/wp-content/uploads/2015/11/Elovakane-pracoviska-final-1.pdf>.

⁷⁵ Lajčáková, J.: ‘Based on the European Commission’s inquiry, we have acknowledged the problem of segregation in education. It still remains to be solved’, *Minority Policy in Slovakia 1/2016*, available in Slovak at <http://cvek.sk/wp-content/uploads/2016/01/Na-zaklade-setrenia-vysledkov-Európskej-komisie-sme-pripustili-existenciu-problému-segregácie-vo->



and in 2019, the Commission concluded that all the steps Slovakia had taken since 2015 were inadequate.⁷⁶ In a response in July 2020, with the change of government, the Ministry of Education, Science, Research and Sport of the Slovak Republic (the Ministry of Education) finally acknowledged the existence of segregation and discrimination of Roma children in education and has taken responsibility to remedy the situation with a goal to end segregation in education and to implement inclusive education policies.⁷⁷ The Ministry of Education also set up the Inclusive Education Department and created the post of the State Secretary for National and Inclusive Education.

45. The 2030 Strategy sets specific goals in terms of education. The main goal of the action plan on education is to “ensure equal access of Roma to quality education in the main educational stream from birth to employment on the labour market, with an emphasis on the application of desegregation and inclusive measures in the educational process at all levels of education”⁷⁸ by 2030. It includes measures for increasing the number and quality of staff, improvement of school results on all levels of education, improving capacity of schools and support for inclusive education or systematic prevention, mitigation and manifestations of segregation in education.⁷⁹ One of the goals is also to “develop Roma national identity and support the realization of the rights of Roma men and women as a national minority, with particular regard to language rights,”⁸⁰ which include measures for enabling education in Romani at all levels of education.
46. In 2019, the Slovak Parliament also adopted Act No. 209/2019 Coll. amending and supplementing the Education Act⁸¹, the relevant parts entered into force from 1 January 2021. The amendments introduced compulsory pre-school education for all children from the age of five. It also removed from the legislation the possibility of creating the so-called zero-grade classes, which were criticized as further entrenching segregation in education.⁸² Another legislative amendment – Act No. 415/2021 Coll. amending and supplementing the Education

[vzdelávan%C3%AD.pdf](#).

⁷⁶ European Commission: ‘October infringements package: key decisions’, 10 October 2019, available at https://ec.europa.eu/commission/presscorner/detail/en/INF_19_5950 and Chudžíková Holka, A.: ‘The long-awaited change – the Ministry of Education acknowledges the problem of segregation of Roma children and is taking steps to change it’, *Minority Policy in Slovakia 01/2020*, available in English at <https://mensinovapolitika.eu/en/the-long-awaited-change-the-ministry-of-education-acknowledges-the-problem-of-segregation-of-roma-children-and-is-taking-steps-to-change-it/>.

⁷⁷ Ministry of Education, Science, Research and Sport of the Slovak Republic: ‘M. Filipová: Our goal is to eliminate the segregation of Roma children’, 17 June 2020, available in Slovak at <https://www.minedu.sk/m-filipova-nasim-cielom-je-odstranit-segregaciu-romskych-deti/>.

⁷⁸ Government of the Slovak Republic: *Action Plans on the Strategy of Equality, Inclusion and Participation of Roma until 2030*, p. 5, available in Slovak at https://romovia.vlada.gov.sk/site/assets/files/1113/akcne_plany_strategie_2030_na_roky_2022_2024_final.pdf?csrt=1532119360806125632.

⁷⁹ *Ibid.*, p. 5-19.

⁸⁰ *Ibid.*, p. 15.

⁸¹ Act No. 209/2019 Coll. amending and supplementing Act No. 245/2008 Coll. Act on Education and Upbringing (Education Act) and amending and supplementing certain acts, as amended, and amending and supplementing certain acts, 27 June 2019, available in Slovak at <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2019/209/20210101>.

⁸² It Makes Sense initiative: ‘Zero-grade classes – a band-aid that does not help’, *Denník N*, 26 April 2019, available in Slovak at <https://dennikn.sk/blog/1451580/nulte-rocniky-naplast-ktora-nepomaha/>.



