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CENTRE FOR  
HUMAN RIGHTS**

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# **OBSERVATIONS OF THE SLOVAK NATIONAL CENTRE FOR HUMAN RIGHTS**

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in relation to the fourth periodic report of Slovakia to the Committee against Torture

March 2023





## **1. INTRODUCTION**

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

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

The alternative report of the Centre reflects on the fourth periodic report submitted by Slovakia under article 19 of the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT/C/SVK/4) and its Annex, as well as on the Concluding observations on the third periodic reports of Slovakia of the Committee against Torture (“the CO”; CAT/C/SVK/CO/3) and List of issues prior submission of the fourth periodic report of Slovakia (“the LOIPR”; CAT/C/SVK/QPR/4).

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## 2. NATIONAL HUMAN RIGHTS INSTITUTION (paragraph 11 of the LOIPR)

1. Recommendations to ensure legislative compliance with the Paris Principles have not been implemented by Slovakia. The amendment of the Act No. 308/1993 Coll. on Establishment of the Slovak National Centre for Human Rights (“the Act on the Centre”) was proposed by the Slovak Government in 2019. Upon request of the Centre, the draft law was reviewed by the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (“OSCE-ODIHR”), which underlined certain problematic aspects and proposed recommendations to improve the draft law in line with the international standards.<sup>1</sup> The bill was, however, rejected in the Parliament in June 2019. Since then, there have been no legislative efforts to strengthen the mandate and independence of the Centre in full compliance with the Paris Principles.
2. In January 2023, a proposal for a minor amendment of the Act on the Centre was submitted to the National Council of the Slovak Republic as part of the draft bill providing for the establishment of the National Preventive Mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“the OPCAT”).<sup>2</sup> The bill specified that reports prepared and published by the Centre under Article 1 (2) (h) of the Act on the Centre are independent reports in line with recommendations of the European Commission addressed to the Slovak Republic within the EU Pilot 4446/13/JUST procedure. This amendment was adopted on 15 March 2023, however, it does not have significant impact on implementation of the Paris Principles.
3. Moreover, in January 2023, the Centre was consulted to provide its opinion on the proposals of EU directives on the standards for equality bodies<sup>3</sup> by the Ministry of Justice of the Slovak Republic. If adopted, the proposed directives would have a significant impact on the legislation regulating the functioning of the Centre as an equality body. In terms of guarantees of independence and effectiveness, transposition of the directive into the national legislation would inevitably be an opportunity to bring the legislation also fully in line with the Paris Principles. The Centre has been advocating respectively and has referred to the need to ensure

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

<sup>2</sup> Governmental proposal for Act amending and supplementing the Act No. 564/2001 Coll. on Public Defender of Rights as amended and amending and supplementing certain acts, available in Slovak at: <https://www.nrsr.sk/web/Default.aspx?sid=zakony/cpt&ZakZborID=13&CisObdobia=8&ID=1354>.

<sup>3</sup> Proposal for a Council Directive on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in the field of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and deleting Article 13 of Directive 2000/43/EC and Article 12 of Directive 2004/113/EC, available at: [https://commission.europa.eu/document/797a4729-bc57-4e91-b703-bbbd4bdea8b4\\_en](https://commission.europa.eu/document/797a4729-bc57-4e91-b703-bbbd4bdea8b4_en); Proposal for a Directive of the European Parliament and of the Council on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and deleting Article 20 of Directive 2006/54/EC and Article 11 of Directive 2010/41/EU, available at: [https://commission.europa.eu/document/4e5f2ee4-7529-4153-8032-273f70857880\\_en](https://commission.europa.eu/document/4e5f2ee4-7529-4153-8032-273f70857880_en).



compliance with other international standards governing its functioning as NHRI and equality body, including the Paris Principles or the ECRI General Policy Recommendation No. 2. In its preliminary statements to the proposals, submitted to the inter-departmental commentary procedure<sup>4</sup>, the Government of the Slovak Republic assessed all provisions of the proposed directives as acceptable or acceptable with a comment. The Centre considers it crucial that in the event of backlashes and delays in adoption of the binding European standards for equality bodies, such situation is not used as a justification for further postponing legislative changes necessary to bring the national legislation in compliance with the Paris Principles.

4. In the monitoring period, the Centre has, however, been financially strengthened. Its budget has been gradually increased since 2018, which is demonstrated in the chart below. In 2022, in addition to operational budget (EUR 870 287) the Centre was also allocated EUR 74 000 for capital expenditures to modernize its ICT infrastructure. The unspent sum of the capital expenditures was transferred to 2023.

Financial Year	Budget in EUR
2018	565 356
2019	787 215
2020	797 822
2021	849 874
2022	870 287
2023	967 002

5. Consequently, the Centre gradually increased the number of its expert staff since 16 in 2018 to 26 employees in 2023.<sup>5</sup> Moreover, the Centre has successfully increased its expert capacities by two temporary job positions funded under the project *Supporting National Human Rights Institutions in Monitoring Fundamental Rights and Fundamental Rights Aspects of the Rule of Law*<sup>6</sup> funded by EEA and Norway Grants under the Fund for Regional Cooperation with an aim to negotiate to have these two positions sustained from the public budget also upon termination of the project in February 2024. The increased human capacities and financial resources were divided between all areas of the Centre's mandate, both as NHRI and equality body, but most notably in relation to research, legal aid, promotion and awareness-raising.

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<sup>4</sup> Ministry of Justice of the Slovak Republic: 'LP/2023/84 Official Preliminary Statement to the Proposal for a Directive of the European Parliament and of the Council on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and deleting Article 20 of Directive 2006/54/EC and Article 11 of Directive 2010/41/EU', available in Slovak at: <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2023/84>; Ministry of Justice of the Slovak Republic: 'LP/2023/82 Official Preliminary Statement to the Proposal for a Council Directive on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in the field of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and deleting Article 13 of Directive 2000/43/EC and Article 12 of Directive 2004/113/EC', available in Slovak at: <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2023/82>.

<sup>5</sup> Average numbers of employees per year were: 2018 – 16, 2019 – 18, 2020 – 21, 2021 – 23, 2022 – 25, 2023 – 26/28.

<sup>6</sup> For more information about the project see: <https://www.snslp.sk/en/projects/ongoing-projects/>.



### *Recommendations*

- 1. To renew efforts to adopt legislative amendments providing full compliance of the law on functioning of the Slovak National Centre for Human Rights with the Paris Principles and to ensure that the legislation is a result of a transparent participatory process.**
- 2. To continue with strengthening of its financial resources to allow the Centre to effectively implement its wide mandate with adequate personal resources.**
- 3. RATIFICATION OF THE OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT (paragraph 21 of the CO)**
6. Slovakia belongs to the last three Member States of the European Union that have not yet ratified the OPCAT<sup>7</sup>, despite numerous recommendations of international and regional monitoring mechanisms.<sup>8</sup>
7. In 2019, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment after its country visit in Slovakia carried out in March 2018 noted that despite the accession of Slovakia to OPCAT and the establishment of a national preventive mechanism (“NPM”) were intensively discussed at the national level, the resignation of the Slovak Government in 2018 caused uncertainty over signing and ratifying the instrument by the end of 2018 as originally planned.<sup>9</sup> Subsequently, in September 2018, the Government adopted a resolution entrusting the Minister of Justice of the Slovak Republic to submit to the Government necessary legislative amendments for ratification of OPCAT by 31 December 2018 and the proposal for ratification of OPCAT by 31 December 2019.<sup>10</sup>

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<sup>7</sup> Together with Ireland and Belgium. See: OHCHR, 'Status of ratification – Interactive Dashboard', available at: <https://indicators.ohchr.org/>.

