

Ref: TIGO IOR 40/2015.241

Mr. Fabián Omar SALVIOLI
Chairman
UN Committee on Civil and Political Rights
Office of the High Commissioner for
Human Rights
UNOG-OHCHR
1211 Geneva 10
Switzerland

17 December 2015



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Dear Chair Salvioli,

In advance of the 116th session of the United Nations (UN) Committee on Civil and Political Rights (the Committee) where the list of issues for the Slovak Republic will be adopted, Amnesty International submits observations aiming to inform the Committee of some of the issues that should be addressed during the October 2016 session when Slovakia's fourth periodic report will be reviewed.

This letter focuses on concerns regarding Slovakia's non-compliance with the provisions of Articles 2, and 26 of the International Covenant on Civil and Political Rights (Covenant), with specific focus on the equal access of Romani children to education and the measures taken towards the full realization of such right; it also addresses concerns over Slovakia's non-compliance with articles 2, 7 and 26 in relation to cruel and degrading treatment and excessive use of force by police against Roma. The letter also raises concerns in relation to non-compliance with articles 2 and 23 of the Covenant, with specific focus on the discrimination in the right to marry and form a family.

Discrimination in the right to marry and form a family (articles 2 and 23)

Recent legislative developments seeking to limit the definition of marriage were adopted in 2014, contravening Slovakia's obligations under international human rights law, including of the Covenant¹.

In June 2014, the National Council (Parliament) of Slovakia adopted a Constitutional Law (number 490/2014) amending the 1992 Constitution. Under article 41 of the amended Constitution which entered into force on 1 September 2014, marriage is defined as "a unique union between a man and woman". Moreover, the explanatory memorandum that accompanied the law explicitly stated that same-sex couples will not have the possibility to enter marriage.

Such legislative developments discriminate against Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) individuals in exercise of their right to family life on the basis of their sexual orientation or gender identity. Excluding same-sex couples from the possibility of marriage may result in discrimination in other areas of life and may prevent them from accessing a range of other rights, including economic, social and cultural rights. It will also affect parenthood and may have a detrimental impact on the children of same-sex couples, which is at odds with the requirement under

¹ Slovakia: The constitutional amendment defining marriage as the union between a man and a woman is discriminatory, EUR 72/001/2014, 5 June 2014, available at <https://www.amnesty.org/en/documents/eur72/001/2014/en/>;

international human rights law to ensure the best interests of the child in all matters regarding children as set out in the UN Convention of the Rights of the Child.

Human rights treaty bodies, including the UN Human Rights Committee, have repeatedly highlighted that discrimination on grounds of sexual orientation and gender identity is prohibited under international human rights law. In fact, Article 2 of the Covenant sets out that states may not discriminate with regards to any of the rights set out in the Covenant, including the right to marry and the right to found a family protected by Article 23.

The adoption of the Constitutional amendment represents a retrogressive measure in Slovakia's compliance with their obligation to combat all forms of discrimination, including on grounds of sexual orientation and gender identity, and contradicts some positive measures recently adopted to fulfil that purpose. These include, for example, the revision of the Criminal Code in May 2013, which included sexual orientation among the grounds constituting an aggravating circumstance in instances where a crime is motivated by the sexual orientation of the victim.²

The 2014 amendment of the Constitution was followed by a referendum³ held in February 2015 aiming to define marriage exclusively as a union between a man and a woman, ban child adoption by same-sex couples and create a permission-based participation of children in school education in areas of sexual education or euthanasia. Despite the constitutional prohibition of referenda on questions of fundamental rights and freedoms,⁴ the Constitutional Court ruled in October 2014, that the referendum questions were constitutional. In November 2014, the Slovak President set the date for the referendum for February 2015. The referendum was void as it did not meet the 50 per cent turnout requirement.

Amnesty International considers such proposals concerning as they effectively corrode attempts to pass legislative reforms that would protect the right to non-discrimination and grant equal protection under the law, bolsters homophobic discrimination and undermines sexuality education, all practices which are contrary to Slovakia's international human rights obligations, including under the ICCPR.

