

**Alternative Report of the Public Defender of Rights for the VI Review Cycle of the  
Committee on the Rights of the Child, 98th Session (13–31 January 2025), Slovakia**

**December 2024**

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## 1. Introduction

The Public Defender of Rights (Ombudsperson) submits this alternative report to the UN Committee on the Rights of the Child (the Committee) ahead of Slovakia's examination during the VI Review Cycle at the 98th Session (13–31 January 2025). This report underscores the Public Defender of Rights' concerns regarding Slovakia's adherence to key provisions of the Convention on the Rights of the Child, highlighting issues that hinder the full realization of children's rights.

Under Article 151a of the Constitution of the Slovak Republic, the Public Defender of Rights is an independent body tasked with safeguarding fundamental rights and freedoms, as defined by law, against violations by public administration bodies. Under Section 13(1) of Act No. 564/2001 Coll., the Ombudsperson acts based on complaints from natural persons or legal entities or on the Ombudsperson's own initiative.

The Public Defender of Rights actively addresses issues concerning children's rights through individual complaints and own-initiative actions. The Ombudsperson's mandate encompasses the protection of fundamental rights and freedoms as guaranteed by the Constitution of the Slovak Republic and international conventions, including the Convention on the Rights of the Child. This includes investigating cases where public administration bodies may have failed to act in accordance with the law or the principles of a democratic state. For example, the Ombudsperson has intervened in cases involving delays in family law proceedings affecting children, such as child custody, and instances of administrative inaction that hinder access to essential social benefits for children with disabilities. The Ombudsperson also addresses systemic issues, including the right to education free from discrimination. Through these actions, the Ombudsperson ensures that the best interests of the child are upheld and that children's rights are safeguarded as a critical aspect of its mandate.

Additionally, the Public Defender of Rights has served as the National Preventive Mechanism (NPM) since May 1, 2023. In Slovakia, the NPM mandate is shared among three independent organizations: the Public Defender of Rights, the Commissioner for Persons with Disabilities, and the Commissioner for Children. Each institution, based on its competencies, primarily conducts visits to facilities within its respective scope of authority. As part of its NPM mandate, the Public Defender of Rights also visits facilities where children may be present. This report reflects findings from such visits, highlighting concerns about the conditions for children in detention facilities and the systemic issues that arise under the Convention on the Rights of the Child.

The Public Defender of Rights also serves as the coordinating body for the NPM, facilitating cooperation among the three organizations, preparing a special report on NPM activities, and ensuring communication with the UN Subcommittee on the Prevention of Torture.

## **2. Adequate Resources for Independent Institutions: A Key Element for Implementing the Convention**

### (Article 4)

Article 4 of the Convention on the Rights of the Child obliges States Parties to "undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention". This provision underscores the importance of establishing and adequately resourcing mechanisms that ensure the effective realization of children's rights. Independent human rights institutions, such as the Office of the Public Defender of Rights, play a critical role in this implementation by monitoring compliance with the Convention, advocating for systemic improvements, and investigating violations.

In General Comment No. 2: Role of Independent Human Rights Institutions for Children, the Committee on the Rights of the Child highlights the necessity for such institutions to be independent, accessible, and sufficiently resourced. It emphasizes that States Parties must allocate adequate human and financial resources to these bodies to ensure they can fulfil their mandates effectively. Furthermore, the Comment stresses the need for these institutions to have the capacity to address systemic issues, provide recommendations to public authorities, and ensure children's voices are heard in all matters affecting them.

The importance of sufficient resources for the Office of the Public Defender of Rights is particularly relevant in Slovakia, where this institution plays a critical role in safeguarding the rights of children as outlined below:

The Public Defender of Rights has faced a lack of sufficient human and financial resources for the full performance of its mandate since the institution's inception. Based on more than 20 years of experience, it can be concluded that the independence of the Public Defender of Rights, including personnel and budgetary independence as stipulated by the law on the Public Defender of Rights and international principles governing ombudsperson institutions, is not fully realized. For example, there have been instances where the number of positions at the Office of the Ombudsperson was unilaterally adjusted by the state without any discussion with the Public Defender of Rights, despite the law explicitly granting the Public Defender the authority to approve the number of employees.

The longstanding insufficient financial and human resources of the Office of the Public Defender of Rights limits its ability to monitor effectively state institutions' compliance with children's fundamental rights and freedoms. Handling cases involving children's rights is particularly complex and requires specialized expertise. As highlighted in General Comment No. 14 of the UN Committee on the Rights of the Child, assessing the child's best interests should consider the child's individual characteristics and circumstances. These characteristics include, among others, their age, gender, maturity level, past experiences, membership in a minority group, any physical, sensory, or intellectual disabilities, and the social context in which they live. Furthermore, the Public Defender of Rights has significant potential to identify and advocate for solutions to systemic shortcomings in protecting children's rights. Insufficient resources are particularly evident in areas requiring long-term and systematic work. Compared to other countries in the Visegrád Group, Slovakia's

Office of the Public Defender of Rights has the lowest budget and staffing capacities. Because of this situation, the Public Defender of Rights must continually prioritize which issues to address. Some proceedings take unreasonably long, and certain topics with significant potential for systemic improvement remain unaddressed. This resource shortage limits the ability to monitor and advocate for the rights of individuals, including children.

