

**WRITTEN COMMENTS
OF THE EUROPEAN ROMA RIGHTS CENTRE CONCERNING SLOVAKIA**

**List of issues prior to reporting (LOIPR) for the CCPR - International Covenant
on Civil and Political Rights at its 139th Session (9 Oct 2023 - 03 Nov 2023)**

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INTRODUCTION

The European Roma Rights Centre (hereinafter also referred to as the “ERRC”) hereby submits its list of issues prior to reporting (LOIPR) for the 139th Session (09 Oct 2023 - 03 Nov 2023) of the CCPR - International Covenant on Civil and Political Rights. The list of issues concerns human rights of Roma that more generally relate to freedom from torture and other cruel, inhuman or degrading treatment or punishment; fair trial rights and access to justice; privacy, home and family life; and equality and non-discrimination. In particular, based on the ERRC’s strategic litigation, advocacy and research in Slovakia, this submission focuses on

- Romani children in state care
- Police ill-treatment and harassment
- Lack of access to justice
- Residential segregation, environmental racism and access to clean water and sanitation
- Segregation and discrimination in education

ROMANI CHILDREN IN STATE CARE

Summary

The overrepresentation of vulnerable children in care institutions has long been the source of profound official neglect. Very many at-risk Romani families do not have access to social supports and preventative measures remain scarce, often non-existent. As a consequence, underfunding combined with institutional discrimination results in removals of Romani children from their families being a first rather than final option for the authorities. Despite the declared lack of ethnically disaggregated data, ERRC’s research over the past decade confirms that despite progress on deinstitutionalisation, hugely disproportionate numbers of Romani children still end up in state care institutions.

In Slovakia, where Roma account for 6-8% of the total population, an estimated 63% of children in state care were of Romani origin. A visiting delegation from the European Parliament to Slovakia reported a *“lack of implementation of the existing good strategies and the strikingly slow speed of the deinstitutionalisation process.”*

In its 2016 Concluding Observations on Slovakia, the UN CRC expressed concerns that the majority of children in institutional care were Roma, that very few were adopted, and alternative and foster care options were limited.

Based on the interviews carried out by ERRC researchers in 2020, the most common causes for removing children from their families included discrete incidents such as school truancy, a tragedy such as the death of a parent, and wider issues related to extreme poverty, lack of income, and precarious housing conditions in segregated settlements.

This concurs with the European Commission’s 2020 Country Report which found that, despite the legal system prohibiting the placement of children into care on the grounds of poverty or deprivation, poor housing conditions are one of the most frequent reasons for removing Romani children from their biological families:

“Child poverty, in particular among Roma communities, is a major reason for children being placed in the state foster care system. Formal long-term care continues to be dominated by residential facilities, and the process of deinstitutionalising care for persons with disabilities is proceeding slowly. There is a lack of financial resources and of a clear and integrated approach addressing the increasing demand for healthcare and social services in long-term care. Access to quality healthcare, in particular primary care, remains relatively poor and uneven.”

The discrimination at play is a manifestation of deeply-rooted structural racism that reproduces and exacerbates inequality: the fact that 85% of Roma live below the poverty line places vast numbers of Romani children at risk. This official neglect renders family life in marginalised communities ever more vulnerable and precarious. This is especially the case in disadvantaged regions and racially segregated localities, where access to social and essential services is, as the European Commission phrased it, “uneven and hampered by missing infrastructure.” A subsequent visiting delegation from the European Parliament to Slovakia reported a *“lack of implementation of the existing good strategies and the strikingly slow speed of the deinstitutionalisation process.”*

The UN Committee on the Rights of Persons with Disabilities described progress of the deinstitutionalisation process as too slow and partial, called for it to be expedited and recommended that Slovakia stops the allocation of resources from the national budget into institutions and that it re-allocate resources into community-based services.

Recommendations

- Amend domestic legal standards to provide full and adequate protection to Romani children and families at risk of separation, to fully ensure that child removal on the basis of poverty or material concerns is prohibited in law and in practice, and ensure regular court review of administrative decisions to place children in state care. Close any legal loopholes that allow placement of Romani children in harmful institutions as a de facto ‘measure of first resort’.
- Revise national child protection policy to include Romani children and families as at particular risk of endangerment; review all national policies and programs to assess whether seemingly neutral provisions have a deleterious or discriminatory impact on Roma.
- Collect comparable annual data that is disaggregated by ethnicity, gender, disability, and other relevant factors in the areas of child protection, education, housing, employment, and health care, with appropriate measures to protect the personal data of children and families.
- Provide information about free legal support to families at risk of child removal, especially Romani families endangered by discrimination and social exclusion.
- Develop and adopt a detailed description of child endangerment and methodological guidance to facilitate objective and consistent assessment.
- Ensure regular and systematic monitoring and evaluation of both basic and the professional care services, including children’s rights representatives, which takes account of the perceptions of families and children and their level of satisfaction with child protection services.
- Implement positive action programmes to facilitate the employment of Romani professionals in child protection services.
- Make anti-discrimination and multi-culturalism training an obligatory component of school curricula for child protection and social work professionals, and ensure care professionals meet consistent professional standards. Work with Romani organisations to deliver trainings on Romani language, history and culture with child protection workers and children in state care.
- Prioritise funding for basic child welfare services on a service provision basis to ensure an adequate level of preventative work and avoid the under-financing of the regions and city districts most in need.

Recommended questions

- Can the Slovak government outline how it intends to speed up the process of deinstitutionalization, and what concrete steps it has taken to reduce the number of Romani children in state care, increase the number of preventative social workers serving marginalized communities, and provide alternative community-based services?
- Following years of recommendations, can the Slovak government outline precisely what it has done/ or plans to do to bring local prevention services to marginalised neighbourhoods to support Romani families at risk of separation due to poverty?

- What steps has the Slovak government taken to ensure that adequate information and guidance is available to Romani families at risk of separation about their rights and duties, and ensure free legal aid is available for such families?

POLICING

Summary

On 2 June 2022, the Slovak Government reached a friendly settlement agreement with eight Romani men who were brutalised by police officers in 2013 during a notorious mass police raid on a Romani community in Moldava nad Bodvou. The ERRC has represented victims since 2013, and ERRC Operations Director Marek Balaz provided a succinct summary of how the case unfolded over a decade:

“The real story is one of a completely botched internal investigation of the raid; scapegoating of the victims by prominent politicians; deliberate obstruction of the Ombudsperson’s investigation; blocking victim testimonies at the parliament; and finally adding insult to grievous injury, by charging some of the victims with perjury. These are some of the essential ingredients of a case where the combination of corruption, lies and racist malice beggar belief.”

The Moldava case is emblematic of a wider malaise, and as ERRC’s 2022 report on policing Roma in the EU highlighted, law enforcement in Slovakia is institutionally racist, antigypsyism is clearly evident in the ways Romani communities are policed, and there is a culture of impunity within law enforcement when it comes to mistreatment of Roma. UNCERD expressed ‘serious concerns’ in 2018, at the numerous reports of excessive use of force, verbal and physical abuse against Roma, and the violent police raids on Roma settlements, often carried out without arrest or search warrants, which left many Roma injured. As for follow-up, the Committee noted with great concern that the majority of these reports are, either not duly investigated or when investigations have been initiated, they have been suspended, and most complaints against law enforcement officers have been dismissed.