<sup>8</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT): 'Report to the Slovak Government on the visit to the Slovak Republic carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 19 to 28 March 2018', para. 8, available at: <https://rm.coe.int/168094fd71>; Committee on the Elimination of Racial Discrimination: 'Concluding observations on the combined eleventh and twelfth periodic reports of Slovakia', 2022, CERD/C/SVK/CO/11-12, para. 29; UN Human Rights Council: 'Report of the Working Group on the Universal Periodic Review, Slovakia', 2019, A/HRC/41/13, recommendations 121.1 – 121.3 (all supported by Slovakia); Committee on Enforced Disappearances: 'Concluding observations on the report submitted by Slovakia under article 29 (1) of the Convention', 2019, CED/C/SVK/CO/1, para. 19; Committee on the Rights of the Child: 'Concluding observations on the combined third to fifth periodic reports of Slovakia', 2016, CRC/C/SVK/CO/3-5, para. 62; Committee against Torture: 'Concluding observations on the third periodic report of Slovakia', 2015, CAT/C/SVK/CO/3, para. 21.

<sup>9</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT): 'Report to the Slovak Government on the visit to the Slovak Republic carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 19 to 28 March 2018', para. 8, available at: <https://rm.coe.int/168094fd71>.

<sup>10</sup> Resolution of the Government of the Slovak Republic No. 414 of 12 September 2018, available in Slovak at: <https://rokovania.gov.sk/RVL/Resolution/17257/1>.



8. Several legislative proposals<sup>11</sup> establishing NPM at national level have been submitted by the Ministry of Justice of the Slovak Republic to the inter-resort commentary procedure in the recent years, none of them leading to adoption of the necessary legislation followed by an approval of ratification by the Parliament by now.
9. The most recent proposal was submitted to the inter-resort commentary procedure in July 2022<sup>12</sup> and later in January 2023 also to the Parliament<sup>13</sup>. The draft bill was adopted by the Parliament on 15 March 2023 and should enter into force on 1 May 2023. Parallely, in January 2023, the Ministry of Justice of the Slovak Republic submitted the proposal for ratification of OPCAT to the inter-resort commentary procedure.<sup>14</sup>
10. The bill establishing NPM at the national level divides the role of NPM among three institutions, namely the Public Defender of Rights with coordinating role, the Commissioner for Children and the Commissioner for Persons with Disabilities, with respective division of roles and mandates. It also provides personal and financial capacities for establishment of NPM.
11. While welcoming the legislative steps necessary for ratification of OPCAT and establishment of NPM, the Centre has highlighted the need to provide the establishing mechanism with sufficient financial, material and personal resources.<sup>15</sup> The Public Defender of Rights has also communicated its concerns over the proposed financial and personal resources allocated to the three institutions for the period of first three years of functioning. The main reservation of the Public Defender of Rights was that the Analysis of impacts on the budget of public administration, on employment in public administration and funding of the proposal for 2023-2025 (“the Impact Analysis”) reflected assessments prepared in 2021 and has been thus insufficient in the current conditions. In particular, the allocated resources do not reflect on the valorisation of salaries in public administration since 2021, neither the increase of prices

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<sup>11</sup> Among the most recent see e.g.: Ministry of Justice of the Slovak Republic: *'LP/2019/563 Act amending and supplementing the Act No. 176/2015 Coll. on Commissioner for Children and Commissioner for Persons with Disabilities and amending and supplementing certain acts'*, submitted in July 2019, available in Slovak at: <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2019/563>; Ministry of Justice of the Slovak Republic: *'LP/2021/391 Act amending and supplementing the Act No. 564/2001 Coll. on Public Defender of Rights as amended and amending and supplementing certain acts'*, submitted in August 2021, available in Slovak at: <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2021/391>.

<sup>12</sup> Ministry of Justice of the Slovak Republic: *'LP/2022/336 Act amending and supplementing the Act No. 564/2001 Coll. on Public Defender of Rights as amended and amending and supplementing certain acts'*, submitted to inter-resort commentary procedure from 20 June 2022 to 11 July 2022, available in Slovak at: <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2022/336>.

<sup>13</sup> Governmental proposal of Act amending and supplementing the Act No. 564/2001 Coll. on Public Defender of Rights as amended and amending and supplementing certain acts, no. 1354, available at: <https://www.nrsr.sk/web/Default.aspx?sid=zakony/cpt&ZakZborID=13&CisObdobia=8&ID=1354>.

<sup>14</sup> Ministry of Justice of the Slovak Republic: *'LP/2023/30 Proposal for ratification of the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment'*, submitted to inter-resort commentary procedure from 26 January 2023 to 15 February 2023, available in Slovak at: <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2023/30>.

<sup>15</sup> Comment submitted by the Centre to the inter-resort commentary procedure No. LP/2022/336, available in Slovak at: <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2022/336/pripomienky/09f201b8-6a4c-4530-add8-52b7ab352109>.



for energies and services in 2022 and 2023.<sup>16</sup>

12. According to the Public Defender of Rights the allocated financial resources for establishment of NPM would sufficiently cover only initial activities concerning expert, organisation and technical creation of the mechanism predicted for the period from May to December 2023. The budget proposed for 2024 and 2025 is assessed by the Public Defender of Rights as insufficient.<sup>17</sup> The Centre believes that for NPM to be able to start effectively exercising its mandate at the national level, it is crucial that the developments since 2021 are taken into account and the institutions concerned are allocated extra financial resources.

### *Recommendations*

1. **To promptly finalise legislative procedures necessary for ratification of OPCAT at national level without undue delay.**
2. **To allocate sufficient material, financial and personal resources to the institutions forming the National Preventive Mechanism in order to allow them to effectively exercise their new mandate.**

### **4. ILL-TREATMENT AND EXCESSIVE USE OF FORCE BY LAW ENFORCEMENT AUTHORITIES (paragraph 5 of the LOIPR)**

13. Institutional racism is still deeply embedded in the criminal justice system of Slovakia.<sup>18</sup> Most of the cases<sup>19</sup> at national level containing ill-treatment and excessive use of force by law enforcement authorities against persons from marginalized Roma communities<sup>20</sup> have so far

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<sup>16</sup> Comment submitted by the Office of the Public Defender of Rights to the inter-resort commentary procedure No. LP/2023/30, available in Slovak at: <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2023/30/pripomienky/60fb7cd8-6e57-4a2a-816d-05d4b352d026>.

<sup>17</sup> Information provided to the Centre by the Public Defender of Rights. The Office of the Public Defender of Rights has communicated its position on the proposal also to the members of the parliament.

<sup>18</sup> See for example: Fair Trials, *'Uncovering anti-Roma discrimination in criminal justice systems in Europe'*, 2020, available at <https://www.fairtrials.org/articles/publications/uncovering-anti-roma-discrimination-in-criminal-justice-systems-in-europe/>; European Roma Rights Center, *'Brutal and bigoted: policing Roma in the EU'*, 2022, available at: [http://www.errc.org/uploads/upload\\_en/file/5397\\_file1\\_brutal-and-bigoted-policing-roma-in-the-eu.pdf](http://www.errc.org/uploads/upload_en/file/5397_file1_brutal-and-bigoted-policing-roma-in-the-eu.pdf); European Roma Rights Center & Fair Trials, *'Justice denied: Roma in the criminal justice system'*, 2021, available at: <http://www.errc.org/reports--submissions/justice-denied-roma-in-the-criminal-justice-system>.