International institutions have also criticized the insufficient funding and capacity of the Office of the Public Defender of Rights. In its Fifth Opinion on the Slovak Republic, adopted on 2 February 2022, the Advisory Committee on the Framework Convention for the Protection of National Minorities of the Council of Europe urged Slovak authorities "to provide sufficient human and financial resources to the Public Defender of Rights to enable this institution to effectively pursue its function".<sup>1</sup>

Furthermore, during Slovakia's recent evaluation under the United Nations Human Rights Council's Universal Periodic Review, recommendation 131.34 submitted by Switzerland during the 57th Session (9 September—9 October 2024) urged the Slovak Republic to strengthen the Office of the Public Defender of Rights to enable it to exercise its functions effectively and independently, as well as within the framework of its constitutional mandate.

#### **Proposed recommendation for the State Party:**

The Slovak government should urgently adopt measures to provide sufficient financial resources to the Office of the Public Defender of Rights to fulfil its mandate effectively.

### **3. Health and Health Services: Ensuring Independent Oversight to Protect Children's Rights**

(Articles 2, 3, 12, 24)

Access to quality healthcare is a fundamental right under the Convention on the Rights of the Child, and it is essential to ensure that children, including those from marginalized communities such as Roma, can access healthcare without discrimination or barriers.

The Public Defender of Rights has consistently raised concerns about the ongoing lack of an independent oversight mechanism to effectively monitor and enforce the protection of patients' rights in Slovakia's healthcare facilities. This gap leaves children and their families, particularly those from vulnerable groups, without effective recourse for violations of their rights in healthcare settings.

The lack of an independent monitoring mechanism for patients' rights was underscored in a 2020 report<sup>2</sup> issued by the former Public Defender of Rights, Mrs

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<sup>1</sup> Advisory Committee on the Framework Convention for the Protection of National Minorities, Fifth Opinion on the Slovak Republic, 2022, p. 15. Available at: <https://rm.coe.int/5th-op-slovak-republic-en/1680a6e4ee>

<sup>2</sup> Public Defender of Rights, Let's talk about childbirth: a human rights-based approach in the context of childbirth, authored by Martina Thominet, Nora Konrády Beliová, and Michaela Polivčáková,

Maria Patakyova, which focused on human rights violations occurring during facility-based childbirth.

The report highlighted systemic violations of women's rights during facility-based childbirth, including inadequate respect for autonomy, informed consent, and privacy. At the same time, the report pointed out the absence of effective mechanism for oversight over public and private health care facilities to guarantee respect for patients' rights to ensure redress for victims, including financial compensation, acknowledgement of wrongdoing, formal apology, and guarantees non-repetition.

In this context, the Public Defender of Rights recommended to establish an effective oversight system that would ensure independent review and sanctioning of health care facilities in cases of violations of fundamental human rights, while also providing compensation and remedies for affected individuals. This aligns with the recommendation of the UN Committee on the Rights of the Child which recommended that Slovak government „introduce systematic measures to effectively monitor, sanction and stop segregation in all its forms in the State party's hospitals[...]" (CRC/C/SVK/CO/3-5, para. 39).

In this regard, the Public Defender of Rights recommended either creating a new body or strengthening existing institutions. However, an essential component of this system must include clear and adequate competencies and resources designated for the institution responsible for supervision, ensuring proper investigation of complaints or submissions. However, the Slovak government has not implemented these recommendations.

In 2022 and 2023, the Public Defender of Rights, through the staff of the Office of the Public Defender of Rights, participated in meetings of a working group established in connection with the implementation of the Strategy for Equality, Inclusion, and Participation of Roma until 2030. Specifically, the working group focused on advocacy activities aimed at creating a platform to protect individuals' rights in the provision of healthcare.