In its 2020 report on Slovakia, ECRI noted that despite *“the substantial number of complaints relating to serious acts of violence committed by members of the police services against Roma”*, none of the subsequent investigations of police interventions between 2013 and 2020 resulted in a conviction or disciplinary sanction against officers involved. In addition, ECRI noted that *“the intervention of the police and army during the Covid 19 pandemic caused a lot of fears of stigmatisation among the Roma.”*

Recommendations

- Authorities at national level must carry out prompt, impartial, thorough, and effective investigations into all allegations of excessive use of force, including torture and ill-treatment, by law enforcement officials, and ensure that those suspected of having committed such acts are immediately suspended from their duties throughout the period of investigation, while ensuring that the principle of presumption of innocence is observed;
- Prosecute persons suspected of having committed torture or ill-treatment and, if they are found guilty, ensure that they receive sentences that are commensurate with the gravity of their acts and that the victims are afforded appropriate redress. Victims who register complaints must be protected from intimidation and reprisal actions by police officers;
- Ensure that offences motivated by discrimination constitute an aggravating circumstance in criminal prosecution;
- Establish an independent monitoring and oversight mechanism that complies with the requirement of institutional independence in order to avoid conflict of interest in the investigation of complaints by peers.

Recommended Questions

- In view of the concerns expressed by UN and Council of Europe bodies in recent years about the substantial number of complaints related to police violence against Roma, what concrete steps has the government taken to ensure that prompt, impartial and effective investigations will take place into all allegations of excessive violence, torture and ill-treatment by law enforcement officials?
- What steps has the government taken to reduce the frequency and severity of violent police responses, ethnic profiling of Roma, and large-scale raids targeting entire Romani neighbourhoods?

ACCESS TO JUSTICE

Summary

Research by ERRC conducted in partnership with Fair Trials showed how, beyond police brutality, Roma experience racial bias at every stage of criminal proceedings, which leads to skewed decisions and unjust outcomes. This abject failure of the criminal justice system is rooted in antigypsyism. Below are some key findings from the research:

- Police officers interviewed estimated that Roma accounted for between 30% and 80% of those arrested within their precincts. Though prosecutors, judges, and defence lawyers were more reticent to provide estimates, most conceded that there was some degree of over-representation. Lawyers estimated that Roma accounted for between 20% and 50% of criminal cases in their respective practices.
- While judges and prosecutors downplayed or denied the existence of discrimination in the criminal justice system, most defence lawyers described patterns of discrimination against Roma. One interviewee stated that: *“Roma cases are often not properly investigated; evidence seems to be unreliable and the criminal responsibility of the defendants is doubtful.”*
- Judges and prosecutors did however acknowledge that Roma were disadvantaged by a “lack of understanding of the criminal justice system.” Rather than admit prejudice, they spoke of ‘communication challenges’ and ‘failures to understand societal norms’ by Roma.
- One prosecutor identified systemic failures to make appropriate procedural accommodations, they pointed to the *“lack of accommodations aimed to inform Roma properly about the content and purpose of the criminal proceedings ... Information about their procedural rights is formalistic, too long, improperly worded, provided only in writing and not explained ... Working with Roma communities properly would require appropriate methods of communication.”*
- Defence lawyers tended to agree that Romani communities are subject to over-policing and discriminatory treatment, with one describing how “police are often at odds with Roma communities” and that such petty conflicts frequently escalate into violent clashes. They also noted having heard police officers openly use pejorative language and hate speech when referring to Roma.

Recommendations

- The government must provide prompt and effective remedies for victims of discrimination in law and in practice. Procedures for the initiation of complaints should be simple and flexible and expeditiously handled. Dissemination of information concerning the availability of remedies, including recourse procedures, should be widespread, and victims should be provided with legal assistance to pursue remedies.
- Decriminalise acts that cause no social harm, provide alternatives to custodial sentences, ensure fining practices are sensitive to individual circumstances, and reduce pre-trial detention through objective, individualised assessment of risks, free from socio-economic and racial bias, and through greater promotion of non-custodial alternatives.

- The targeted over-policing of Romani communities – which amounts to racial harassment and includes practices of imposing fines for petty offences must cease. Criminal law responses to the committing of petty offences that are often a symptom of poverty, serve no purpose beyond further aggravating social exclusion.
- Where criminal sanctions are appropriate or necessary, fining policies and practices should be sensitive to individual circumstances, and there should be alternative, non-custodial sanctions for those who cannot afford to pay.
- Training for all those involved in the administration of justice, including law enforcement officers, the judiciary, and prosecutors, should focus not on ‘unconscious bias’, but rather on officials’ obligations under national and international law to discharge their responsibilities in a non-racist and human rights compliant fashion. Training should be reinforced by the incorporation of international human rights standards into the working rules, regulations, and procedures of the criminal justice system.
- The government should adopt ECRI’s General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, which asserts that racial profiling constitutes a specific form of racial discrimination and must be expressly prohibited by law.

Recommended Questions

- What concrete steps have been taken in response to ECRI’s 2020 recommendations that the Slovak authorities (i) substantially reinforce the independence of the Police Force Inspectorate or task another body, which is independent of the police and the prosecution service and allocated adequate resources, with investigating allegations of bias motivated discrimination, misconduct and violence by the police?
- In light of the concerns expressed and recommendations made by UN, EU and CoE bodies, what have the authorities done to ensure all professionals involved in the administration of justice are fully aware, and capable of, discharging their responsibilities in a non-racist and rights-compliant manner, that fully aligns with international human rights standards?

RESIDENTIAL SEGREGATION, ENVIRONMENTAL RACISM AND ACCESS TO WATER

Summary

In Slovakia, housing policy has long been characterized by mass forced evictions and the erection of walls separating Roma from non-Roma. Surveys have confirmed that increasing numbers of Roma in Slovakia live in poor and segregated settlements in substandard housing, unprotected from environmental hazards that include toxic industrial waste, rubbish tips, seasonal flooding, and the intermingling of waste and drinking water.

According to the Slovak Anti-Poverty Network “housing and the protection of the right to housing is the weakest component of public policies”. There is an acute shortage of affordable accommodation; just 2.7% of dwellings are publicly owned (EU average 18%). In 2015, Commissioner for Human Rights at the Council of Europe, Nils Muižnieks noted that partly as a result of lack of tenure, many Roma in Slovakia live with the threat of forced eviction and that although there are several state mechanisms allowing for the construction of flats for marginalised communities, housing interventions remain limited, with many municipalities reluctant to use existing resources to promote inclusion.

While the Commissioner acknowledged the potential presented by the new allocation of powers in helping to adapt services to local specificities and individual needs, concerns were raised that that decentralisation has not been accompanied by an adequate transfer of human rights expertise. Significant disparities, and in some cases resistance, were noted in the level of protection of human rights across regions and municipalities. This remains a concern.

In 2018, UNCERD echoed these concerns about living conditions in settlements where the basic facilities such as sanitation, drinking water, electricity, sewage systems and waste disposal are lacking. CERD called for explicit prohibitions against the construction of walls that separate Roma and non-Roma communities, and to hold accountable local authorities that encourage or adopt segregation policies. Slovakia was urged to intensify efforts to provide security of tenure to Roma communities in order to prevent forced evictions. Where evictions cannot be avoided, the state was called upon to ensure that the families and individuals affected are provided with alternative adequate housing and compensation.