<sup>19</sup> For example, enforcement interventions in April 2013 in Vrbnica, June 2013 in Moldava nad Bodvou, February 2015 in Rudňany, May 2017 in Zborov, July 2019 in Milhost' or April 2020 in Krompachy.

<sup>20</sup> According to the Strategy of Equality, Inclusion and Participation of Roma until 2030, it has to be underlined that Roma population in Slovakia is very diverse and it may be stigmatizing to consider all Roma to be disadvantaged in terms of poverty and social exclusion. This assumption is also incorrect in relation to all inhabitants of all settlements considered as Roma settlements. At the same time, Roma in Slovakia are among the most structurally disadvantaged and discriminated groups, regardless of their socio-economic background or living conditions. For this reason, marginality is not understood solely through the prism of socio-economic conditions, but more broadly, involving disadvantages (and multiple disadvantages) in various dimensions of life (including education, employment, participation and in terms of fight against anti-Roma racism). Accepting this fact, the 2030 Strategy defines marginalized Roma communities as: (a)



resulted either in dismissal<sup>21</sup> or an outcome in favour of the law enforcement authorities<sup>22</sup>, whereas none of them resulted in a conviction or disciplinary sanction against the authorities involved. Such approach remains alarming. The insufficient prosecutions of such cases stem from what have been reported as a deeply racist systemic setting.<sup>23</sup> Several international and regional monitoring bodies have previously concluded that investigations into allegations of law enforcement brutality remain inadequate and the existing police investigation mechanism is not sufficiently independent.<sup>24</sup> Additionally, they called on the Government to ensure prompt, impartial, thorough, and effective investigations into all such allegations, to punish the perpetrators, and to compensate the victims.

14. A number of cases have been brought by the applicants before the European court of Human Rights (“ECtHR”) after unsuccessful domestic investigations or litigations. The ECtHR has found serious violations of the European Convention on the Protection of Human Rights and Fundamental Freedoms (“the Convention”), mostly of Article 3 (prohibition of torture).
15. In the case of *R. R. and R. D. v. Slovakia*<sup>25</sup>, concerning a large-scale police operation in a Roma-inhabited area in Moldava nad Bodvou in 2013, the ECtHR found a violation of Article 3 (prohibition of torture) and 14 (prohibition of discrimination) of the Convention due to mistreatment by the police and the subsequent lack of effective investigation into the alleged discrimination in the planning of the operation. The Government has failed to show that the

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

<sup>21</sup> See for example: Police brutality in Milhost’, July 2019. Bernard Rorke: ‘*No case to answer: Slovak authorities dismiss another two police brutality cases against Roma*’, 2021, available at: <http://www.errc.org/news/no-case-to-answer-slovak-authorities-dismiss-another-two-police-brutality-cases-against-roma>.

<sup>22</sup> See for example: Judgment of the District Court of Košice II of 4 December 2019 and the Judgment of the Regional Court of Košice of 11 December 2020, Case No, 4To/54/2020.

<sup>23</sup> European Roma Rights Center: ‘*Brutal and bigoted: policing Roma in the EU*’, 2022, available at [http://www.errc.org/uploads/upload\\_en/file/5397\\_file1\\_brutal-and-bigoted-policing-roma-in-the-eu.pdf](http://www.errc.org/uploads/upload_en/file/5397_file1_brutal-and-bigoted-policing-roma-in-the-eu.pdf); Bernard Rorke: ‘*Justice Denied: Roma in the Criminal Justice System. A summary of findings from reports in Czech Republic, Slovakia, Serbia and North Macedonia. European Roma Rights Center*’, 2022. Available at: [http://www.errc.org/uploads/upload\\_en/file/5357\\_file1\\_justice-denied-roma-in-the-criminal-justice-system.pdf](http://www.errc.org/uploads/upload_en/file/5357_file1_justice-denied-roma-in-the-criminal-justice-system.pdf).

<sup>24</sup> UN Human Rights Council: Universal Periodic Review, Third Cycle - Slovakia, 2019; UN Human Rights Committee: ‘*Concluding observations on the fourth report of Slovakia*’, 2016, CCPR/C/SVK/CO/4, 7; Committee on the Elimination of Racial Discrimination: ‘*Concluding observations on the ninth to the tenth periodic report of Slovakia*’, 2013, CERD/C/SVK/CO/9-10, paras 10-13; Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: ‘*Concluding observations on the third periodic report of Slovakia*’, CAT/C/SVK/CO/3, 2015; Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities: ‘*Fifth Opinion on the Slovak Republic*’, ACFC/OP/V(2022)8, 2022, available at: <https://rm.coe.int/5th-op-slovak-republic-en/1680a6e4ee>; European Commission against Racism and Intolerance: ‘*ECRI Report on the Slovak Republic (sixth monitoring cycle)*’, 2020, available at: <https://rm.coe.int/ecri-6th-report-on-the-slovak-republic/1680a0a088>.

<sup>25</sup> Judgement of the ECtHR in case *R.R. and R.D. v. Slovakia*, Ap. No. 20649/18 of 1 September 2020, available at: <https://hudoc.echr.coe.int/eng/?i=001-204154>.





use of force against the applicants was indispensable and not excessive. Subsequently, based on the ECtHR's findings in the case of *R. R. and R. D. v. Slovakia* in connection with the opinion of the Office of the Prosecutor General of the Slovak Republic, the District Prosecutor's Office Košice I dismissed the charges against five out of six victims of the police operation in Moldava nad Bodvou, who were at the time being prosecuted for giving alleged false statements<sup>26</sup>. Later, the District Court of Košice I also terminated the criminal proceedings against the sixth charged victim. As a reaction, the Slovak Government published an "Apology of the Government of the Slovak Republic for the manner of intervention of the police forces in the case of Moldava nad Bodvou in 2013".<sup>27</sup> Execution of the ECtHR judgement in this case remains under enhanced supervision of the Committee of Ministers of the Council of Europe.<sup>28</sup>

16. Another case of excessive use of force by enforcement authorities involving a 16-year-old Roma boy, who was beaten up by two municipal police officers in Rudňany in January 2020, was subject to a judgment of the ECtHR in the case of *A.P. v. Slovakia*<sup>29</sup>. The ECtHR concluded that there had been a violation of Article 3 of the Convention and ruled in favour of the applicant.
17. In April 2021, the ECtHR ruled in *M.B. and Others v. Slovakia*<sup>30</sup> that Slovakia had failed to investigate allegations that police officers ill-treated three Roma boys in a police car after arresting them in 2009 in the city of Košice. This incident was followed by another incident of ill-treatment of six Roma boys at the police station. Moreover, some of the actions were being recorded on a mobile phone and the recordings were published on the internet. The allegations of ill-treatment at the police station were dealt with in a separate proceeding before the ECtHR. Although the investigation has not been dismissed like in similar cases, the criminal proceedings lasted almost 12 years, ending with an acquittal judgement.<sup>31</sup> In February 2023, the ECtHR issued a decision in the second incident of ill-treatment of six

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<sup>26</sup> Equity, o.z., European Roma Rights Center, ETP Slovakia, Amnesty International Slovakia & Centre for the Research of Ethnicity and Culture, '8 years of injustice upon the raid in Moldava: The judgement of ECtHR helped five out of the six victims to be dismissed charges, otherwise, nothing has changed', press release, 18 June 2021, available in Slovak at: <http://policajnarazia.sk/blog/tlačová-správa-8-rokov-čakanía-na-spravodlivosť>; See also: Equity, European Roma Rights Center, Amnesty International Slovakia, ETP Slovakia & Center for the Research of Ethnicity and Culture, 'The prosecution has dismissed charges against five out of six persons charged', 2021, available in Slovak at: <http://policajnarazia.sk/blog/prokuratúra-ustúpila-od-žalôb-piatich-zo-šiestich-obžalovaných>.