Within the working group, relevant institutions engaged in intensive discussions about the need to strengthen the protection of patients' rights. Furthermore, the working group discussed the lack of an independent and impartial body mandated to assess potential violations of patients' fundamental human rights and to enforce corrective measures across healthcare facilities. Establishing such an oversight mechanism is essential to safeguarding the rights of children and their families, ensuring equitable access to healthcare, and preventing systemic violations.<sup>3</sup>

As a result of this discussion, the Slovak National Centre for Human Rights analysed the competencies of authorities and institutions that play key roles in the protection and promotion of human rights and non-discrimination in the area of healthcare provision. The Slovak National Centre for Human Rights published its findings in a

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Bratislava, 2022, p. 57 and 64, Available here: <https://vop.gov.sk/en/report/lets-talk-about-childbirth-a-human-rights-based-approach-in-the-context-of-childbirth/>

<sup>3</sup> Public Defender of Rights, Annual Report 2023, March 2024, page 144, Available at: <https://vop.gov.sk/vyrocnne-spravy/>

report<sup>4</sup> that highlighted the absence of an effective system to monitor and protect the human rights of patients.

The report's outcomes reinforced the Public Defender of Rights' findings and recommendations, emphasizing the need to establish an independent and impartial body—such as a patients' ombudsman—to assess potential violations of fundamental human rights and implement corrective measures. Alternatively, the report suggested enhancing the powers of existing institutions to address complaints and monitor compliance with human rights in healthcare settings, while ensuring clear delineation of competencies and eliminating mandate duplication. Both approaches were recommended to include robust sanction mechanisms to ensure effective enforcement of assigned mandates.

In the 2023 annual report<sup>5</sup>, the Public Defender of Rights, reiterated the need to establish such an independent oversight mechanism, but his recommendations have not yet been adopted.

An independent oversight body would align Slovakia's healthcare system with international standards, including Articles 2, 3, and 24 of the CRC, which require states to ensure that children enjoy their right to the highest attainable standard of health without discrimination.

### **Proposed Recommendations for the State Party:**

The Slovak government should establish a robust, independent oversight mechanism for public and private healthcare facilities, including birthing and paediatric facilities, to monitor compliance with human rights in healthcare, including the rights of children. This body should have sufficient resources, authority, and a clear mandate to investigate and monitor human rights violations of patients, provide redress through compensation, apologies, and guarantees of non-repetition, and uphold international human rights standards. Additionally, the oversight mechanism should align with the Principles for the Protection and Promotion of the Ombudsman Institution (Venice Principles), which represent the legal standards necessary for the establishment and functioning of ombudsman institutions, as issued by the European Commission for Democracy through Law.

The Slovak government should strengthen the curriculum on human rights standards in the provision of health care at medical schools and the postgraduate training of health professionals.

The Slovak government should conduct targeted awareness-raising campaigns on children's and patients' rights within healthcare settings to promote a culture of respect, dignity, and accountability, ensuring that healthcare providers are equipped to prioritize the rights of children and families.

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<sup>4</sup> Slovak National Centre for Human Rights, Options for Addressing Discrimination and Violations of Human Rights in Relation to the Provision of Health Care, 2022, Available at: <https://www.snslp.sk/vysledky/publikacna-cinnost/>

<sup>5</sup> Public Defender of Rights, Annual Report 2023, March 2024, page 144, Available at: <https://vop.gov.sk/vyrocne-spravy/>

#### **4. Ensuring the Right of Child Patients to a Companion during Hospitalization**

(Articles 3, 9 and 24)

A child patient holds a unique and sensitive position within the healthcare system, requiring tailored approaches that address their distinct psychosomatic and emotional needs. Unlike adults, children often experience heightened fear and anxiety during hospitalization, stemming not only from the treatment itself but also from feelings of abandonment. Family-centred care is not only fundamental to alleviating children's fears but also contributes significantly to better health outcomes, including faster recovery and reduced medical complications. The presence of a trusted parent or caregiver is therefore essential to fostering emotional comfort and ensuring the child's well-being.

This perspective aligns with the principles outlined in the UN Committee on the Rights of the Child's General Comment No. 15 on the Right of the Child to Health. Paragraph 52 emphasizes the importance of child-sensitive health approaches, underscoring the necessity of policies that minimize children's fear and suffering. It advocates for family-centred policies as a cornerstone of a supportive healthcare environment.

The right of child patients to be accompanied during hospitalization stems from the constitutional right to private and family life and is an integral part of children's rights as enshrined in international conventions, including the UN Convention on the Rights of the Child. Articles 3 and 9 of the CRC emphasize the child's best interests and their right to not be separated from their parents against their will, except when competent authorities, subject to judicial review, determine in accordance with applicable law and procedures that such separation is necessary for the best interests of the child. Article 24 underscores the child's right to the highest attainable standard of health, which includes healthcare practices that prioritize the emotional and developmental needs of the child.

Existing references to a companion for hospitalized individuals can be found in § 15 of Act No. 576/2004 Coll., which defines a companion as an individual admitted into institutional care alongside the person receiving treatment, and Act No. 577/2004 Coll., which permits the presence of a legal representative for children under the age of three in hospitals. However, this service is not further detailed in the legal regulations.