The 2020 report, *The social and employment situation of Roma Communities*, data from the 2019 update of the Atlas of Roma Communities reveals that

- **48% of all settlements (498) are located on the outskirts of a municipality, 34% inside a municipality (351 settlements) and 18% are outside of a municipality or are remote (194 settlements);** there is no road or walkway leading to 17 of these settlements.
- A common problem in these settlements is access to **drinking water**. In **13% of the settlements**, more than 50% of the population gets water from a public tap on the street, and in **5% of the settlements (56 settlements)**, **more than 50% of the population of the settlement uses non-standard water sources such as a river or puddles**.
- There is also a problematic situation in connection with the **sewer system** and treatment of sewage. In **44% of settlements (463 settlements)**, **more than 50% of the population of the settlement does not use any sewage system, septic tank, or treatment mechanism and the sewage is freely discharged**.
- The **electrical grid** is accessible to more than 50% of the population in 97% of the settlements. Based on the data from the Atlas of Roma communities, it is possible to conclude that there are still 67 settlements where the connection on the electrical grid is used by less than 10% of the population of the settlement and **53 settlements, where the connection to the electrical grid does not exist**.
- Gas (or green sources) as a source of heat is virtually not used; in case of 83% of the settlements (872), more than 50% of the population uses solid fuel for heating. Waste management is also a problem; 38% of the settlements have no solid waste landfill in their vicinity.
- A major problem is the **ownership of the land** under the individual settlements and the ownership of the individual dwellings. Difficulties with the land ownership is also one of the basic obstacles in the implementation of investment projects in the municipalities. Based on the information from the Atlas of Roma communities, **approximately two thirds of the people living in Roma settlements (about 170 000 people) live in houses or apartments with a conscription number**, therefore it is possible to conclude that these are legal buildings. Even though these may be legal dwellings, ownership of these dwellings may not be resolved, or quality of the dwellings may be substandard.

In short, despite numerous recommendations over the past decade and more, and the availability of considerable amounts of EU funding, little or no discernible progress has been made with regards to the living conditions of marginalised Romani communities.

Recommendations

- Resolve urgent issues of land ownership arising from the transition to a market economy and decentralised governance;
- End forced evictions of Roma and ensure that evictions are a means of last resort; which are carried out in accordance with both national and international obligations, including provision of alternative accommodation;
- Adopt or amend appropriate national legislation to ensure sufficient procedural safeguards according to the international law obligations when it comes to evictions; to ensure that social or alternative housing meets acceptable standards for human habitation;
- Ensure that Roma in segregated localities have access to safe, clean drinking water; adopt law explicitly recognizing the human right to water and sanitation and ensure that all people in Slovakia enjoy the access to safe drinking water and sanitation; adopt policies and allocate budgets for connecting Roma settlements to public drinking water and sewage systems; make sure that quality of

all alternative water resources, which serves as a drinking water supply, is periodically checked and the quality of water is guaranteed.

Recommended Questions

- What, if any, concrete steps are planned by the authorities to meet the UN Sustainable Development goals by 2030 for marginalised Romani populations in particular, and with specific reference to SDGs 1, 4, 6, 7, 10 and 17?
- What progress has been made in improving access to clean water and sanitation, and electricity for marginalised Romani populations identified in the 2019 Atlas of Roma Communities; and what specific targets have the authorities set, and what resources have been earmarked to resolve these issues by 2030?
- What steps have been taken, or are planned to address the concerns expressed by Commissioner Muižnieks in 2015 about the fact that decentralisation was not accompanied by an adequate transfer of human rights expertise, and that significant disparities, and in some cases resistance, were noted in the level of protection of human rights across regions and municipalities?

SEGREGATION AND DISCRIMINATION IN EDUCATION

Summary

The ERRC has, in collaboration with its local partners, campaigned and litigated to end school segregation and promote equal access to quality integrated education for Romani children in Slovakia for two decades.

In April 2015, the European Commission launched infringement proceedings against the Slovak Republic regarding discrimination, segregation and access to education for Romani children.

In 2017, the ERRC and Amnesty International produced a report reviewing recent legislative changes intended to tackle the erroneous placement of Romani children in special schools and classes for children with “mild mental disabilities” and examined broader structural factors driving segregation and discrimination across the education system. The research found that the legislative changes adopted in 2015 had minimal impact on the discrimination Romani children faced in education. As the report stated, Romani children are continuously confronted with other obstacles to realizing their right to education, such as racism, prejudice, stigmatization and lack of expectations from educational staff, observed in all locations studied for the report.

In 2018, Commissioner Muižnieks called on the Slovak authorities to start addressing the continuing segregation of Roma children and children with disabilities in education in a more comprehensive manner. Noting that little meaningful progress has been achieved in this field since his visit in June 2015, the Commissioner stressed that “measures to tackle school segregation cannot be ad hoc, piecemeal and temporary” and that current efforts were not commensurate to the inclusion challenges facing the country.

In 2020, the EU-commissioned report, *The social and employment situation of Roma Communities*, found that at the primary school level, Roma children encounter school segregation and discriminatory practices, extensive and unjustified enrolment in ethnically segregated special schools and classes. Schools are not adequately-equipped to provide inclusive education due to a lack of professional pedagogical personnel (e.g. special education teachers) and pedagogical assistants. Another contributing factor is the low quality of professional preparation of teachers to enable them to create a safe and friendly school environment and develop school-parent cooperation in the context of the education of children and students from disadvantaged backgrounds.

Only one third of Roma children between the age of four (and the beginning of compulsory education at the primary level) attend pre-school facilities in Slovakia. Plans to introduce compulsory pre-school education for 5-year-old children did not address the low quality of teaching, shortage of professional pedagogical

personnel, or other supportive measures that would foster regular attendance. At the national level, there are no systematic public early childhood education and care programs targeting children aged 0-3, and fostering parenting competences.

In March 2023, ECRI published [conclusions](#) following up on its Sixth Round of Monitoring in Slovakia. Despite steps taken by the government to desegregate schools, amend the 'School Act' legislation, and increase pre-school education for Romani children, ECRI concluded that its recommendations to desegregate had *“overall been only partially implemented.”*

On 19 April 2023, the European Commission decided to refer Slovakia to the [Court of Justice of the European Union](#) for failing to effectively tackle the issue of segregation of Roma children in education. In its statement the Commission said that after carefully assessing the legislative reforms, strategies and action plans adopted to foster Roma inclusion in education, and monitoring the situation on the ground, the Commission concluded that *“the reforms undertaken so far are insufficient.”*

Recommendation

- There are over a decade's worth of recommendations from expert bodies of educators and advocates in Slovakia, international Roma rights and human rights organisations, the Council of Europe, the European Commission and UN bodies such as CERD, CRC and UNICEF. It would be redundant to repeat them here. In light of the European Commission's latest action, the authorities should, as a matter of urgency, draw upon this wealth of research and expertise to devise a comprehensive, time-bound and fully-costed action plan to finally and fully eradicate segregation and all forms of anti-Roma discrimination in education.

Recommended Question

- In light of the decision taken by the European Commission to refer Slovakia to the Court of Justice of the European Union for failing to tackle the issue of segregation of Romani children in education, could the state authorities outline how they intend to address these failures, by way of response to the Commission and the Court?

https://ec.europa.eu/commission/presscorner/detail/en/ip_23_2249

The EU rules on racial equality ([Directive 2000/43/EC](#)) strictly prohibit discrimination on grounds of ethnic origin in key areas of life, including education. In Slovakia, however, Roma children are often placed in special schools for pupils with mild mental disabilities. Many Roma children who attend mainstream education are also segregated, in separate classes or schools.

The Commission started an infringement procedure against Slovakia in 2015 and sent a [reasoned opinion](#) in 2019. Since then, Slovakia has undertaken a series of legislative reforms and adopted several strategies and action plans to foster Roma inclusion in education. However, after carefully assessing those measures and monitoring the situation on the ground, the Commission concluded that the reforms undertaken so far are insufficient.

In 2020, the EU-commissioned report *The social and employment situation of Roma Communities*, found that

They must be bold and sustainable and reflect a long-term vision of inclusion shared by all stakeholders and supported across all levels and areas of the administration.”

Overall, however, current efforts do not appear to be commensurate to the inclusion challenges the country faces. Although he found examples of successful desegregation and inclusion, these often depended on the good will and efforts of individual schools, parents or other actors, but were not the result of a systemic approach.

The Commissioner notes the lack of a clear roadmap to desegregation at the national, regional or local levels.