<sup>27</sup> Resolution of the Government of the Slovak Republic No. 367/2021 on the Excuse of the Government of the Slovak Republic for the manner of intervention of the police forces in the case of Moldava nad Bodvou in 2013, 23 June 2021, available in Slovak at: <https://rokovania.gov.sk/RVL/Resolution/19340/1>.

<sup>28</sup> Secretariat of the Committee of Ministers of the Council of Europe, 'Table of cases and groups of cases under enhanced supervision', available at: [https://search.coe.int/cm/pages/result\\_details.aspx?ObjectId=0900001680a3e32a](https://search.coe.int/cm/pages/result_details.aspx?ObjectId=0900001680a3e32a).

<sup>29</sup> Judgement of the ECtHR in case *A. P. v. Slovakia*, Ap. No. 10465/17 of 28 January 2020, available at: <https://hudoc.echr.coe.int/eng?i=001-200556>.

<sup>30</sup> Judgement of the ECtHR in case *M. B. and Others v. Slovakia*, Ap. No. 45322/17 of 1 April 2021, available at: <https://hudoc.echr.coe.int/eng?i=001-208879>.

<sup>31</sup> European Roma Rights Centre: 'Rule 9 submission with regard to the execution of *R.R. and R.D. v Slovakia*, application no. 20649/18, judgment of 1 September 2020', available at: [http://www.errc.org/uploads/upload\\_en/file/5467\\_file1\\_rule-9.2-submission-in-the-r.r.-and-r.d.-v-slovakia-2023.pdf](http://www.errc.org/uploads/upload_en/file/5467_file1_rule-9.2-submission-in-the-r.r.-and-r.d.-v-slovakia-2023.pdf).



Roma boys at the police station, in which it found that there had been a violation of Article 3 taken together with Article 14 of the Convention.<sup>32</sup> The ECtHR stated that the state authorities failed to take all reasonable steps to unmask any racist motive and to establish whether or not ethnic hatred or prejudice may have played a role in the applicants' ill-treatment.<sup>33</sup>

18. In June 2022, in the case of *M.H. and Others v. Slovakia*,<sup>34</sup> the ECtHR took note of the friendly settlement reached between the Slovak Government and the applicants regarding their complaints linked to a police operation that took place in June 2013 in Moldava nad Bodvou and the ensuing investigation into allegations of abuse of authority, ill-treatment and discrimination by the law enforcement officers involved. According to the friendly-settlement declarations signed by the parties, the applicants agreed to waive any further claims against Slovakia in respect of the facts giving rise to this application against an undertaking by the Government to pay them ex gratia jointly EUR 110 000 to cover any non-pecuniary damage, plus any tax that may be chargeable.
19. In connection with the need to improve the approach of public authorities to provide better protection of fundamental rights and freedoms, especially of vulnerable groups, the Centre has stressed the importance of usage of body cameras and videotapes of all law enforcement interventions where the use of coercive means is foreseen. In 2022, the legislation concerning the Police Force<sup>35</sup> was amended, replacing the name badge of the law enforcement authorities on their uniform with an identification number. However, the use of body cameras has still not been implemented. This significantly hampers the possibility of victims to objectify the facts in case of doubts about the legality of intervention of use of force by law enforcement authorities.
20. According to the Centre, body cameras on the uniforms of law enforcement authorities could help to clarify the course of police interventions and increase the credibility of the Police Force of the Slovak Republic. Body cameras can be used both to protect individuals from excessive use of force as well as to protect law enforcement authorities from unfounded accusations of excessive use of force. In 2021, the Public Defender of Rights also addressed a letter to the Ministry of Interior of the Slovak Republic, regretting the lack of body cameras for the law enforcement authorities, which affects monitoring of law enforcement authorities.<sup>36</sup>

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<sup>32</sup> Judgement of the ECtHR in case *M. B. and Others v. Slovakia (No. 2)*, Ap. No. 63962/19 of 7 February 2023, available at: <https://hudoc.echr.coe.int/eng?i=001-223108>.

<sup>33</sup> *Ibid.*, § 96.

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

<sup>35</sup> Act No. 171/2003 Coll. on the Police Force, as amended, available in Slovak at: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1993/171/>.

<sup>36</sup> This has also been reported by the Centre in 2022 in relation to the thirteenth periodic report of Slovakia to the Committee on the Elimination of Racial Discrimination, available at: [https://www.snslp.sk/wp-content/uploads/CERD\\_submission\\_SNCHR\\_final.pdf](https://www.snslp.sk/wp-content/uploads/CERD_submission_SNCHR_final.pdf).



## *Recommendations*

- 1. To ensure systematic public condemnation of racism and ill-treatment by law enforcement authorities and to ensure that any allegations of excessive use of force or ill-treatment as well as misconduct by law enforcement authorities is sufficiently and systematically addressed, subject to effective and impartial investigation and sanctioned.**
- 2. To carry out a thorough assessment and take all reasonable steps to unmask any racist motive and to ascertain whether or not ethnic bias may have played a role in the alleged ill-treatment or excessive use of force.**
- 3. To ensure equal access to courts and to effective judicial remedies for Roma victims of excessive use of force and ill-treatment, as well as to ensure effective implementation of existing judgments of the European Court of Human Rights.**
- 4. To ensure effective protection of alleged victims and witnesses to excessive use of force and ill-treatment by law enforcement authorities from any potential reprisals.**
- 5. To adopt necessary measures to prevent ill-treatment by law enforcement authorities, as well as to ensure capacity-building activities, including ensuring sufficient training opportunities on human rights and non-discrimination to law enforcement bodies.**
- 6. To adopt necessary measures to facilitate investigations of allegations of excessive use of force or ill-treatment by police, including by recording police interventions and interrogations through body cameras on the uniforms of police officers.**

## **5. INVOLUNTARY STERILIZATIONS**

### **5.1 Involuntary sterilizations of Roma women (paragraph 8 of the LOIPR)**

21. Forced and coercive sterilizations of mainly Roma women in between 1966-1989 and in 1990-2004 have been documented by a number of national civil society organizations<sup>37</sup> (some already in 2003), the Public Defender of Rights of the Slovak Republic<sup>38</sup> as well as regional and international human rights bodies<sup>39</sup>, and further highlighted by adjudication at the ECtHR,

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<sup>37</sup> Center for Reproductive Rights and Center for Civil and Human Rights: *'Body and Soul – Forced Sterilization and Other Assaults on Roma Reproductive Freedom in Slovakia'*, 2003, available at: [https://reproductiverights.org/sites/crr.civicactions.net/files/documents/bo\\_slov\\_part1.pdf](https://reproductiverights.org/sites/crr.civicactions.net/files/documents/bo_slov_part1.pdf).; Center for Reproductive Rights and Center for Civil and Human Rights: *'Vakeras Zorales – Speaking Out, Roma women's experience in reproductive health care in Slovakia'*, 2017, available at: <https://poradna-prava.sk/wp-content/uploads/2021/11/vakeras-zorales-speaking-out-roma-womens-experiences-in-reproductive-health-care-in-slovakia-1.pdf>.