This legislative gap delegates decision-making to healthcare providers, leading to inconsistencies and, at times, arbitrary denial of the child's right to a companion. Older children and vulnerable groups, including children with disabilities and those from marginalized Roma communities, who often face systemic barriers and discrimination, are particularly affected as their right to a companion may be inconsistently applied or denied based on subjective decisions by healthcare providers.



The absence of explicit legal safeguards has been criticized by organizations such as the Association for Patients' Rights.<sup>6</sup> The Public Defender of Rights has repeatedly highlighted these legislative shortcomings in reports.<sup>7 8</sup>

The Public Defender of Rights recommended the adoption of binding legal provisions to guarantee all child patients the right to a companion, irrespective of age. Despite several legislative proposals in the National Council of the Slovak Republic, these recommendations remain unadopted and unimplemented.

In the 2023 Annual Report<sup>9</sup>, the Public Defender of Rights reiterated the urgent need for legislative amendments to align Slovakia's healthcare practices with international standards, ensuring that children's best interests are prioritized.

### **Proposed Recommendations for the State Party:**

The Slovak government should enact and implement clear, binding legislation guaranteeing the right of all child patients, regardless of age, to be accompanied by a parent, legal guardian, or designated individual during hospitalization.

## **5. Special Protection Measures for Asylum-Seeking and Refugee Children**

(Articles 3, 22, 37(b)-(d))

In June 2023, the Public Defender of Rights, in its capacity as the National Preventive Mechanism for the Prevention of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (NPM), conducted an extensive and in-depth visit to the detention centre for foreigners in Sečovce, which is operated by the Ministry of Interior of the Slovak Republic. This is the only detention centre for foreigners in Slovakia where families with children can be placed, whether in the process of administrative expulsion, Dublin proceedings, or even as asylum-seeking persons. During the visit, the NPM observed<sup>10</sup> the presence of children in the detention centre.

Among the main concerns, the NPM noted that the designated places for children were poorly furnished, lacking any stimulating or educational materials and equipment; even basic items like pencils and paper were missing. Moreover, access to outdoor areas was significantly and disproportionately restricted (limited to three times a day for 20 minutes) for families with children, in violation of the applicable legislation on the residence of foreigners. The NPM concluded that the restricted access to outdoor spaces was strongly reminiscent of conditions in facilities

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<sup>6</sup> <https://spravy.pravda.sk/domace/clanok/426830-prava-pacienta-sa-na-slovensku-v-praxi-nedodrzavaju-upozornila-aopp/>

<sup>7</sup> Public Defender of Rights, Annual Report 2020, March 2021, page 54, Available at: <https://vop.gov.sk/vyrocne-spravy/>

<sup>8</sup> Public Defender of Rights, Let's talk about childbirth: a human rights-based approach in the context of childbirth, authored by Martina Thominet, Nora Konrády Beliová, and Michaela Polivčáková, Bratislava, 2022, p. 63-64, Available here: <https://vop.gov.sk/en/report/lets-talk-about-childbirth-a-human-rights-based-approach-in-the-context-of-childbirth/>

<sup>9</sup> Public Defender of Rights, Annual Report 2023, March 2024, page 146, Available at: <https://vop.gov.sk/vyrocne-spravy/>

<sup>10</sup> NPM Monitoring visit report - Sečovce, 2023, Available at: [https://vop.gov.sk/wp-content/uploads/2024/01/mimoriadna\\_sprava\\_NPM\\_Secovce.pdf](https://vop.gov.sk/wp-content/uploads/2024/01/mimoriadna_sprava_NPM_Secovce.pdf).

designated for serving a prison sentence in Slovakia. In this regard, the NPM highlighted that if children deprived of their liberty, they should only be detained in places designed and equipped to meet their specific needs and should be provided with a wide range of constructive activities, with particular emphasis on enabling the continuation of their education.

In its monitoring visit report<sup>11</sup>, the Public Defender of Rights commented on the placement of children in detention facilities, emphasizing several recommendations from international organizations urging Slovakia to immediately and completely stop the detention of children based on their immigration status or that of their parents. The report further called for the implementation of alternatives to detention that would allow children to stay with family members and/or guardians in a non-custodial, community-based environment, without the requirement of mandatory proof of possession of disproportionately high financial means for daily living. The Public Defender of Rights also underscored the importance of respecting Article 3 of the UN Convention on the Rights of the Child, which requires that the best interests of the child be a primary consideration in any action concerning children, whether carried out by public or private social welfare institutions, courts, administrative authorities, or legislative bodies.

#### **Proposed Recommendation for the State Party:**

The Slovak government should urgently adopt measures to end the detention of children based on their immigration status or that of their parents. Instead, it should implement alternatives to detention that allow children to remain with their families or guardians in a community-based, non-custodial environment. These measures should ensure that the child's best interests are a primary consideration, as required by Article 3 of the UN Convention on the Rights of the Child. Additionally, the Slovak Republic should guarantee that all facilities housing children are appropriately designed and equipped to meet their needs, providing access to education, constructive activities, and adequate outdoor spaces per international standards.