Excessive use of force and ill-treatment by police against Roma (articles 2, 7 and 26)

Despite repeated criticism, including through the latest Concluding Observations by the Human Rights Committee⁵, Amnesty International and other national and international organisations continued to document allegations of excessive use of force by police during operations in Roma minority settlements (see details and concerns over police operations in Vrbnica village⁶ in April 2015 and Moldava nad Bodvou in June 2013⁷). NGOs also continued raising concerns over lack of adequate and effective investigation in past cases of cruel and degrading treatment and excessive use of force against Romani individuals. Slovakia should intensify its efforts to prevent this human rights violations and ensure access to effective remedy for victims when it occurs.

As recently as September 2015, the UN Committee against Torture (UN CAT) echoed NGOs' concerns and criticised the absence of an independent mechanism to investigate such reports as the existing body – the Control Inspection Service Section (CISS)– remains subordinated to the Ministry of Interior⁸.

In 2015, the UN CAT also expressed concerns with the decision of the District Court to acquit 10 policemen accused of ill-treatment of six Roma boys at a police station in 2009 in the city of Košice⁹.

² European Commission Against Racism and Intolerance, Report on Slovakia, published on 16 September 2014, available at <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Slovakia/SVK-CbC-V-2014-037-ENG.pdf>

³ Slovakia: Referendum on marriage panders to homophobic discrimination, 2 February 2015, available at <https://www.amnesty.org/en/latest/news/2015/02/slovakia-referendum-marriage-panders-homophobic-discrimination/>;

⁴ Article 93(3)

⁵ Concluding Observations of the Human Rights Committee on Slovakia (CCPR/C/SVK/CO/3, 20 April 2011), available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fSVK%2fCO%2f3&Lang=en

⁶ Slovakia must urgently investigate allegations of arbitrary use of force by police against Roma in the village of Vrbnica, EUR 72/1403/2015, 8 April 2015, available at <https://www.amnesty.org/en/documents/eur72/1403/2015/en/>

⁷ Slovak authorities must investigate the police action in Romani settlement Moldava nad Bodvou, EUR 72/002/2013, 24 June 2013, available at <https://www.amnesty.org/en/documents/eur72/002/2013/en/>

⁸ Concluding Observations of the Committee against Torture on Slovakia (CAT/C/SVK/CO/3, 8 September 2015) available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fSVK%2fCO%2f3&Lang=en

The Prosecutor filed an appeal against the ruling and the case remains pending at the time of writing the present letter.

Discrimination of Romani children in education (articles 2 and 26)

The Roma population in Slovakia has been estimated at nearly ten per cent of the total population (between 480,000 and 520,000).¹⁰ Yet, according to a report published by the UNDP in 2010¹¹, more than 65 per cent of special primary schools (meant to provide education to children with mild mental disabilities) and more than 90 per cent of special classes in primary schools almost exclusively comprise Roma pupils. In 2013, the Slovak Public Defender of Rights warned that Roma represented over 88 per cent of pupils of special classes and schools for pupils with mild mental disabilities that she surveyed.

Roma children also face segregation in mainstream education¹². In 2013, the Slovak Public Defender of Rights expressed concerns over the widespread existence of Roma-only classes in Slovak schools. A UN survey carried out in 2012 suggested that as many as 43 per cent of Roma in mainstream schools were enrolled in ethnically segregated classes, and Roma pupils are thus over-represented in special schools and in segregated Roma-only classes within mainstream education: a discriminatory pattern that has been confirmed by Amnesty International's ongoing research since 2006¹³.

Although discrimination and segregation are outlawed under Slovakia's own legislative framework¹⁴, serious gaps in the enforcement and monitoring of the prohibition of segregation in the educational system has prevented the legislation being implemented in practice. Consequently, this has led to a persistence of de facto discrimination and segregation of Romani children across Slovakia, a practice that results in a denial of equal treatment and the right to education free from discrimination as guaranteed by articles 2 and 26 of the Covenant (see above for statistics).