<sup>38</sup> The Office of the Public Defender of Rights: *'Report on the Activities of the Public Defender of Rights of the Slovak Republic for 2018'*, 2019, pp. 43-44, available at: [https://vop.gov.sk/wp-content/uploads/2021/10/KVOP\\_Vyrocnna\\_sprava\\_ENG\\_web.pdf](https://vop.gov.sk/wp-content/uploads/2021/10/KVOP_Vyrocnna_sprava_ENG_web.pdf)

<sup>39</sup> See for instance European Commission against Racism and Intolerance: *'ECRI Report on the Slovak Republic (sixth monitoring cycle)'*, 2020, available at: [https://ec.europa.eu/migrant-integration/library-document/ecri-report-slovak-republic-sixth-monitoring-cycle\\_en](https://ec.europa.eu/migrant-integration/library-document/ecri-report-slovak-republic-sixth-monitoring-cycle_en); CERD/C/ SVK/CO/6-8; CEDAW/C/SVK/CO/5-6; CCPR/C/SVK/CO/4; E/C.12/SVK/CO/3 and subsequent Concluding observations.



and through domestic<sup>40</sup> case law. Although not the only victims of involuntary sterilization, Roma women have been at a particular risk “*seemingly driven by discriminatory attitudes against this minority.*”<sup>41</sup>

22. The ECtHR has considered a number of cases involving the Slovak Republic and found violations of the rights of Roma women, as guaranteed by the Convention. In the case of *K. H. and Others v. Slovakia*<sup>42</sup>, the ECtHR found violation of Article 8 of the Convention (right to respect for private and family life) and violation of Article 6 §1 of the Convention (access to court); in the case of *V.C. v. Slovakia*<sup>43</sup>, it found substantive violation of Article 3 of the Convention (prohibition of torture) and violation of Article 8 of the Convention; further, in the case of *N.B. v. Slovakia*<sup>44</sup>, the ECtHR found substantive violation of Article 3 of the Convention and a violation of Article 8 of the Convention; and in the case of *I.G. And Others V. Slovakia*<sup>45</sup>, the ECtHR found substantive violation of Article 3, procedural violation of Article 3 and violation of Article 8 of the Convention.
23. In her letter to the Prime Minister and the Minister of Justice of the Slovak Republic of July 2021, the Council of Europe Commissioner for Human Rights, Dunja Mijatović, stated her concern with the fact that the „*existing mechanisms, in the form of domestic civil claims, have not provided an effective means of redress for this serious human rights violation, owing to the many obstacles the victims face.*“<sup>46</sup> The Commissioner underlined lack of remedies and effective forms of redress, including for those victims whose cases were not litigated in front of the ECtHR, and lack of acknowledgment and apology for victims.<sup>47</sup>
24. In her reply to the Commissioner’s letter, the Minister of Justice of the Slovak Republic stated that Slovakia takes the issue very seriously and that the Minister was considering options to examine the cases and provide reparations, noting establishment of the committee of experts in 2003, institute of informed consent in 2004 and its translation into nine minority languages, including Romani.<sup>48</sup>

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<sup>40</sup> In February 2020, Košice Regional Court awarded 16 000 € in damages and interest to a Roma woman who had been a victim of sterilization without prior consent. The judicial proceedings had gone on for over 15 years.

<sup>41</sup> Council of Europe Commissioner for Human Rights: ‘*Letter to the Prime Minister of the Slovak Republic and the Minister of Justice of the Slovak Republic*’, CommHR/DM/sf 026-2021, 12 July 2021, available at: <https://rm.coe.int/letter-to-mr-eduard-heger-prime-minister-of-the-slovak-republic-and-ms/1680a332a3>.

<sup>42</sup> Judgement of the ECtHR in case *K. H. and Others v. Slovakia*, Ap. No. 32881/04 of 28 April 2009, available at: <https://hudoc.echr.coe.int/eng-press?i=003-2718812-2971322>.

<sup>43</sup> Judgement of the ECtHR in case *V. C. v. Slovakia*, Ap. No. 18968/07 of 8 November 2011, available at: <https://hudoc.echr.coe.int/fre?i=001-107364>.

<sup>44</sup> Judgement of the ECtHR in case *N.B. v. Slovakia*, Ap. No. 29518/10 of 12 June 2012, available at: <https://hudoc.echr.coe.int/fre?i=001-111427>.

<sup>45</sup> Judgement of the ECtHR in case *I.G. and Others v. Slovakia*, Ap. No. 15966/04 of 13 November 2012, available at: <https://hudoc.echr.coe.int/fre?i=001-114514>.

<sup>46</sup> Council of Europe Commissioner for Human Rights: ‘*Letter to the Prime Minister of the Slovak Republic and the Minister of Justice of the Slovak Republic*’, CommHR/DM/sf 026-2021, 12 July 2021, available at: <https://rm.coe.int/letter-to-mr-eduard-heger-prime-minister-of-the-slovak-republic-and-ms/1680a332a3>.

<sup>47</sup> *Ibid.*

<sup>48</sup> The letter is available in English at: <https://rm.coe.int/reply-of-ms-maria-kolikova-minister-of-justice-of-the-slovak-republic-/1680a33c17>. Note: The letter is dated 15 July 2020 by mistake as it should read 15 July 2021.



25. In November 2021, the Slovak Government issued a formal apology to victims of forced sterilization, by approving the material called “*Apology of the Government of the Slovak Republic for sterilization of women in violation of the law*”. Therein, Slovakia apologized for cases of sterilizations and violation of human rights of (mainly) Roma women in years 1966-1989 and 1990-2004, where “*the informed consent to the procedure was not always obtained in an adequate process with understanding, but on the contrary, under duress, without sufficient time for reflection and often even at the starting of delivery pain.*”<sup>49</sup> The Council of Europe Commissioner for Human Rights welcomed the apology as a first step, and underlined the need to adopt an accessible and effective compensation mechanism.<sup>50</sup>
26. Although there has been a shift in the Government’s acknowledgment and recognition of human rights violations, the current national framework does not yet allow the affected women to obtain effective redress. Moreover, despite that the current legal framework provides sufficient legal safeguards, active steps must be taken by state authorities to ensure and monitor the implementation of the legislation by medical practitioners. There are also no reliable data on the exact number of victims of past involuntary sterilizations. The Centre requested the Ministry of Health of the Slovak Republic to provide information on any planned outreach activities or information campaigns for the potential victims of involuntary sterilization, however, the ministry did not respond to its request.
27. In March 2023, the Ministry of Justice introduced a Legislative intent of the law on financial compensation for women sterilized in violation of the law<sup>51</sup> to the inter-departmental commentary procedure. The legislative intent proposes a one-off compensation of EUR 5 000 to “*a physical persons who underwent sterilization in violation of the law in the period from 1 July 1966 to 31 December 2004 in a medical facility in the territory of the Slovak Republic*”.<sup>52</sup>
28. Although welcoming the legislative intent to create a compensation mechanism, the Centre raised several issues, including recommendation to increase the amount of the financial compensation to EUR 10 000, introduce the right to submit a request in the language of national minorities and proposes that the Ministry of Justice of the Slovak Republic be the decision-making authority in the proceedings, instead of the Ministry of Health of the Slovak Republic. The Centre further recommended to include in the law a direct establishment of the presumption of illegal sterilization therefore in practice reversing the burden of proof, establishing the assumption that the procedure was performed on the applicant in violation of

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<sup>49</sup> Resolution of the Government of the Slovak Republic No. 674 on *Apology of the Government of the Slovak Republic for sterilization of women in violation of the law*, 22 November 2021, available in Slovak at: <https://rokovania.gov.sk/RVL/Material/26642/1>.