ATLAS OF ROMA COMMUNITIES 2020 EDUCATION

At the primary school level, Roma children encounter school segregation and discriminatory practices, extensive and unjustified enrolment in ethnically segregated special schools and classes. Schools are not adequately-equipped to provide inclusive education due to a lack of professional pedagogical personnel (e.g. special education teachers) and pedagogical assistants. Another contributing factor is the low quality of professional preparation of teachers to enable them to create a safe and friendly school environment and develop school-parent cooperation in the context of the education of children and students from disadvantaged backgrounds.

Only one third of Roma children between the age of 4 (and the beginning of compulsory education at the primary level) attend pre-school facilities in Slovakia.

Introduction of compulsory pre-school education for 5-year-old children (to be in force in 2021) aims at increasing the number of Roma children in pre-school, but they do not address the low quality of teaching, shortage of professional pedagogical personnel, or other supportive measures that would foster regular attendance.

At the national level, there are no systematic public early childhood education and care programs targeting children aged 0-3 and fostering parenting competences. Infringement proceedings regarding discrimination of Roma and access to education of Romani children were launched against the Slovak Republic in April 2015

GOAL 4: QUALITY EDUCATION
GOAL 6: CLEAN WATER AND SANITATION
GOAL 7: AFFORDABLE AND CLEAN ENERGY
GOAL 10: REDUCED INEQUALITIES
GOAL 16: PEACE, JUSTICE AND STRONG INSTITUTIONS

Housing

2018 UNCERD The Committee expressed specific concerns about living conditions in settlements where the basic facilities such as sanitation, drinking water, electricity, sewage systems and waste disposal are lacking. CERD called for explicit prohibitions against the construction of walls that separate Roma and non-Roma communities, and to hold accountable local authorities that encourage or adopt segregation policies. Slovakia was urged to intensify efforts to provide security of tenure to Roma communities in order to prevent forced evictions. Where evictions cannot be avoided, the state was called upon to ensure that the families and individuals affected are provided with alternative adequate housing and compensation.

2015 nils

The lack of access of Roma to adequate housing and the continued practice of segregation of Roma settlements from non-Roma communities is also a matter of serious concern. The Commissioner welcomes the recent legislative developments which aim, *inter alia*, to regularise the situation of some 10 000 existing informal dwellings. In addition, the authorities should take measures to prevent the frequent evictions of large numbers of Roma from informal settlements or other dwellings without the provision of adequate alternative accommodation.

While acknowledging the potential presented by the new allocation of powers in helping to adapt services to local specificities and individual needs, several of the Commissioner's interlocutors have underlined that decentralisation has not been accompanied by an adequate transfer of human rights expertise. At present, significant disparities exist in the level of protection of human rights across regions and municipalities. **There is a persistent need to raise awareness of human rights standards within regional and municipal authorities, as well as to overcome their resistance to fully implement human rights in some areas, such as the rights of persons with disabilities.**

ATLAS OF ROMA COMMUNITIES 2020 EDUCATION

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<https://www.coe.int/en/web/commissioner/-/slovak-republic-adopt-a-bolder-approach-to-ensure-inclusive-education-and-strengthen-the-safety-of-journalists>

Concerning inclusive education, Commissioner Muižnieks calls on the Slovak authorities to start addressing the continuing segregation of Roma children and children with disabilities in education in a more comprehensive manner. Noting that little meaningful progress has been achieved in this field since his visit in June 2015, the Commissioner stresses that “measures to tackle school segregation cannot be ad hoc, piecemeal and temporary. They must be bold and sustainable and reflect a long-term vision of inclusion shared by all stakeholders and supported across all levels and areas of the administration.”

Overall, however, current efforts do not appear to be commensurate to the inclusion challenges the country faces. Although he found examples of successful desegregation and inclusion, these often depended on the good will and efforts of individual schools, parents or other actors, but were not the result of a systemic approach.

The Commissioner notes the lack of a clear roadmap to desegregation at the national, regional or locals levels.

The Commissioner emphasises that tackling school segregation should be seen in its wider social context. For Roma, this involves tackling anti-Gypsyism, including the importance of politicians refraining from perpetuating stereotypes about Roma, which serve to create public hostility towards them. It also means addressing spatial segregation of Roma and other forms of discrimination, including with regard to policing. For persons with disabilities, inclusive education should go hand-in-hand with a process of deinstitutionalisation, to significantly reduce the number of persons with disabilities being provided with care in institutions, rather than in their own communities.

Residential segregation and substandard living conditions

Substantial numbers of Roma in the Slovak Republic is subject to residential segregation, substandard housing, lack of access to basic infrastructure and, importantly, a lack of access to drinking water. Based on the Atlas of Romani Communities (2013), out of 803 localities that are inhabited by more than 30 percent Roma, over 40 percent of these localities are located at the margins of municipalities and over 18 percent of the Roma population - nearly eighty thousand people - live in segregated areas¹⁸. Living in segregation often translates into substandard housing, with associated health risks and lack of infrastructure or behind a segregation wall that separates Roma from the rest of the society. Paved roads, electricity, water pipelines, sewage systems, access to public services are either non-existent, very limited or hard to access. About 14,7% of people living in Romani settlements live in non-standard forms of housing (e.g. shacks, wooden houses).¹⁹ Many Romani families live under the threat of forced eviction due to

insufficient legal protection from forced evictions and ineffective system of legalization procedure which could lead to home ownership. Many Romani dwellings are located either on state owned or private land as a result of the transition from communism and decentralization during that period.

Access to drinking water and related health risks

As a result of residential segregation many Roma lack access to safe drinking water that does not pose a health risk to them. Recent research by the ERRC in Slovakia covering 21 Romani neighbourhoods found that only in two neighbourhoods did most of the Romani households have an indoor drinking water tap; more than 40% of Roma reported that they only have access to a shared water supply; one third declared that they have to walk distances between 150 meters and several kilometres to the nearest water supply. Many reported that their routes to fetch water often necessitates trespassing, and is full of obstacles like highways, railways, forests, and fences.

<http://www.errc.org/news/court-orders-access-to-water-for-romani-tenants-in-velky-krtis-slovakia>

At the beginning of November, the Veľký Krtíš District Court ordered the municipality of Veľký Krtíš to provide access to water twenty-four hours a day to its tenants, who have been living in inadequate housing conditions for years. All the residents of the house are Romani and the ERRC has been supporting them for years in their fight to improve their living conditions.

The recent interim measure ordered by the court is finally a step in the right direction in the struggle of Romani tenants who have been living in poor conditions in a municipality-owned house for years. In 2020 the ERRC, alongside local activists, began to assist the 130 Roma, including 70 children and many elderly and vulnerable adults, who had been living without warm water or heating, enduring a leaking roof, broken windows, mould on the walls, insects, and many other issues. The municipality's response to the request to improve living conditions at the time was to evict the families without offering them any alternative places to live. The residents of the house received the eviction notice on 25th September 2020, which informed them about the termination of their rent as of 31st October 2020,

In Slovakia, some municipalities purchase cheap houses in remote villages to 'export their problematic' Roma residents. In larger towns, Roma families face discrimination in the rental market and have no option but to stay in 15 m² container flats with shared bathrooms and showers at a cost of 200 € per month for rent and electricity. Public funds have been allegedly used to build segregation walls, and to 'relocate' Roma on the outskirts of villages into newly built, poor quality housing units, without proper access to basic utilities.

In Slovakia, many segregated settlements have no sewage system, and across poorer regions many Roma dwellings lack basic indoor plumbing. In some households, the water supply was cut off due to accumulated arrears and/or never connected. Public wells operate everywhere in varying distances from the houses, but there was no information on water quality.