### **6. Discrimination Against Roma Children in the Slovak Education System - Educational Exclusion and the Cycle of Poverty**

(Articles 2, 6, 12, 27, 28, 29)

The Office of the Public Defender of Rights has focused for many years on monitoring compliance with the right to education without discrimination for Roma children in the Slovak education system. Segregation of Roma children in the educational system constitutes a violation of the right to education and it is the result of broader systemic issues, such as entrenched discrimination, socio-economic inequalities, residential segregation, improper diagnostic practices, and poor living conditions, all of which perpetuate cycles of poverty and exclusion.

Findings from surveys conducted by the Office of the Public Defender of Rights between 2013 and 2018, individual complaints submitted to the Office, and reports from national and international NGOs and human rights institutions have repeatedly highlighted systemic issues in the education of Roma children. These include the

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<sup>11</sup> Ibid. p. 9.

improper placement of Roma children in schools or classes designed for students with mild mental disabilities, as well as the unlawful practice of establishing ethnically homogenous classes or even entire schools exclusively for Roma children within mainstream education.

For example, in 2022, a complaint submitted to the Public Defender of Rights<sup>12</sup> detailed the creation of Roma-only classes within a mainstream primary school. Upon investigation, the Public Defender identified this practice as a violation of the fundamental right to education as protected under both national and international law. In response, the Public Defender of Rights requested that the school take immediate corrective measures, including redistributing Roma students and establishing integrated classes that foster a balanced representation of Roma pupils and pupils from the majority population.<sup>13</sup>

Based on data analysis and individual complaints received by the Office of the Public Defender of Rights, it is evident that segregation in education disproportionately affects children from marginalized Roma communities more than Roma children from integrated households<sup>14</sup>, largely due to poverty, poor living conditions, social exclusion, and systemic discrimination, which exacerbate their unequal access to quality education.

The data indicates a clear trend of increased segregation within mainstream education among children living in marginalized Roma communities. According to the EU-SILC MRC 2020 data, nearly half (47%) of children from marginalised Roma communities in Slovakia, aged 6 to 15 years, who are in mainstream education, attend classes comprised entirely of Roma students. An additional 23% are in classes where Roma students constitute the majority.<sup>15</sup>

Among Roma children from integrated households, 24% attend classes composed exclusively of Roma students. Similarly, 23% of Roma children from integrated households are enrolled in classes where Roma students form the majority, reflecting the rate observed in marginalised communities.<sup>16</sup>

The data shows that segregation is particularly noticeable in special education settings for children from marginalized Roma communities. According to the EU SILC\_MRK 2020 data, up to 63% of children from marginalized Roma communities aged 6 to 15 years in special education are educated in classes with only Roma classmates, while schools with exclusively Roma students are attended by 32% of pupils from marginalized Roma communities in special education. Of the children from integrated households, 15% attend primary special schools with only Roma

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<sup>12</sup> Public Defender of Rights, Annual Report 2022, March 2023, page 80, Available at: <https://vop.gov.sk/vyrocne-spravy/>

<sup>13</sup> Ibid. p. 80.

<sup>14</sup> In the context of the EU-SILC MRC 2020 data, 'integrated households' specifically denotes Roma families who live integrated with the majority of the population, not in segregated settlements, unlike those from 'marginalized Roma communities.

<sup>15</sup> Filip Markovič and Ľudmila Plachá, "Income and Living Conditions in Marginalized Roma Communities: Selected Indicators from the EU SILC\_MRC 2020 Survey (Príjmy a životné podmienky v marginalizovaných rómskych komunitách: Vybrané ukazovatele zo zisťovania EU SILC\_MRK 2020)," Office of the Plenipotentiary of the Slovak Government for Roma Communities, 2020, p. 37, Available at: [https://www.romovia.vlada.gov.sk/eu-silc\\_mrk/?csrt=1322965984985426149](https://www.romovia.vlada.gov.sk/eu-silc_mrk/?csrt=1322965984985426149).

<sup>16</sup> Ibid. p.37.

classmates, and 30% attend primary schools where the majority of classmates are Roma.<sup>17</sup>

The overrepresentation of Roma children in segregated educational settings not only violates their fundamental right to education but also perpetuates a cycle of poverty and exclusion. Incorrect diagnoses of Roma children and their placement in special education designed for students with mild mental disabilities severely restricts their future opportunities, leading to generational disadvantages. This systemic failure to ensure equal access to education perpetuates poverty and marginalization for entire generations of Roma communities.