Amnesty International has recently documented the existence and further planned implementation of projects placing so-called "container schools"¹⁵ (constructed solely from shipping containers) in Romani settlements in several locations across Eastern Slovakia. The container schools are built from material resembling shipping containers and consist of a large one- or two- storey building with flat roof and inner space limited to corridors and classrooms. Costing 200,000 euros each, they are much cheaper than building brick and mortar schools. Although some concerns might be raised in relation to the adequacy of the containers for the cold climate in the High Tatra region, however, the location of these schools raises serious concerns as it directly leads to and fuels ethnic segregation.

Amnesty International visited four of the six villages in Kežmarok district and in three of them, "container schools" were in place, and attended almost exclusively by Romani children. For example, in the village of Stráne pod Tatrami, Romani children are cut off from the society outside of their settlement, as the school was built directly in the settlement. Container schools were also in place in Križová Ves and Podhorany villages. Plans are under way to place "container schools" in at least three other Romani settlements in other locations such as Ostrovany and Rakúsy.

Instead of ensuring integration of Romani students in ethnically-mixed mainstream schools, such practices merely reinforce existing segregation. The physical separation of Romani and non-Roma children will affect the quality of children's education with severe repercussions on the future prospects of Romani children and the implications of creating ethnically homogenous schools actually reach

⁹ Slovakia: Justice still pending for Romani boys abused at police station in 2009, EUR 72/1158/2015, 9 March 2015, available at <https://www.amnesty.org/en/documents/eur72/1158/2015/en/>;

¹⁰ Amnesty International, Still separate, still unequal: Violations of the right to education of Romani children in Slovakia, EUR 72/001/2007).

¹¹ UNDP, Report on living conditions of Roma households in Slovakia in 2010, chapter 8, Education and expenditures on education.

¹² Amnesty International's report, Unfulfilled promises: Failing to end segregation of Roma pupils in Slovakia, exposes the continuous and unacknowledged failure of the Slovak authorities to eliminate the longstanding discrimination of Roma in the education system, EUR 72/001/2013, available at <https://www.amnesty.org/en/documents/EUR72/001/2013/en/>

¹³ All reports, briefings and other documents published on Slovakia by Amnesty International are available at <https://www.amnesty.org/en/search/?q=slovakia>;

¹⁴ The Anti-Discrimination Act and the Schools Act;

¹⁵ Slovakia's 'container schools' worsen segregation of Roma children from society, 13 March 2015, available at <https://www.amnesty.org/en/latest/news/2015/03/slovakia-segregation-of-roma-schoolchildren-worsens/>

beyond education, in direct violation of Slovakia's international human rights obligations and national legislation.

Amnesty International considers that Slovakia is failing to adopt the necessary measures to prevent discrimination and segregation of Romani children in education as requested under the international human rights obligations stemming from ratified treaties including the ICCPR. On the contrary it is actually promoting segregation through some of its policies and actions.

In fact, recent developments show a complete disregard for international and regional human rights obligations and lack of political will to eradicate persistent discrimination and segregation of Romani children in education, as exemplified by the government's engagement with the EU infringement proceedings.

In April 2015, the European Commission (EC) initiated infringement proceedings¹⁶ against Slovakia for breaching the prohibition of discrimination set out in the EU Race Equality Directive in relation to access to education of Roma¹⁷. This is the second case of infringement proceedings launched by the EC against an EU Member state for breaches of human rights obligations stemming from EU law on anti-discrimination, after the Czech Republic became the subject of the first infringement proceedings in September 2014¹⁸.

However, Slovakia's response to the initial communication with the EC before the infringement proceedings were officially launched, was completely inadequate, and suggests that the government is failing to take seriously the grave charges made against it by the EC. As widely reported in the media, the Slovak authorities justified the disproportionate number of Romani children in special schools and classes by using an "incest-argument" stating that there is a higher prevalence of genetically determined disorders amongst the Slovak Roma due to highest coefficient of inbreeding in Europe¹⁹. Such an argument, by presenting Roma as a group characterized by leading "socially-pathological" lifestyles relies on racist and discriminatory stereotypes and merely provides fuel for further racism against this already vulnerable minority.