In **Slovakia**, housing policy has long been characterized by mass forced evictions and the erection of walls separating Roma from non-Roma. Substantial numbers of Roma are subject to residential segregation, substandard housing, lack of access to basic infrastructure and, importantly, a lack of access to drinking water. Based on the Atlas of Romani Communities (2013), out of 803 localities that are inhabited by more than 30 percent Roma, over 40% of these localities are located at the margins of municipalities and over 18 percent of the Roma population - nearly 80,000 people - live in segregated areas. Segregation translates into substandard housing, with associated health risks and lack of infrastructure. Paved roads, electricity, water pipelines, sewage systems, access to public services are either non-existent, very limited or hard to access. About 14.7% of people living in Romani settlements live in non-standard forms of housing (e.g. shacks, wooden houses). Many Romani families live under the threat of forced eviction due to insufficient legal protection from forced evictions and ineffective system of legalization procedure which could lead to home ownership. Many Romani dwellings are located either on state-owned or private land as a result of the transition from communism and decentralization during that period.¹⁹

17. Roma Civil Monitor. A synthesis of civil society's reports on the implementation of national Roma integration strategies in the European Union. Center for Policy Studies Central European University. European Union 2020, p.21. Available at: <https://cps.ceu.edu/sites/cps.ceu.edu/files/attachment/basicpage/3172/rcm-civil-society-monitoring-report-synthesis27-2019-eprint-fin.pdf>.

These were sometimes linked with urban renewal strategies to keep Roma and poor households in compact buildings for an easier management of a more or less planned “renoviction” (i.e. the relocation of all of a building’s tenants on the grounds that a large-scale renovation is planned) of selected neighbourhoods, or to make sure that “residualisation” is enforced. Local allocation techniques may prefer to house poor Roma families in concentrated and segregated neighbourhoods, as has been reported in Slovakia through the “lower standard flats” programme;

According to the Slovak Anti-Poverty Network “housing and the protection of the right to housing is the weakest component of public policies”. There is an acute shortage of affordable accommodation; just 2.7% of dwellings are publicly owned (EU average 18%). Commissioner Nils Muižnieks noted that partly as a result of lack of tenure, many Roma in Slovakia live with the threat of forced eviction and that although there are several state mechanisms allowing for the construction of flats for marginalised communities, housing interventions remain limited, with many municipalities reluctant to use existing resources to promote inclusion.

RECOMMENDATIONS

The submitting NGOs encourage the Committee to recommend the following to the Slovak Government:

- 1. To resolve urgent issues of land ownership arising from the transition to a market economy and decentralized governance;**

2. to stop forced evictions of Roma; and to ensure that evictions are means of last resort which are carried out in accordance with both national and international obligations, including provision of alternative accommodation;

to

adopt or amend appropriate national legislation to ensure sufficient procedural safeguards according to the international law obligations when it comes to evictions;

4. to ensure that social or alternative housing meets acceptable standards for human habitation;
5. ensure that Roma in segregated localities have access to safe, clean drinking water;
6. adopt law explicitly recognizing the human right to water and sanitation and ensure that all people in Slovakia enjoy the access to safe drinking water and sanitation;
7. adopt policies and allocate budgets for connecting Roma settlements to public drinking water and sewerage systems;
8. make sure that quality of all alternative water resources, which serve as drinking water supply, is periodically checked and the quality of water is guaranteed.

FRA stats

The respective SDG indicator is “4.2.2 – Participation rate in organised learning (one year before the official primary entry age)”.

Roma in Croatia, the Czech Republic, Greece and Slovakia are in the group of Ethiopia, Sierra Leone, Burundi, Uzbekistan or Azerbaijan for this indicator.

The Commission first launched legal action against the country via an infringement procedure in 2015, which was followed up by a *reasoned opinion* (the next stage in the infringement process) in 2019. Whilst Slovakia has undertaken piecemeal measures to amend legislation and desegregate their schools, over 65% of Romani children in the country remain in segregated schools according to the [European Union Agency for Fundamental Rights](#). Accordingly, this makes Slovakia the Member State with the highest share of Romani children segregated in their education system across the European Union.

In 2017, the European Roma Rights Centre (ERRC) and Amnesty International [drew attention](#) not only to the segregation of Romani children, but to the poor quality of education offered and to the practice of misdiagnosing Romani children with mental and learning difficulties and placing them in so-called “special schools.”

The timing of the case before the Court is tied to the recent evidence published by the European Commission against Racism and Intolerance (ECRI) on Slovakia. In March 2023, ECRI published [conclusions](#) following up on its Sixth Round of Monitoring in Slovakia. Despite steps taken by the government to desegregate schools, amend the ‘School Act’ legislation, and increase pre-school education for Romani children, ECRI concluded that its recommendations to desegregate had “*overall been only partially implemented.*”

DISCRIMINATION IN EDUCATION

In Slovakia, thousands of Romani children still face systemic discrimination and segregation in education. First, Romani children are segregated in Roma only schools or classes. Second, they are disproportionately channelled into special schools designed for children with mild intellectual disabilities or special needs. Finally, Romani children are overrepresented in

special classes existing within the mainstream elementary school settings.²⁸ An OECD 2015 report reviewing school resources in Slovakia highlighted “significant concerns for equity in Slovak school system.”²⁹ The OECD concluded that the impact of children’s socio-economic background on school performance in the country is among the highest, and stresses that integration of Romani children in mainstream education is limited.³⁰ Most recently, this worrying situation has been confirmed by the UN CRC Committee which noted that “Roma children continue to be the victims of de facto segregation in the State party’s school system, with over 50 per cent being taught in Roma-only classes or attending classes in separate school pavilions, often providing inferior education”.³¹

In reaction to the ongoing infringement proceedings of the European Commission against Slovakia for violating the EU Race Equality Directive, in June 2015 the Slovak Parliament adopted an amendment to the Schools Act.³² These legislative changes have been highly insufficient, as they alone cannot secure equal access of Romani children to education if not accompanied by any concrete and sustainable de-segregation policies and measures. This was confirmed by the UN CRC Committee which found that despite “the 2015 legislative amendments, the number of Roma children placed in schools for children with mild disabilities continues to be disproportionately high, the process of psychological assessment during school attendance continues to fail to take into account the different socioeconomic backgrounds of Roma children, the State party’s legislation does not stipulate that a regular re-evaluation of the initial diagnosis of the disability should be undertaken and the system is financially incentivized to retain the highest possible number of Romani children in special schools and classes”.³³

In 2017, the ERRC and Amnesty International produced a report reviewing recent legislative changes intended to tackle the erroneous placement of Romani children in special schools and classes for children with “mild mental disabilities” and examines broader structural factors driving segregation and discrimination across the education system. The research found that the legislative changes adopted in 2015 had minimal impact and discrimination of Romani children in education still persists. As the report further stated, Romani children are continuously confronted with other obstacles to realizing their right to education, such as racism, prejudice, stigmatization and lack of expectations from educational staff, observed in all locations studied for this report. Segregation often begins even before primary school.³⁴

To achieve this aim the Government should primarily develop, adopt and effectively implement systematic and complex de-segregation policies designed to secure equal access of Romani children and all other children to education. Further, the law should expressly provide for an enforceable right to inclusive education, including by defining inclusive education in accordance with the Incheon Declaration on education 2030: towards inclusive and equitable quality education and lifelong learning for all of the United Nations Educational, Scientific and Cultural Organization, and Sustainable Development Goal No. 4. These measures should be accompanied by other concrete measures, including allocation of adequate resources.

In 2015 UNCAT called on Slovakia to:

Q Carry out prompt, impartial, thorough, and effective investigations into all allegations of excessive use of force, including torture and ill-treatment, by law enforcement officials, and ensure that those suspected of having committed such acts are immediately suspended from their duties throughout the period of investigation, while ensuring that the principle of presumption of innocence is observed;

- What steps, if any, will the federal government take to ensure the successful restoration of the right to vote in states like Florida?
- What more will the federal government, in addition to the small steps taken by passing the First Step Act, do to reform mandatory minimum sentencing; ensure federal criminal sentences are not disproportionate to the offense; and incentivize states to adopt proportionate regimes of criminal sentencing?