<sup>50</sup> Commissioner for Human Rights, tweet, 24 November 2021, retrieved on 8 March 2023, available at: <https://twitter.com/CommissionerHR/status/1463569227051421697>.

<sup>51</sup> Ministry of Justice of the Slovak Republic: ‘*LP/2023/64 Legislative intent of the law on one-time financial compensation for women sterilized in violation of the law*’, available in Slovak at: <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2023/64>.

<sup>52</sup> *Ibid*, para 2.1.1.



the law until the decision-making body does not prove the contrary. This is proposed due to the fact that a number of women may not have access to medical documentation or documents confirming the sterilization procedure, taking also into account a considerable amount of time since the procedure was performed. The Centre further recommended that the deadline for submitting the request for financial compensation be set at 5 years as opposed to the proposed 2 years.<sup>53</sup> In addition, the Public Defender of Rights also recommended to incorporate a subsequent support system for victims who may face stigmatization or may face various forms of abuse and to minimize potential administrative, financial and language barriers for victims, that can indirectly affect the possibility of victims to seek compensation.<sup>54</sup> The Public Defender of Rights also recommended that the legislation includes at least partially references to substantive information that should be included in the request for compensation.<sup>55</sup>

### *Recommendations*

- 1. To follow-up on the recommendations of international and regional monitoring bodies and ensure prompt, independent, impartial and effective investigation of all past cases of involuntary sterilizations of Roma women and other victims and assure that perpetrators are brought to justice.**
- 2. To adopt necessary measures to ensure access to effective remedies, including adequate compensation without further delay for women who have been victims of involuntary sterilization and ensure that lack of medical documentation does not constitute an obstruction for the compensation of the victims.**
- 3. To consult Roma women and their organizations, including Roma women human rights defenders in all measures taken to address and remedy involuntary sterilizations. Conduct outreach information campaigns for potential victims of past involuntary sterilizations, including in the languages of national minorities, and support victims to prevent potential abuse by third parties providing legal and financial services.**

### **5.2 Involuntary sterilizations of transgender persons as requirement for legal gender recognition**

29. Legislation on legal gender recognition in Slovakia has been very vague causing interpretation problems and resulting in a long-term practice (not based on any legal provision) when doctors required sterilization of a patient as part of medical gender transition or civil registries required

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<sup>53</sup> Comments by the Slovak National Centre for Human Rights to LP/2023/64 Legislative intent of the law on financial compensation for women sterilized in violation of the law, available in Slovak at: <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2023/64/pripomienky/zobraz?page=4>.

<sup>54</sup> Comments by the Public Defender of Rights to LP/2023/64 Legislative intent of the law on one-time financial compensation for women sterilized in violation of the law, available in Slovak at <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2023/64/pripomienky/ab7f8409-54d6-4441-b3fb-322b4e001fef>.

<sup>55</sup> Ibid.



confirmation that a transgender person underwent surgical sterilization as a precondition of registering change of his/her name and surname (i.e. legal gender recognition).<sup>56</sup>

30. Forced sterilizations as a requirement of legal gender recognition have been found in violation with the right to protection of private life<sup>57</sup> by violating physical and moral integrity of a person as well as a violation of the right to health<sup>58</sup>. The UN Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment recognised that forced procedures such as sterilizations are “rarely, if ever, medically necessary, lead to sever and life-long physical and mental pain and suffering and can amount to torture and ill-treatment”.<sup>59</sup> Moreover, unwanted or forced sterilizations and surgeries in order to be able to exercise the right to gender recognition before the law have, been recognised as a form of violence against trans persons in health-care settings.<sup>60</sup>
31. Regarding free and informed consent to sterilizations if such is a requirement of legal gender recognition, it must be underlined that a “medical treatment cannot be considered to be the subject of genuine consent when the fact of not submitting to it deprives the person concerned of the full exercise of his or her right to gender identity and personal development”<sup>61</sup>. Informed consent in general is not a mere acceptance of a medical intervention, but a voluntary and sufficiently informed decision.<sup>62</sup> Consent given by a transgender person to sterilization is

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<sup>56</sup> TransFúzia, Inakosť, Transgender Europe & ILGA-Europe: 'Submission by TransFúzia, Inakosť, Transgender Europe and ILGA-Europe on the 3rd report by Slovakia on the implementation of the revised European Social Charter, Article 11 – the right to protection of health', 2013, pp. 5-6, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168048b86c> or European Committee of Social Rights: 'Conclusions 2021 – Slovak Republic - Article 11 (1)', 2021, available at: [Conclusions 2021 - Slovak Republic - Article 11-1 \(coe.int\)](https://conclusions2021.slovakia.coe.int). See also: METEŇKANYČ, O. M.: 'Forced castration as a requirement for legal gender transition in the Slovak Republic'. In: COMENIUS magazine, 2/2021, pp. 11-16, available in Slovak at: <https://comeniuscasopis.flaw.uniba.sk/2022/01/10/comenius-casopis-2-2021/> or PAVLÍČKOVÁ, Z.: 'Attempts to limiting legal gender recognition in Slovakia'. In: Status of transgender persons in Slovakia – Interdisciplinary views, 2022, pp. 70-73, available in Slovak at: [https://www.flaw.uniba.sk/uploads/media/Postavenie\\_transrodovych\\_ludi\\_na\\_Slovensku\\_Interdisciplinarne\\_pohlad\\_y.pdf](https://www.flaw.uniba.sk/uploads/media/Postavenie_transrodovych_ludi_na_Slovensku_Interdisciplinarne_pohlad_y.pdf).

<sup>57</sup> Mainly, but not exclusively, in the case-law of the ECtHR regarding Article 8 of the Convention. See: Judgement of the ECtHR in case *A.P., Garçon and Nicot v. France*, Ap. Nos. 79885/12, 52471/13 and 52596/13 of 6 April 2017, available at: <https://hudoc.echr.coe.int/eng?i=001-172913> and Judgement of the ECtHR in case *Y.Y. v. Turkey*, Ap. No. 14793/08 of 10 March 2015, available at: <https://hudoc.echr.coe.int/eng?i=001-153134>.

<sup>58</sup> European Committee of Social Rights: Decision on merits in *Transgender Europe and ILGA-Europe v. the Czech Republic* of 15 May 2018, Complaint No. 117/2015, paras. 82 and 86, available at: <https://hudoc.esc.coe.int/eng?i=cc-117-2015-dmerits-en>

<sup>59</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 2016, A/HRC/31/57, para. 48, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/000/97/PDF/G1600097.pdf?OpenElement>.