Act⁸³ introduced inclusion as a principle of education and upbringing,⁸⁴ while defining inclusive education as a “*joint education and upbringing of children, pupils, students or participants in education and upbringing, carried out on the basis of equal opportunities and respect for their educational needs and individual characteristics and supporting their active involvement in the educational activities of the school or school facility.*”⁸⁵

Education of Roma children with disabilities

47. Slovakia has the highest proportion of primary school students in the special stream of education within the EU – 5,88% of students are educated in segregated special education stream as compared to the EU average of 1,62%.⁸⁶ With regards to children with disabilities (Roma or non-Roma), the Committee on the Rights of Persons with Disabilities noted in 2016 their concern with the fact “*that the right to inclusive education for all children and students with disabilities is not available, and about the persistence of a segregated education system*”, as well as “*the lack of measures to implement an inclusive education system and the ongoing placement of Roma children in segregated schools for children with disabilities.*”⁸⁷ Importantly, the Committee recommended that Slovakia introduced an enforceable right to inclusive and quality education; adopted a legally binding plan for transition from segregated to inclusive education at all levels; ensured that children with disabilities have access to personal assistance if needed; ensured inclusive preschool education for children with disabilities; and “*put an end to the process of placing Roma children in segregated schools for children with disabilities on the basis of their ethnic background.*”⁸⁸
48. Despite national court decisions in individual cases on violations of the principle of equal treatment, maintaining of a parallel system of special education for children with disabilities (Roma and non-Roma) often remains understood as segregation and defended as benefitting children with disabilities and their ‘special needs’.⁸⁹ The Government’s approach in its strategic documents is also at times inconsistent. As a particularly positive example, a new Strategy of inclusive approach in education and training adopted in 2021 promotes “*an inclusive education system that provides education to all children, pupils and students, respecting the individual characteristics and diverse educational needs of each child, pupil*

⁸³ Act No. 415/2021 Coll. amending and supplementing Act No. 245/2008 Coll. Act on Education and Upbringing (Education Act) and amending and supplementing certain acts, as amended, and amending and supplementing certain acts, 20 October 2021, available in Slovak at <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2021/415/20240901.html>.

⁸⁴ *Ibid.*, para 9.

⁸⁵ *Ibid.*, para 7.

⁸⁶ Hapalová, M.: ‘Overrepresentation of children in the special education system’ in It Makes Sense initiative: *Analysis of findings on the state of education in Slovakia*, 2019, p. 71, available in Slovak at <https://analyza.todarozum.sk/analyza-zisteni-o-stave-skolstva-na-slovensku.pdf>.

⁸⁷ Committee on the Rights of Persons with Disabilities: *Concluding observations on the initial report of Slovakia*, CRPD/C/SVK/CO/1, 17 May 2016, para 67.

⁸⁸ *Ibid.*, para 68.

⁸⁹ Pavlíčková, Z.: ‘Does the Slovak Republic declare an interest in achieving a truly inclusive education system?’, *SME*, 12 April 2022, available in Slovak at <https://blog.sme.sk/preludskeprava/nezaradene/deklaruje-slovenska-republika-zaujem-dosiahnut-skutocne-inkluzivny-vzdelavaci-system>.



*or student and enabling them to fulfill their potential to the highest possible extent.*⁹⁰ Referencing the Convention on the Rights of Persons with Disability and its General comment No. 4, desegregation and inclusion is understood as entailing all students, including Roma pupils and pupils with disabilities and understands creation of conditions for inclusive education as a human right.

49. The Recovery and Resilience Plan of the Slovak Republic identifies pupils with disabilities as the target group in specific reforms. However, the reform aimed at supporting the desegregation of schools focuses exclusively on Roma children and children from socially disadvantaged backgrounds, without clearly including children with disabilities.⁹¹
50. Most critically however, a new methodical material by the Ministry of Education on school desegregation called “Together in one school desk”, aims to promote inclusion of Roma children in mainstream education and ending segregation practices. The material criticizes the over-representation of Roma pupils in special schools for children with mild intellectual disabilities as a form of segregation. It however erroneously states that separating children with disabilities constitutes a ‘tolerated’ form of segregation, exempt from the prohibition of segregation *“because the belief still prevails that quality education for children with disabilities can only be achieved in separate, specialized school facilities.”*⁹²