Suggested Recommendations

- The State Party should restore Justice Department policies affording greater discretion to federal prosecutors in drug cases.
- The State Party should take concrete measures to support the right to vote without impediment or discrimination; press state governments to reinstate voting rights to people who have been convicted of felonies and to review with an eye to reforming state policies that deny voting rights to imprisoned persons.
- The State Party should review its state and federal criminal sentencing to ensure that all sentences are proportionate to the offense and offender, including with a view to abolishing the death penalty, and should in no circumstances impose the death penalty for drug offenses.

11. (§ 93) ECRI recommends that the Slovak authorities (i) put in place the conditions necessary to ensure that all Roma children from disadvantaged neighbourhoods attend pre-school education from the age of three years, (ii) arrange for Slovak to be taught as a second language to all Roma children who generally only speak Romani with their family, (iii) significantly reduce the number of Roma children enrolled in special education, (iv) abolish school segregation, (v) make the positive measures designed to support Roma children in primary education a permanent fixture, and (vi) increase the number of Roma children who attend secondary education and obtain a certificate.

On 2 June 2022, the Slovak Government reached a friendly settlement agreement with eight Romani men who were brutalised by police officers in 2013 during a notorious mass police raid on a Romani community in Moldava nad Bodvou. The ERRC has represented victims since 2013, and the case has been described in detail in our previous UNCERD submission. ERRC Operations Director Marek Balaz provided a succinct summary of how the case unfolded over a decade:

“The real story is one of a completely botched internal investigation of the raid; scapegoating of the victims by prominent politicians; deliberate obstruction of the Ombudsperson’s investigation; blocking victim testimonies at the parliament; and finally adding insult to grievous injury, by charging some of the victims with perjury. These are some of the essential ingredients of a case where the combination of corruption, lies and racist malice beggar belief.”

The Moldava case is emblematic of a wider malaise, as our most recent report on policing Roma in the EU highlighted, law enforcement in Slovakia is institutionally racist, antigypsyism is clearly evident in the ways Romani communities are policed, and there is a culture of impunity within law enforcement when it comes to mistreatment of Roma. The ‘serious concerns’ were shared by the Committee in 2018, at the numerous reports of excessive use of force, verbal and physical abuse against Roma, and the violent police raids on Roma settlements, often carried out without arrest or search warrants, which left many Roma injured.

As for follow-up, the Committee noted with great concern that the majority of these reports are, either not duly investigated or when investigations have been initiated, they have been suspended, and most complaints against law enforcement officers have been dismissed. Two recent linked cases suggest these concerns remain serious:

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In November 2021, authorities announced that two linked investigations into police brutality against Roma were dismissed. The cases involved severe beatings meted out by police officers to two Romani men and three women. The incidents, which occurred in Milhošť close to the city of Košice, on 23 July 2019, involved a 17-year-old and his 19-year-old companion, who were arrested and severely beaten by police

officers after a dispute at a local bar, and two female relatives who were subsequently detained in a raid on their homes and assaulted by police.⁶

Q Both cases were closed by the Office of the Inspection Service of the Ministry of Interior. ERRC’s lawyer filed complaints but the decisions were upheld by the prosecutor.

Q In the first decision, concerning the assault on the two men, the case was referred to as ‘an incident of slapping’ by the investigator, and reduced to a disciplinary misdemeanour. Concerning the beating of the women, proceedings were closed on the grounds that the victims allegedly could not identify the perpetrators, despite the fact that the women picked out their attackers in identification line-ups. The ERRC’s lawyer has filed two constitutional complaints on behalf of both the male and female victims.⁷

COVID-19: HUMAN RIGHTS, HATE SPEECH, AND POLICING

The ERRC report, *Roma Rights in the Time of Covid*, found that in Slovakia, major concerns included hate speech, scapegoating of Roma, heavy-handed and discriminatory policing, as well as the lack of access to clean water and sanitation in many marginalized communities, and the impact of the digital divide on the right to education for Romani pupils.

Social media was the main channel for anti-Roma racism and calls for punitive measures against Roma. The mayor of Kosice, Jaroslav Polacek, posted a warning on social media that coronavirus can spread because of the behaviour of “socially unadaptable people” in Romani settlements who do not respect emergency measures. Another mayor, in an open letter to the Prime Minister, called for the lock-down of all Romani settlements to prevent mass outbreaks of the virus.

As in the case of Bulgaria, authorities in Slovakia were called on to ensure that emergency measures were implemented in a manner that was “non-discriminatory, responds to a pressing public or social need, pursues a legitimate aim, and is proportional to that aim.”⁸ The warnings proved to be prescient and the ERRC reported numerous incidents of policing that violated the principles of non-discrimination and targeted Roma.

According to the report in *Romea.cz*, military physicians treated the children for their injuries. In response the Ombudswoman stated that “Any disproportionate methods used by police or excessive use of force deserves to be condemned. I consider it unacceptable that violence be committed against children. Moreover, it is unacceptable for police to use force against children. Not even the pandemic can be a reason to use disproportionate policing methods.”⁹

6. ⁸ Bernard Rorke and Jonathan Lee, *Roma Rights in the Time of Covid*, ERRC, Brussels, September 2020, pp. 45-51. Available at: [http:// www.errc.org/reports--submissions/roma-rights-in-the-time-of-covid](http://www.errc.org/reports--submissions/roma-rights-in-the-time-of-covid)

A CULTURE OF IMPUNITY

The acquittal of 10 police officers charged with abusing six Romani juveniles in Košice, on 21 March 2009, was particularly scandalous because the officers who forced the children to undress, to slap each other, and threatened them with dogs, filmed their torture and humiliation of the children. The film went viral on YouTube with Kosiče police station being dubbed in some media as Slovakia’s Abu Ghraib. The acquittal was also a scandal: the judge did not allow the video material to be used as evidence and threw out the case because “The evidence is not sufficient to find the defendants guilty, nor to express a conclusion beyond the shadow of a doubt that the crime took place as the prosecutor alleges.”

The ERRC’s police brutality case file on Slovakia is extensive, and just a handful of cases are included below by way of illustration that police brutality against Roma is routine and systemic; that police officers operate within a subculture of racist impunity, as evidenced by the low number of complaints, prosecutions, and convictions; and that investigations into allegations of excessive use of force against Roma are neither impartial nor effective, with cases dragging on for years in a notoriously inefficient and tainted judicial system. (More details are available in *Brutal and Bigoted: Policing Roma in Six EU Member States*, on pages 78-81.)

In its 2020 report on Slovakia, ECRI shared the concerns expressed by other national and international bodies, concerning the reports of large-scale police violence against Roma and noted that failings in the investigation procedures made it “obviously difficult for courts to determine whether and to what extent there was police brutality”, and expressed its concern that despite “the substantial number of complaints relating to serious acts of violence committed by members of the police services against Roma”, none of the subsequent investigations of police interventions between 2013 and 2020 resulted in a conviction or disciplinary sanction against officers involved.

9. Bernard Rorke, *Brutal and Bigoted: Policing Roma in Six EU Member States*, ERRC, Brussels, May 2022, pp. 73-78. Available at: http://www.errc.org/uploads/upload_en/file/5397_file1_brutal-and-bigoted-policing-roma-in-the-eu.pdf

10. .