<sup>60</sup> Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, 2018, A/HRC/38/43, para. 44, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/132/12/PDF/G1813212.pdf?OpenElement>.

<sup>61</sup> Judgement of the ECtHR in case *A.P., Garçon and Nicot v. France*, Ap. Nos. 79885/12, 52471/13 and 52596/13 of 6 April 2017, para. 130, available at: <https://hudoc.echr.coe.int/eng?i=001-172913>

<sup>62</sup> Report of the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 2009, para. 9, available at: <https://www.ohchr.org/en/documents/reports/report-special-rapporteur-right-everyone-enjoyment-highest-attainable-standard-mental-health>.



often given in situations when a transgender person would not otherwise want to undergo any gender reassignment measures, however, he or she ends up “*de facto in a situation where [he or she is] forced to accept such treatment*” as part of a legal process of gender recognition.<sup>63</sup>

32. With regards to the contested practice in Slovakia, in April 2022, there was an attempt to precise the regulation of legal transitions by adoption of an “*Expert guidance of the Ministry of Health of the Slovak Republic unifying processes of provision of health care in gender transition prior issuing medical assessment of gender transition of a person administratively registered in the Civil Registry*” (“the Expert guidance on transitions”).<sup>64</sup> The Expert guidance on transitions regulated crucial issues such as model informed consent form for transition related healthcare or model medical assessment required under the Act No. 300/1993 Coll. on Name and Surname as a requirement for recognition of new name and surname of a person during or upon transition. According to the Expert guidance on transition, surgical sterilization was clearly not a requirement of legal recognition of medical and social transition and was only optional.
33. The Expert guidance on transitions was subject to strong criticism and political pressure originating from conservative voices<sup>65</sup>, which consequently caused that its effectiveness and validity were ceased in May 2022 and reasoned by the need to define standard procedures for provision of healthcare to a person with a diagnosis of transsexualism (F 64.0 under the older, no longer valid WHO-ICD 10).<sup>66</sup> Such situation resulted in uncertainty over conditions of medical and legal transitions and in certain cases resulted also in refusal of civil registries to register changes necessary for legal gender transition or requiring confirmation of surgical sterilization as a precondition to do so. In such situation, the Ministry of Interior of the Slovak Republic issued in December 2022 an information for civil registries recommending that the civil registries continue exercising administrative gender recognition based on a medical assessment that clearly confirms that the medical transition resulted in a definite termination

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<sup>63</sup> European Committee of Social Rights: Decision on merits in Transgender Europe and ILGA-Europe v. the Czech Republic of 15 May 2018, Complaint No. 117/2015, para. 54, available at: <https://hudoc.esc.coe.int/eng?i=cc-117-2015-dmerits-en>.

<sup>64</sup> Expert guidance of the Ministry of Health of the Slovak Republic No. 16/2022 unifying processes of provision of health care in gender transition prior issuing medical assessment of gender transition of a person administratively registered in the Civil Registry, Journal of the Ministry of Health of the Slovak Republic No. 18-20 of 6 April 2022, available in Slovak at: <https://www.health.gov.sk/?vestniky-mz-sr>.

<sup>65</sup> See e.g.: in Poradňa & Prizma: ‘*Position of the consultancy centres on the attempts to repeatedly introduced forced castrations of transgender persons in Slovakia*’, May 2022, available in Slovak at: <https://inakost.sk/stanovisko-poradenskych-centier/>; Amnesty International Slovakia: ‘*Open letter of the Amnesty International addressed to the Minister of Health concerning the Expert guidance on transitions*’, May 2022, available in Slovak at: <https://www.amnesty.sk/otvoreny-list-amnesty-international-adresovany-ministrovi-zdravotnictva-vo-veci-odborneho-usmernenia-o-tranzicii/>; ‘*You are hurting us, we also just want a calm life, trans persons refer to politicians that want to castrate them*’, In: [queerslovakia.sk/text/komunita/ublizujete-nam-aj-my-tuzime-po-pokojnom-zivote-odkazuju-trans-ludia-politikom-ktori-ich-chcu-kastrovat/](https://queerslovakia.sk/text/komunita/ublizujete-nam-aj-my-tuzime-po-pokojnom-zivote-odkazuju-trans-ludia-politikom-ktori-ich-chcu-kastrovat/).

<sup>66</sup> Information published in the Journal of the Ministry of Health of the Slovak Republic No. 28-29 of 18 May 2022, available in Slovak at: <https://www.health.gov.sk/?vestniky-mz-sr>.





of reproductive process (i.e. a person has been sterilized).<sup>67</sup> Such practice was clearly incompatible with the attempted regulation in the Expert guidance on transitions as well as with the case-law of the ECtHR and the decision of the Supreme Administrative Court of the Slovak Republic<sup>68</sup>, which confirmed that such precondition is not required by any provision under the national law.

34. On 3 March 2023, the Ministry of Health of the Slovak Republic published at its website “*Standard procedure for diagnosis and complex management of health care for an adult person with transsexualism (F64.0)*”<sup>69</sup>, including model informed consent and division of health care for persons with transsexualism into several stages and clearly stating that surgical sterilization is only an optional treatment available upon request and informed consent of the person concerned. Publication of these standards consequently caused that the Expert guidance on transitions became again valid and effective.
35. The publication of standards caused opposition and the fact that they were published a day before resignation of the former Minister of Health of the Slovak Republic subjected them to internal audit at the ministry concerning all the decisions adopted in his last days in the office<sup>70</sup>. The Centre believes that it is crucial that regulations of medical and legal transitions, which have finally ensured that Slovakia observes international human rights standards, including under the prohibition of torture or other cruel, inhuman or degrading treatment, remain effective and are not subject to retrogression and further political interference.

### *Recommendations*

- 1. Ensure effective implementation of the Expert guidance of the Ministry of Health Care of the Slovak Republic on transitions, including the newly adopted Standard procedure for diagnosis and complex management of health care for an adult person with transsexualism (F64.0) and provide accessible procedures of medical transition for all transgender persons that are in line with international human rights standards.**

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<sup>67</sup> Ministry of Interior of the Slovak Republic: ‘*Informing civil registries - statement*’ provided to the Committee for rights of LGBTI persons of the Government Council of the Slovak Republic for Human Rights, National Minorities and Gender Equality of 8 February 2023.

<sup>68</sup> Judgement of the Supreme Administrative Court of the Slovak Republic of 19 October 2022, No. 1Sžk/38/2021, available in Slovak at: [https://www.nssud.sk/web\\_object/Rozhodnutia\\_PDF/1S%C5%BEk382021.pdf](https://www.nssud.sk/web_object/Rozhodnutia_PDF/1S%C5%BEk382021.pdf).

<sup>69</sup> Ministry of Health of the Slovak Republic: ‘*Standard procedure for diagnosis and complex management of health care for an adult person with transsexualism (F64.0)*’, available in Slovak at: <https://www.health.gov.sk/?Standardne-Postupy-V-Zdravotnictve>.

<sup>70</sup> Information that the last signed decisions will be reviewed was communicated in the media. See e.g.: ‘*Simplification of gender transition caused uproar. Expert explains what does the new guidance really bring about*’, In: rtvs, 15 March 2023, available in Slovak at: <https://spravy.rtvs.sk/2023/03/zjednodusenie-zmeny-pohlavia-vyvolalo-rozruch-odbornik-vysvetluje-co-v-skutocnosti-prinasa-nove-usmernenie/>.