The Ministry of Education, Research, Science, and Youth of the Slovak Republic declared its commitment in 2020 to eliminate discrimination and segregation of Roma students in the education system. Since then, the Ministry has implemented several legislative changes and conceptual materials focused on inclusive education and desegregation. The recent active steps of the Ministry of Education to tackle elimination of segregation of Roma children in education are closely connected with the Recovery and Resilience Plan and as a response to the decision of the European Commission 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.<sup>18</sup>

In 2023, the School Act's amendment introduced the definition of school segregation into legislation.<sup>19</sup> The amendment to the School Act also established the right to support measures for pupils. One of the aims of the reform was to effectively address the socioeconomic impacts on educational outcomes for children from marginalised communities and from socially disadvantaged backgrounds.

In October 2024, the Ministry of Education, Research, Science, and Youth of the Slovak Republic announced the launch of the national project "Opportunity for All." Its objective is to support the education desegregation for children from marginalized Roma communities within mainstream education in selected localities.

The Ministry also announced that in 2025 it would initiate a national project aimed at integrating incorrectly placed students in special schools. As part of this project, children aged 6 to 10, currently placed in special schools with a diagnosis of mild mental disability will undergo reassessment. The occurrence of such diagnoses is five times higher among students from marginalized Roma communities. Wrongly diagnosed students will be transitioned into mainstream education through an adaptive classroom system.

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<sup>17</sup> Ibid. p.37.

<sup>18</sup> European Commission. "The European Commission Decides to Refer SLOVAKIA to the Court of Justice of the European Union for Not Sufficiently Addressing Discrimination Against Roma Children at School." Press release. Available here:

[https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_2249](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_2249).

<sup>19</sup> Act No. 245/2008 Coll. (School Act). The School Act defines segregation in paragraph 2(ah). The definition specifies that "segregation in education and training refers to any action or failure to act that contradicts the principle of equal treatment according to specific regulations and results in or could result in, spatial, organizational, physical, or social exclusion or separation of a group of children, students, listeners, or participants in education and training without a reason that stems from this law". The "specific regulations" refer to Anti-Discrimination Act.

Public Defender of Rights welcomes the commitment of the Ministry of Education, Research, Science, and Youth to address the segregation of Roma children within the Slovak education system. Furthermore, the Public Defender of Rights recommends that the Ministry of Education, Research, Science, and Youth continue implementing practical measures for desegregation, including through national projects. However, the Ministry and the Slovak government should consider the following recommendations:

**Proposed Recommendation for the State Party:**

The Slovak government should adequately address the close link between the segregation in education and the living conditions and socioeconomic status of marginalized Roma communities. Many of these communities face ongoing challenges, including a lack of access to basic infrastructure such as access to drinking water, sewerage systems, sanitation facilities, proper waste management, and accessible roads.<sup>20</sup>

The Slovak government must address the socioeconomic barriers to school inclusion and take steps to mitigate non-educational challenges. Collaborative efforts across various government ministries are necessary to ensure effective and comprehensive programs addressing segregation. To effectively achieve school inclusion for marginalized Roma children, a holistic approach that tackles these inequalities comprehensively is essential.

To effectively implement desegregation, the Ministry of Education, Research, Science, and Youth should promote strong collaboration among various stakeholders. This includes municipalities, schools, and government agencies, such as the Office of the Plenipotentiary for Roma Communities, along with other relevant ministries. This collaborative approach should focus on customizing desegregation plans to address different localities' unique needs and challenges, thereby ensuring that measures are locally relevant and impactful.

The Ministry of Education, Research, Science, and Youth should ensure that national projects, such as "Opportunity for All" and the project for reintegrating children wrongly diagnosed with mild mental disability into special schools, actively involve all stakeholders, including parents from both Roma communities and the majority population. This is key to fostering understanding and cooperation, especially in avoiding potential resistance and secondary segregation.

Furthermore, direct work with marginalized Roma communities should be integrated into all desegregation initiatives. Engaging local organizations, social services and institutions familiar with the communities will ensure a grounded, practical approach to fostering understanding, and ensuring sustainable progress.

Finally, ongoing monitoring and evaluation should support any desegregation plans to assess progress and make necessary adjustments. This ensures that desegregation efforts bring tangible improvements in all children's educational experiences and outcomes.

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<sup>20</sup> Of the total estimated number of approximately 450,000 ethnic Roma living in Slovakia, about 290,000 live in marginalised communities in Slovakia. According to the Atlas of Roma Communities, in 2019, there were 1052 Roma settlements in 825 municipalities in Slovakia.

## 7. The Rights of Children with Disabilities: Improving Care and Support Systems

(Articles 6, 18(3), 19, 23, 24, 26, 27(1)-(3), and 28)

Children with disabilities face numerous challenges in Slovakia. This is evident from the complaints submitted to the Public Defender of Rights, as well as from meetings with non-governmental organizations representing parents of children with various types of disabilities.