ECRI noted that some observers have pointed out that these shortcomings are chiefly due to the lack of independence of the Ministry of the Interior Inspectorate in charge of these investigations. Victims of alleged abuse and violence by the police are reluctant to lodge complaints with institutions that cooperate closely and on a daily basis with the police. Such is the mistrust engendered by the workings of the internal investigation system, that ECRI encouraged the prosecution service to be especially attentive “to any retaliatory action by members of the police services or their superiors, including through complaints against alleged victims or witnesses of disputed police actions for slander and false testimony.”¹¹

ROMA AND THE CRIMINAL JUSTICE SYSTEM

The Moldova case (see above) is perhaps the most notorious instance of justice obstructed, denied and delayed in Slovakia, and as research by ERRC conducted in partnership with Fair Trials shows, the problem runs deeper than discrete incidents of police brutality. Institutional racism is embedded in the entire criminal justice system – a system riddled with corruption and scandal – and too often it is Roma who pay the price. For Roma experience racial bias at every stage of criminal proceedings, which leads to skewed decisions and unjust outcomes. This abject failure of the criminal justice system is rooted in antigypsyism.

RECOMMENDATIONS

Romani children in state care

Q Amend domestic legal standards to provide full and adequate protection to Romani children and families at risk of separation, to fully ensure that child removal on the basis of poverty or material concerns is prohibited in law and in practice, and ensure regular court review of administrative decisions to place children in state care. Close any legal loopholes that allow placement of Romani children in harmful institutions as a de facto ‘measure of first resort’.

Q Revise national child protection policy to include Romani children and families as at particular risk of endangerment; review all national policies and programs to assess whether seemingly neutral provisions have a deleterious or discriminatory impact on Roma.

Q Collect comparable annual data that is disaggregated by ethnicity, gender, disability, and other relevant factors in the areas of child protection, education, housing, employment, and health care, with appropriate measures to protect the personal data of children and families.

Q Provide information about free legal support to families at risk of child removal, especially Romani families endangered by discrimination and social exclusion.

Q Develop and adopt a detailed description of child endangerment and methodological guidance to facilitate objective and consistent assessment.

Q Ensure regular and systematic monitoring and evaluation of both basic and the professional care services, including children's rights representatives, which takes account of the perceptions of families and children and their level of satisfaction with child protection services.

Q Implement positive action programmes to facilitate the employment of Romani professionals in child protection services.

Q Make anti-discrimination and multi-culturalism training an obligatory component of school curricula for child protection and social work professionals, and ensure care professionals meet consistent professional standards. Work with Romani organisations to deliver trainings on Romani language, history and culture with child protection workers and children in state care.

Q Prioritise funding for basic child welfare services on a service provision basis to ensure an adequate level of preventative work and avoid the under-financing of the regions and city districts most in need.

Policing

Q Authorities at national level must carry out prompt, impartial, thorough, and effective investigations into all allegations of excessive use of force, including torture and ill-treatment, by law enforcement officials, and ensure that those suspected of having committed such acts are immediately suspended from their duties throughout the period of investigation, while ensuring that the principle of presumption of innocence is observed;

Q Prosecute persons suspected of having committed torture or ill-treatment and, if they are found guilty, ensure that they receive sentences that are commensurate with the gravity of their acts and that the victims are afforded appropriate redress;

Q Ensure that offences motivated by discrimination constitute an aggravating circumstance in criminal prosecution; Q Establish an independent monitoring and oversight mechanism that complies with the requirement of institutional independence in order to avoid conflict of interest in the investigation of complaints by peers.

Q The Committee should call on the European Union to produce a binding Charter for Common Basic Standards that enshrines rights-compliant, non-discriminatory and non-racist policing across the Union; and the Race Equality Directive should be extended to protect citizens from racist misconduct by law enforcement.

Criminal justice system

Q The government must provide prompt and effective remedies for victims of discrimination in law and in practice. Procedures for the initiation of complaints should be simple and flexible and expeditiously

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handled. Dissemination of information concerning the availability of remedies, including recourse procedures, should be widespread, and victims should be provided with legal assistance to pursue remedies.

Q Decriminalise acts that cause no social harm, provide alternatives to custodial sentences, ensure fining practices are sensitive to individual circumstances, and reduce

pre-trial detention through objective, individualised assessment of risks, free from socio-economic and racial bias, and through greater promotion of non-custodial alternatives.

Q The targeted over-policing of Romani communities – which amounts to racial harassment and includes practices of imposing fines for petty offences, such as possession of kindling, jaywalking, or failing to have a bicycle light – must cease. Criminal law responses to the committing of petty offences that are often a symptom of poverty, serve no purpose beyond further aggravating social exclusion.

Q Where criminal sanctions are appropriate or necessary, fining policies and practices should be sensitive to individual circumstances, and there should be alternative, non-custodial sanctions for those who cannot afford to pay.

Q Resources dedicated to ‘enhancing the training strategies of law enforcement’ could be better diverted to support Romani communities to advocate for the elimination of racialised policing, to hold the police and other criminal justice institutions to account, and to educate and empower members of the community to exercise their rights, and to protect themselves from discriminatory treatment.

Q Training for all those involved in the administration of justice, including law enforcement officers, the judiciary, and prosecutors, should focus not on ‘unconscious bias’, but rather on officials’ obligations under national and international law to discharge their responsibilities in a non-racist and human rights compliant fashion, and to ensure such officials become fully aware of the consequences and penalties for failure to do so. It is necessary that training should be reinforced by the incorporation of international human rights standards into the working rules, regulations, and procedures of the criminal justice system.

Q Complaints should be handled by independent mechanisms, with sufficient powers and resources to investigate allegations comprehensively and effectively, and to sanction offenders. Such mechanisms must be easily accessible to all complainants, irrespective of their financial means, and they should not have prohibitively high evidentiary thresholds for initiating investigations. Sanctions against offenders must match the severity of their actions and be designed to prevent similar incidences by the individual in the future. States should place the police under a statutory obligation to promote equality and prevent racial discrimination in carrying out their functions; and victims who register complaints must be protected from intimidation and reprisal actions by police officers.

Q The government should adopt ECRI’s General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, which asserts that racial profiling constitutes a specific form of racial discrimination and must be expressly prohibited by law.

Racism in the criminal justice system

In recent years, Slovakia provided one of the most cruelly absurd and emblematic examples of how anti-Roma racism perverts the course of justice. Romani victims, who were beaten and injured following a notorious mass raid in Moldava nad Bodvou in June 2013, testified as witnesses to the extreme police violence and subsequently ended up charged with perjury. The prosecutor attributed alleged irregularities in their testimonies to their “Roma mentality (*mentalita romica*)”, which according to an ‘expert’ opinion, is characterised by “*low trustworthiness, a propensity to lie and emotional instability*”, as well as being *asocial*

and unable to comply with social norms.¹ A full seven years after the initial raid, the European Court of Human Rights ruled, on 1 September 2020, in the case of R.R. v. Slovakia, that there had been substantive and procedural violations in the investigations, and awarded each of the applicants €20,000 in damages and €6,500 costs.²

In its 2020 report on Slovakia, the European Commission against Racism and Intolerance (ECRI) expressed grave concerns concerning the reports of large-scale violent police raids in Romani settlements often carried out without arrest or search warrants, raids that in many cases caused injuries to members of the Roma minority, including children and elderly persons. ECRI stated that despite “*the substantial number of complaints relating to serious acts of violence committed by members of the police services against Roma*”, none of the subsequent investigations of police interventions between 2013 and 2020 resulted in a conviction or disciplinary sanction against officers involved.³

Despite the lack of reliable ethnically disaggregated data, most of those interviewed for this research agreed that Roma were overrepresented in the criminal justice system. Police officers that were interviewed estimated that Roma accounted for between 30% and 80% of those arrested within their precincts. Lawyers estimated that Roma accounted for between 20% and 50% of criminal cases in their respective practices.