Recent cases

51. In 2021, the District Court in Prešov upheld the anti-discrimination lawsuit of three Roma children in a breakthrough judgment. The Court held that the defendant - the Private Centre for Special Pedagogical Counselling discriminated against Roma children on grounds of ethnicity by conducting an inadequate psychological diagnostic and re-diagnostic of the children who were *“recommended the education according to the educational program for pupils with mild intellectual disabilities.”*⁹³ The Court also held that the second defendant – primary school with kindergarten discriminated against the Roma children on grounds of ethnicity by educating them *“in the special education system and educated them in violation of the law according to the educational program for pupils with mild intellectual disabilities and education in ethnically homogenous special classes, located separately from pupils from the majority [population], outside of the main school building.”*⁹⁴ The lawsuit underlined the

⁹⁰ Ministry of Education, Science, Research and Sport of the Slovak Republic: *Strategy of inclusive approach in education and training*, 2021, p. 4, available in Slovak at <https://www.minedu.sk/data/att/21468.pdf>.

⁹¹ Pavlíčková, Z.: ‘Does the Slovak Republic declare an interest in achieving a truly inclusive education system?’, *SME*, 12 April 2022, available in Slovak at <https://blog.sme.sk/preludskeprava/nezaradene/deklaruje-slovenska-republika-zaujem-dosiahnut-skutocne-inkluzivny-vzdelavaci-system> and Ministry of Finance of the Slovak Republic: *Recovery and Resilience Plan of Slovakia. Component 6*, available in Slovak at https://www.planobnovy.sk/site/assets/files/1045/komponent_06_inkluzivne_vzdelavanie_1.pdf.

⁹² Ministry of Education, Science, Research and Sport of the Slovak Republic: *Together in one school desk. Methodical material for school desegregation for founders and principles*, 2022, p.10, available in Slovak at <https://www.minedu.sk/data/att/23399.pdf>.

⁹³ District Court of Prešov, Decision No 15C/14/2016-557, 24 November 2021, para I, available in Slovak at <https://poradna-prava.sk/wp-content/uploads/2021/12/Decision-of-the-District-court-form-24-November-2021.pdf>.

⁹⁴ *Ibid*, para II.



fact that a vast majority of Roma pupils from the nearby segregated community were educated in such special classes in the school year 2016/17 (time of submission). The Court ordered the defendants to apologize to the children and to award each of them a financial compensation of EUR 5.000.⁹⁵ The defendants appealed the decision and the Centre is preparing a supporting opinion for the anti-discrimination lawsuit.

Impact of COVID-19 pandemic and distance education on Roma pupils⁹⁶

52. COVID-19 pandemic brought a number of challenges to students, families, schools and state institutions, who had to adapt quickly to a new, complex and changing situation. State authorities and schools made a number of important efforts to make the transition from in-person to distance learning as efficient as possible. However, a number of challenges ensued for thousands of students, resulting in either lack of access to distance learning or access to only limited or ineffective form of education. It is estimated that up to a 128 000 pupils and students (18.5%) were not educated online and up to 52 000 pupils and students did not participate in the distance learning in any form (7.5%) in the school year 2019/20.⁹⁷ Situation showed to be most challenging at schools with a higher percentage of students from socially disadvantaged background⁹⁸ and in schools for students with disabilities.⁹⁹
53. Organization for Economic Cooperation and Development (OECD) reported that the COVID-19 crisis may have exacerbated significant equity concerns in the country. As the impact of the socio-economic background in Slovakia on student performance is the highest among the OECD members (particularly negatively affecting Roma pupils), some Roma children may

⁹⁵ Center for Civil and Human Rights (Poradňa pre občianske a ľudské práva): 'Breakthrough judgment: The Slovak court ruled that educating Romani children in special classes for intellectually disabled was illegal', 17 December 2021, available at <https://poradna-prava.sk/en/news/breakthrough-judgment-the-slovak-court-ruled-that-educating-romani-children-in-special-classes-for-intellectually-disabled-was-illegal/>.

⁹⁶ For more information on impact of COVID-19 pandemic on education, please see input of the Slovak National Centre for Human Rights for the OHCHR report on the impact of the COVID-19 pandemic on the realization of the equal enjoyment of the right to education by every girl (47/5), available at <https://www.ohchr.org/en/calls-for-input/2022/call-input-report-impact-covid-19-pandemic-realization-equal-enjoyment-right>.

⁹⁷ Ostertáková, A., and Čokyna, J.: *Main Findings from the Survey in Primary and Secondary Schools on the Conduct of Distance Education in the School Year 2019/2020* (Commentary 2/2020), Educational Policy Institute, p.1-2, available in Slovak at <https://www.minedu.sk/data/att/20815.pdf>.