The child's health condition often requires round-the-clock care, leading parents to frequently give up their careers to focus entirely on caregiving. However, according to parents, the support provided by the state—both financial and otherwise—is insufficient.

Parents of a child with a severe disability aged 6 to 18 cannot act as their personal assistants, and therefore, they are not entitled to the financial allowance for personal assistance; instead, until the child turns 18, one of the parents may serve as a caregiver and receive a caregiving allowance, provided they meet the legal requirements.

However, securing this allowance is often problematic. Authorities often struggle to differentiate between ordinary parental care and the specialized care required for children with disabilities, as confirmed by complaints reviewed by the Public Defender of Rights. This challenge is particularly pronounced for children with mental disabilities, where recognizing the need for caregiving support is often problematic.

According to a recent assessment conducted by UNICEF, “resources that can support children with disabilities and their caregivers are concentrated in ‘Centres for Children and Families (CDRs).’<sup>21</sup> [...] However, parents and family-based substitute caregivers cannot access such support and this may drive placements.”<sup>22</sup>

It is also important to note that the average annual operational expenditure per place in the Centers for Children and Families established by the Office of Labour, Social Affairs, and Family amounted to €24,852 in 2023.<sup>23</sup> The Ministry plans to increase this contribution in the coming years. The current caregiving allowance amounts to €615.50 per child per month, equivalent to the net minimum wage for 2024.

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<sup>21</sup> Centres for Children and Families provide residential care for children who cannot remain in their family environment, as well as substitute family care through professional parents employed by the centers.

<sup>22</sup> UNICEF Europe and Central Asia Regional Office (ECARO) and the Ministry of Labour, Social Affairs and Family of the Slovak Republic, *Great Expectations: Being Ambitious for Children with Disabilities in Slovakia*, Final Assessment Report | March 2024. Authored by Joanna Rogers, Elayn M. Sammon, and Alexandra Rapiová. page 11., The assessment was conducted as part of the Technical Support Instrument (an EU programme) under the project titled "Inclusion of Children with Disabilities in the Context of Deinstitutionalization of Alternative Care in Slovakia." The project was implemented by the UNICEF Europe and Central Asia Regional Office (ECARO) in collaboration with the Ministry of Labour, Social Affairs and Family of the Slovak Republic and was funded by the European Union. Available here: <https://www.unicef.org/eca/reports/great-expectations-being-ambitious-children-disabilities-slovakia>

<sup>23</sup> [https://www.upsvr.gov.sk/zariadenia-socialnopravnej-ochrany-deti-a-socialnej-kuratery/priemerny-bezny-vydavok-na-nasledujuci-rok.html?page\\_id=149325](https://www.upsvr.gov.sk/zariadenia-socialnopravnej-ochrany-deti-a-socialnej-kuratery/priemerny-bezny-vydavok-na-nasledujuci-rok.html?page_id=149325)

Furthermore, caregivers receive no additional support. They are not entitled to vacation time and are not covered by sickness, accident, or unemployment insurance.

Their work does not end after eight hours; instead, it demands round-the-clock care, which is extremely psychologically demanding. Although legislation provides for the possibility of respite care services, only a negligible percentage of caregivers have utilized this option due to its inaccessibility.<sup>24</sup> The lack of available social services for families caring for children with disabilities was also highlighted in the recent assessment conducted by the UNICEF.<sup>25</sup>

In Slovakia, over the past seven years, the proportion and total number of children with disabilities in substitute care have decreased annually, except one region. Despite this decline, children with disabilities remain disproportionately represented in residential substitute care. While only 2 to 6% of Slovakia's total child population have disabilities, they account for nearly one-fifth (19%) of children and young adults in substitute care provided by Centers for Children and Families.<sup>26</sup>

In this context, it is important to note that “CDRs are not medical institutions; however, they are often regarded as providing critical medical support for children with disabilities. While these centers do not deliver formal healthcare services or medical treatments, they do offer basic nursing care and access to certain medical equipment, assistive devices, and therapies needed by some children with disabilities. It is essential that all children have access to appropriate medical care through the healthcare system, including community-based and home-based health services.”<sup>27</sup>

In light of the provisions of the Convention on the Rights of the Child, particularly Articles 9 and 23, which emphasize the right of children with disabilities to live with their families and receive the necessary care and support to ensure their dignity, development, and inclusion, the Public Defender of Rights stresses the need to strengthen support for parents and legal guardians of children with disabilities.

Providing families with adequate financial resources and social services, including access to early childhood intervention, psychological and social assistance, day care services, and respite care is essential. The Public Defender of Rights points out that without sufficient support, families may struggle to care for their children in a home environment, increasing the risk of placement into alternative care. Strengthening family support is, therefore, imperative to prevent unnecessary family separation and to ensure that the best interests of children with disabilities are protected under the Convention on the Rights of the Child.