The ready resort to racist prejudice by many judges, prosecutors and police when talking about Roma, combined with their emphatic denials that prejudice plays any part in their deliberations and assertions that all are equal before the law, reflects the extent to which anti-Roma racism is normalised in the processes, attitudes, and behaviour of these institutions. This report provides further evidence of one unassailable fact: that Roma face structural racism at all stages of the criminal justice system, both as defendants and victims.

Romani communities have also been found to be subject to disproportionate policing. In 2017, the ERRC produced a report titled “*Ethnic profiling in Slovakia – Prejudiced policing of Roma neighbourhoods*” which concluded that: “*according to the analysis of the 200 proposed locations for increased policing, a police unit is 40 times more likely to be appointed to a Roma community than a non-Roma community in Slovakia. Many municipalities with a high Romani population do not experience high crime rates but are nevertheless included in the list of 200 locations for increased policing.*”⁵⁰

47. European Roma Rights Centre, *Ethnic profiling in Slovakia – Prejudiced policing of Roma neighbourhoods*, 2017. Available at: http://www.errc.org/uploads/upload_en/file/Ethnic%20Profiling%20in%20Slovakia%20ERRC%20.pdf

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Moreover, it is clear from the findings of this report that resolute action is needed in Slovakia to purge the criminal justice system of anti-Roma racism, to render law enforcement agencies publicly accountable, and to ensure that Roma, both as defendants and victims, have access to justice. Over the past two decades scores of recommendations have been compiled by UN and Council of Europe committees, by special rapporteurs and civil society organisations; and duly ignored by state authorities. By way of conclusion, a few key demands are worth restating:

Q The government must provide prompt and effective remedies for victims of discrimination in law and in practice. Procedures for the initiation of complaints should be simple and flexible and expeditiously handled. Dissemination of information concerning the availability of remedies, including recourse procedures, should be widespread, and victims should be provided with legal assistance to pursue remedies.

Q Authorities at national level must carry out prompt, impartial, thorough, and effective investigations into all allegations of excessive use of force, including torture and ill-treatment

by law enforcement officials, and ensure that those suspected of having committed such acts are immediately suspended from their duties throughout the period of investigation, while ensuring that the principle of presumption of innocence is observed;

Q The government should adopt ECRI’s General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, which asserts that racial profiling constitutes a specific form of racial discrimination and must be expressly prohibited by law.⁶³

Hate speech

When the head of the People's Party Our Slovakia, Marian Kotleba, ran for head of the Banská Bystrica self-governing region, he adopted the following slogan in his campaign: *"with your support I can surely do away with the unjust advantages for [not only] gypsy parasites"*. Such is the prevalence of these sorts of attitudes, the Slovak Supreme Court did not even consider this statement to fall under racist defamation.²⁹ Even more disconcertingly, the district chair of the Kotleba's Party in Vranov nad Topľou, Jozef Mihalčín, once said of Roma: *"When I was 18, the Gypsies only walked up to the bridge. When they came to the bridge, I kicked them and threw them into Topľa (river). They were always a dirt that had nothing to do in the city."*³⁰

Harsh Criminal Sentencing

Summary

In the United States, state and federal courts regularly impose disproportionate criminal sentences, often in a racially disparate manner. This contributes to the large number of people behind bars in the country. In 2018, people in the state of Florida voted to end laws banning those with felony convictions from voting but questions remain about how to effectively implement the state's reforms. Thirty-three other states in the United States deny people the right to vote due to their criminal histories. Finally, 30 states continue to impose the death penalty.

Relevant ICCPR Articles

Articles 2, 6, 7, 8, 9, 14 and 26.

Prior Recommendations

- In its 2006 Concluding Observations, the Committee reminded the United States of the desirability of abolishing the death penalty, (para. 29), and expressed concern about the use of solitary confinement, noting that its prolonged use cannot be reconciled with the requirement that the aim of the penitentiary system be reformation and social rehabilitation of prisoners (para. 32).
- In its 2014 Concluding Observations, the Committee also addressed the death penalty, offering detailed recommendations, including the establishment of a moratorium on the death penalty at the federal level. (para. 8). It also: recommended the United States continue and step up its efforts to robustly address racial disparities in the criminal justice system; reform mandatory minimum sentencing statutes (para. 6); ensure the voting rights of all felons who have fully served their sentences, and improve registration processes (para. 24); and expressed concern again about the US' use of prolonged solitary confinement, particularly on juveniles and people with mental disabilities (para. 20).

Current US Government Policy or Practice

State and federal jails and prisons continue to hold over 2 million people, with another 4.5 million on probation or parole.^[1] Women are the fastest growing correctional population nationwide, increasing by more than 700 percent between 1980 and 2016.^[2] Oklahoma incarcerates more women per capita than any other US state.^[3] In September, Human Rights Watch documented the lasting harm of jailing mothers pretrial, many of whom simply cannot afford bail, in that state.^[4] Many states force prisoners to work for minimal wages, sometimes less than a dollar a day, and often doing jobs that do not help prisoners obtain marketable skills upon release.^[5]

In the United States, people often receive life sentences or their equivalent for a range of violent crimes; as well as for property and drug-related offenses. In 2017 then US Attorney General Jeff Sessions rescinded policies instructing prosecutors to avoid charging crimes that would trigger disproportionately long mandatory minimum sentences and were aimed at curtailing racial disparities in sentencing.^[6] In 2018, Sessions also rescinded a Justice Department policy giving federal prosecutors discretion to not prosecute marijuana offenses in jurisdictions where marijuana has been decriminalized.^[7]

Millions of people still cannot vote due to felony disenfranchisement laws, though in a positive step, Florida voters recently approved a ballot initiative restoring the right to vote for 1.4 million residents with felony convictions.^[8] The initiative was one of several that states passed that advanced criminal legal system reform.^[9]

The laws of 30 states still allow for the death penalty. In 2018 alone, 25 people in eight states were executed, all in the south and mid-west of the country.^[10] US President Donald Trump and former US Attorney General Jeff Sessions have called for the death penalty for drug sellers.^[11]

Human Rights Committee General Comments and Related UN Body Recommendations

The Human Rights Committee has stated that state actions that restrict rights “must demonstrate their necessity and only take such measures as are proportionate to the pursuance of legitimate aims in order to ensure continuous and effective protection of Covenant rights.”^[12] “Restrictive measures must conform to the principle of proportionality —”^[13] a principle reflected in Inter-American Court of Human Rights jurisprudence^[14] and emphasized by the UN Working Group on Arbitrary Detention.^[15] To the extent possible, prison labor should help prisoners prepare for a return to society and should never seek to cause suffering.^[16]

“The criminal justice system should provide a wide range of noncustodial measures, from pre-trial to post-sentencing dispositions. The number and types of noncustodial measures available should be determined in such a way so that consistent sentencing remains possible.”^[17]

As a point of comparison, the International Criminal Court, which has jurisdiction over grave crimes such as genocide, may impose up to 30 years or a life sentence but that sentence must be reviewed when the person has served two thirds of it or 25 years in the case of a life sentence.^[18]

Recommended Questions

- What steps, if any, will the federal government take to ensure the successful restoration of the right to vote in states like Florida?
- What more will the federal government, in addition to the small steps taken by passing the First Step Act, do to reform mandatory minimum sentencing; ensure federal criminal sentences are not disproportionate to the offense; and incentivize states to adopt proportionate regimes of criminal sentencing?

Suggested Recommendations

- The State Party should restore Justice Department policies affording greater discretion to federal prosecutors in drug cases.
- The State Party should take concrete measures to support the right to vote without impediment or discrimination; press state governments to reinstate voting rights to people who have been convicted of felonies and to review with an eye to reforming state policies that deny voting rights to imprisoned persons.
- The State Party should review its state and federal criminal sentencing to ensure that all sentences are proportionate to the offense and offender, including with a view to abolishing the death penalty, and should in no circumstances impose the death penalty for drug offenses.