## 6. DOMESTIC VIOLENCE IN THE LIGHT OF COVID-19 (paragraph 9 of the LOIPR)

36. The COVID-19 pandemic has brought a significant increase in the intensity and brutality of domestic violence.<sup>71</sup> Statistics show that up to 95% of victims of domestic violence are women.<sup>72</sup> UN Women research confirms the sharp rise of violence against women and girls since the outbreak of COVID-19.<sup>73</sup> National data have indirectly confirmed this. For example, the number of calls to National Hotline for Women Experiencing Violence increased by 49% in 2020 compared to the previous year. In 2021, the monthly number of women contacting the hotline significantly exceeded the average monthly number in 2019.<sup>74</sup> The number of women contacting the helpline for the first time increased by 37%, as did the number of calls from third parties, i.e. acquaintances and relatives of women experiencing violence, by 43%.<sup>75</sup>
37. According to the General Prosecutor's Office of the Slovak Republic, in relation to the crime of abuse of a close person and confidant, an increase of up to 18% in criminal prosecutions was recorded in 2020.<sup>76</sup> Violence more often led to more fatal consequences, as evidenced by the higher number of homicides in close and familial relationships. In 2020, 16 people died at the hands of their relatives, which is 78% more than in 2019. Also, the number of murders of women by their partners rose by 71%.<sup>77</sup> Increased willingness of women to address partner violence through criminal law is also documented by police statistics.<sup>78</sup>
38. In 2020, services for women experiencing violence and their children were included among the subjects of economic mobilization by government resolution. However, neither the Government nor the Ministry of Labour, Social Affairs and Family of the Slovak Republic took any specific measures towards service providers for this target group during the COVID-19 pandemic.<sup>79</sup> Service providers thus followed the guidelines and recommendations for all types of social services. For example, in the case of worsening of the epidemiological situation, residential crisis intervention services could accept a new client only after submitting a negative test, but even in this case the client had to be separated from others for

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<sup>71</sup> *Helping victims of domestic violence*. Available in Slovak at: <https://korona.gov.sk/pomoc-obetiam-domaceho-nasilia/>.

<sup>72</sup> *Ibid.*

<sup>73</sup> UN Women, UNFPA and Quilt.ai: '*COVID-19 and violence against women: The evidence behind the talk. Insights from big data analysis in Asian countries.*' 2021, available at: <https://data.unwomen.org/publications/covid-19-andviolence-against-women-evidence-behind-talk>

<sup>74</sup> Očenašová, Z.: '*COVID-19 as the perfect storm for partner violence against women*'. Bratislava, 2021, p. 8, available in Slovak at: <https://ivpr.gov.sk/covid-19-ako-dokonalna-burka-pre-partnerske-nasilie-pachane-na-zenach-zuzana-ocenasova-2021/>.

<sup>75</sup> Vitéková, M.: *Report on the activities of the National Hotline for Women Experiencing Violence in 2020*. Bratislava, 2021, available in Slovak at: [https://ivpr.gov.sk/wp-content/uploads/2022/02/bulletin\\_ivpr\\_1\\_2022.pdf](https://ivpr.gov.sk/wp-content/uploads/2022/02/bulletin_ivpr_1_2022.pdf).

<sup>76</sup> Attorney General's Office of the Slovak Republic (2021): '*Report of the Attorney General of the Slovak Republic on the activities of the prosecutor's office and on the state of legality in the Slovak Republic for 2020*'. Available in Slovak at: <https://www.genpro.gov.sk/extdoc/55308/Sprava%20o%20cinnosti%20prokuratury%20za%20rok%202020>.

<sup>77</sup> Očenašová, Z.: '*COVID-19 as the perfect storm for partner violence against women*'. Bratislava, 2021, p. 8, available in Slovak at: <https://ivpr.gov.sk/covid-19-ako-dokonalna-burka-pre-partnerske-nasilie-pachane-na-zenach-zuzana-ocenasova-2021/>.

<sup>78</sup> *Ibid*, p. 8.

<sup>79</sup> *Ibid*, p. 11.



5 to 7 days.<sup>80</sup> Furthermore, outpatient services were obliged to shift to distance provision of care. This shows that even if well-intentioned, nationwide anti-pandemic measures represented a potentially negative impact for women experiencing partner or domestic violence. Counselling centres have also switched during the first wave of the pandemic to distance counselling, however, none of the social service providers for women participating in research<sup>81</sup> had their services interrupted during the COVID-19 pandemic.

39. There has also been a decline in the functioning of various institutions, which has had the effect of slowing down the resolution of legal cases involving women experiencing violence. For example, inevitable court hearings were postponed or cancelled. In the criminal agenda, 21% of court hearings were cancelled (compared to 10% in 2019) and in the family agenda, up to 24% were cancelled, compared to 10% in 2019.<sup>82</sup>
40. It is, however, important to note that during the pandemic, there has been an increase in public awareness of domestic violence, which has inspired the establishment of intervention centers for the victims of domestic violence in July 2021.<sup>83</sup> The intervention centers were created by an amendment to Act No. 274/2017 Coll. on Victims of Crimes and on Amendments and Additions to Certain Acts, which, in cooperation with the police, aids victims of domestic violence in cases where the violent person has been evicted from the shared household, as well as assistance to those victims of domestic violence who contact it directly, free of charge for a minimum period of three months.<sup>84</sup>

### *Recommendations*

- 1. To ensure that in the event of a pandemic, public emergency, security threat, or other situations that might have greater impact on the victims of domestic violence, addressed measures are promptly adopted, securing the necessity of immediate personal access to medical and other social services without the requirement of a waiting period.**
- 2. To ensure effective functioning of intervention centres in all regions and helplines for the victims of domestic violence and allocate sufficient financial resources to sustain their operation.**

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<sup>80</sup> National Action Plan for the Prevention and Elimination of Violence on violence against women for 2022 – 2027. Available in Slovak at: <https://www.employment.gov.sk/files/sk/ministerstvo/spolocny-sekretariat-vyborov/vybor-rodovu-rovnost/dokumenty-udalosti/nap-eliminacia-nasilia-zenach.pdf>.

<sup>81</sup> Ibid.

<sup>82</sup> Analytical Centre of the Ministry of Justice of the Slovak Republic: 'A year without hearings? Commentary'. 2021, available in Slovak at: [https://web.ac-mssr.sk/wp-content/uploads/2021/analyzy\\_komentare/20210208\\_COVID\\_REPORT\\_Pojednavania\\_FINAL\\_1.pdf](https://web.ac-mssr.sk/wp-content/uploads/2021/analyzy_komentare/20210208_COVID_REPORT_Pojednavania_FINAL_1.pdf).

<sup>83</sup> Ministry of Justice of the Slovak Republic: 'Register of entities providing assistance to victims'. Available in Slovak at: <https://www.justice.gov.sk/sluzby/pomoc-obetiam/pre-statne-organy/>.

<sup>84</sup> 'Ministry of Justice: Intervention centres to be all over the Slovak Republic in a year' at [teraz.sk](https://www.teraz.sk/slovensko/rezort-spravodlivosti-intervencne-cen/591832-clanok.html), 20.11.2021, available in Slovak at: <https://www.teraz.sk/slovensko/rezort-spravodlivosti-intervencne-cen/591832-clanok.html>.