Following the launch of the infringement proceedings in April, the Slovak government's reply provided to the EC is wholly inadequate and suggests continued disregard towards the serious allegations of violations of EU law rather than constructive engagement in an attempt to solve the perpetuating practice of discrimination and segregation of Roma in education.

The reply to the EC lists some superficial measures adopted in the past. However, none of them seriously addresses ethnic segregation and Slovakia has not been able to produce evidence of plans to adopt meaningful de-segregation measures. In July, the Slovak Parliament amended the School Act under which children from socially disadvantaged background, a proxy term often used for Roma, must be placed into mainstream schools and classes. However, although the law prioritizes integration in mainstream schools and provides for financial incentives for schools educating pupils from socially disadvantaged backgrounds, it does not contain any provisions on the need to eliminate the ethnic discrimination of Roma.

This is compounded by the fact that the law still provides for the possibility of educating such pupils separately in "specialised classes" where a limited number of pupils who "do not have a prospect to succeed in school" could be taught for a period of up to a year. This provision which continues to permit "specialised classes" effectively allows for the continuation of segregation. It should be repealed without delay in order to combat segregation and strengthen inclusive education.

¹⁶ Slovakia: Slovakia is the second member state to be subject to an infringement procedure for breach of EU Anti-Discrimination Law, EUR 72/1777/2015, 28 April 2015, available at <https://www.amnesty.org/en/documents/eur72/1777/2015/en/>;

¹⁷ Amnesty International Submission to the European Commission on the Implementation of the Equality Directives, 1 February 2013, available at https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&uact=8&ved=0ahUKEWi_udS6-abJAhVpJnlKHUbrB04QFgguMAI&url=https%3A%2F%2Fwww.amnesty.org%2Fdownload%2FDocuments%2F16000%2Fior610022013en.pdf&usq=AFQjCNGstiiCZwMjoe-grbUqdstGEjX5P8A&bvm=bv.108194040,d.bGQ

¹⁸ EU action against Czech Republic for discrimination in schools is a victory for rights, justice, and Roma, 25 September 2014, available at <https://www.amnesty.org/en/latest/news/2014/09/eu-action-against-czech-republic-discrimination-schools-victory-rights-justice-and-roma/>

¹⁹ Slovakia: Racist stereotyping should not determine education policy - International NGOs criticize Slovak Government, EUR 72/1834/2015, 8 June 2015, available at <https://www.amnesty.org/en/documents/eur72/1834/2015/en/>;

The government of Slovakia is also obliged to collect data disaggregated by the prohibited grounds of discrimination, including “race and ethnicity”. Such data is essential in order to assess the scope and nature of segregation and the impact of educational policies on Romani children in the Slovak educational system, as part of the government’s duty to address the situation of minority and disadvantaged groups in general. However, Slovak authorities do not currently collect any ethnically disaggregated data.

Conclusion

Amnesty International appreciates that the above information will be of assistance to the Committee ahead of the adoption of the list of issues to be addressed in the October 2016 session. The organization would also like to propose questions which could be addressed to Slovakia as part of the state’s preparation ahead of the review of the forth periodic report.

What measures has Slovakia taken since the last review by the Human Rights Committee to

- Combat excessive use of force and ill-treatment committed by law enforcement personal, particularly against Roma? Ensure that police officers suspected of committing such offences are thoroughly investigated and prosecuted, and if convicted, punished with appropriate sanctions, and that victims are adequately compensated? Strengthen the Inspection Service Department of the Section of Control and Inspection Service to ensure its independence to carry out investigations of alleged misconduct by police officers?
- Ensure state’s compliance with its obligation to combat all forms of discrimination, including on the grounds of sexual orientation and gender identity, in line with the country’s international human rights obligation under the ICCPR;
- Adopt the necessary measures to prevent discrimination and segregation of Romani children in education as requested under the international human rights obligations stemming from ratified treaties including the ICCPR.

Yours sincerely,



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