⁹⁸ According to the Education Act, a child from a socially disadvantaged background, or a pupil from a socially disadvantaged background means a "pupil that lives in an environment which, due to its social, family, economic and cultural conditions does not sufficiently stimulate the development of the child's or pupil's mental, will, emotional characteristics, does not support their socialization and does not provide sufficient appropriate stimuli for the development of their personality" (para 2p) . The pupil from a socially disadvantaged background is considered being a pupil with special educational needs, as diagnosed by a counselling facility (para 2j).

Critics argue that while the declaration of special educational needs entitles the student for extra support, it can also be stigmatizing. Some parents of children with disabilities for example therefore avoid official acknowledgment of special education needs. The term of a socially disadvantaged background may also be stigmatizing - in case of pupils from marginalized Roma communities, the negative presumption is that there is a problem or a "deficit" on the side of the students and their families, or even culture. Romani native language is also seen as an obstacle to child's education and not as cultural heritage deserving protection and support. See analysis by Hapalová, M.: 'Stigmatizing Aspects of the Concept of Special Education Needs', available in Slovak at <https://analiza.todarozum.sk/docs/19082218380001yve1/>.

⁹⁹ Ostertáková, A., and Čokyna, J.: *Main findings from the survey in primary and secondary schools on the conduct of distance education in the school year 2019/2020* (Commentary 2/2020), Educational Policy Institute, p.2, available in Slovak at <https://www.minedu.sk/data/att/20815.pdf>.



lack behind further due to the pandemic.¹⁰⁰

54. With regards to primary education during the pandemic, according to the civil society organization eduRoma, the most common barriers for students from marginalized Roma communities in access to distance learning at the beginning of the pandemic included low level of education of parents, lack of social contacts, interactions and role models, or increased demands on the organization of teaching, special education and training needs, and language barriers. The survey done by eduRoma also noted that teachers were not prepared to conduct distance education, but also are lacking preparation to work with students from marginalized Roma communities in general.¹⁰¹
55. EduRoma also reported on the challenges of preschool distance learning for Roma children living in poverty. The study also examined the change of roles of kindergarten teachers in some schools at the beginning of the pandemic. In the first weeks of the pandemic, some teachers acted as field social workers and nurses, whose task was to produce, sew and distribute facemasks and provide health education to children and families living in poverty, older persons and persons with disabilities. Teachers also reported lack of support from most school founders but noted support from kindergarten directors. The study underlined that in distance education, the parents themselves come to the forefront as mediators and transmitters of professional educational intervention. For a number of reasons (including lack of technical equipment, lack of time or possible difficulties with understanding, organizing and managing homework), this role may be more challenging for parents living in poverty, as compared to middle-class families.¹⁰²

Recommendations

- 1. To put an end to the process of placing Roma children in segregated schools or classes for children with disabilities based on their ethnic background or disability.**
- 2. In line with the Concluding observations on the initial report of Slovakia (CRPD/C/SVK/CO/1), to adopt a legally binding plan for the transition from segregated schools into inclusive education at all levels, and for all children, including Roma children with disabilities, including by setting timelines, identifying responsible authorities, and allocating adequate resources.**
- 3. To include in the Antidiscrimination Act an explicit definition of reasonable accommodation and the denial of reasonable accommodation as a disability-based discrimination as well as an explicit definition of segregation as a form of discrimination.**

¹⁰⁰ OECD: *OECD Economic Surveys: Slovak Republic*, 2022, p. 34, available at <https://www.oecd.org/economy/surveys/Slovak-Republic-2022-OECD-economic-survey-overview.pdf>.

¹⁰¹ Krejčíková, K., and Rafael, V.: *How to stay close at the distance*, 2020, eduRoma, p. 5-6, available in Slovak at <https://eduroma.sk/docs/ako-zostat-blizko-na-dialku.pdf>.

¹⁰² Based on 90 questionnaires sent to teachers in kindergartens in 7 regions of Slovakia. eduRoma – Roma Education Project: 'Distance learning in kindergartens pushes children to the background', 31 May 2020, available in Slovak at <https://dennikn.sk/blog/1913731/distančne-vzdelavanie-materskych-skol-tlaci-deti-do-uzadia/>.