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<sup>24</sup> According to recent information, the Ministry of Labour, Social Affairs, and Family will launch a project to fund this type of support service starting in January 2025.

<sup>25</sup> *Ibid.*, page 9.

<sup>26</sup> *Ibid.*, page 10.

<sup>27</sup> *Ibid.*, page 13.



### **Proposed Recommendation for the State Party:**

The Slovak government should take comprehensive action to address the challenges faced by children with disabilities and their caregivers, ensuring alignment with the Convention on the Rights of the Child and international standards. Financial and social support for caregiving must be enhanced to better reflect the demands of full-time care and ensure fair and consistent access, particularly for children with severe disabilities and mental disabilities.

The government should expand and improve respite care services by increasing funding, ensuring accessibility, and raising awareness of these services. Measures should simplify the process for caregivers to access respite care and make it widely available to families. As the Ministry of Labor, Social Affairs, and Family launches its funding project for respite care in January 2025, effective monitoring and evaluation mechanisms must be established to ensure its long-term impact.

Additionally, the Slovak government must strengthen multi-sectoral cooperation to support the rights of children with disabilities. The assessment of the best interest that considers the child's holistic needs within their family context must be accompanied by mechanisms to ensure effective collaboration across sectors, particularly social services, healthcare, and education, to enable children to receive all necessary care in their home environment. These steps are essential to fostering a more inclusive and equitable support system for children with disabilities and their families.

## **8. Protecting the Rights of Children in Residential Care: Reforming Re-education Centres in Slovakia**

(Articles 3, 19, 20, 25, 28, 37(a))

Re-education centres<sup>28</sup> in Slovakia have long been a concern for the Public Defender of Rights due to systemic shortcomings that undermine children's rights. These facilities often fail to meet the standards set by the UN Convention on the Rights of the Child. Despite years of monitoring and recommendations by the Public Defender of Rights, significant issues such as inadequate care, punitive practices, and poor living conditions persist, highlighting the urgent need for comprehensive reform.

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<sup>28</sup> Re-education centers in Slovakia are specialized facilities for children and youth who face significant social, moral, or emotional challenges that cannot be addressed in other care settings or within their family environments. Placement in these centers is compulsory and occurs through court orders (e.g., for protective care, institutional care, or educational measures), emergency court decisions, or at the request of a legal guardian. These centers are structured to provide individualized re-education programs, developed based on psychological and special pedagogical assessments, aimed at addressing behavioral issues and fostering psychosocial development. Children are placed into age-appropriate groups, with specialized departments available for those requiring heightened care, open or protective regimes, and for minor mothers with their children. While the centers are intended to support the reintegration of children into society, concerns remain about the conditions and effectiveness of these facilities. Currently, 11 such centers operate across Slovakia. Ministry of Education, Science, Research, and Sport of the Slovak Republic, Special Educational Facilities (Špeciálne výchovné zariadenia), available at: <https://www.minedu.sk/specialne-vychovne-zariadenia/>.



The former Public Defender of Rights, Mrs Jana Dubovcová, conducted surveys<sup>29</sup> in 2013 and 2014 focusing on monitoring the fundamental rights and freedoms of children placed in re-education centres.

The former Public Defender of Rights identified significant systemic shortcomings in Slovakia's approach to re-education for children placed in re-education centres, highlighting the urgent need for comprehensive government-led reforms to protect children's fundamental rights. The model relies exclusively on institutional care, with no alternative or individualized options, limiting the ability to address diverse needs effectively. Children were often placed in these centres without proper psychological assessments, and their opinions were seldom considered, as decisions prioritized institutional capacity over the best interests of the child.

Placements were not tailored to children's educational backgrounds, interests, or potential, leading to limited access to quality education and vocational training with low relevance to the labour market. Educational opportunities, such as language learning, were often inadequate, further disadvantaging children in re-education centres.

Additional issues included the use of isolation rooms as a disciplinary tool, allowing confinement for up to 24 hours. Nutritional standards were insufficient, with children frequently complaining of hunger due to inadequate funding. There was also a lack of systematic engagement with families, undermining efforts to prepare for children's reintegration into their original environments. Staff often lacked the specialized training necessary to address the complex needs of children in their care, while the absence of a system for monitoring and evaluating re-education outcomes left the effectiveness of these programs unknown.

These systemic issues, as identified by the Public Defender, required urgent reforms at the national level to ensure compliance with children's rights and the goals of re-education programs. Following the publication of her report, the former Public Defender of Rights contacted all relevant authorities, providing them with a list of primarily systemic recommendations and stressing the need for a comprehensive overhaul of the existing re-education system for children in Slovakia. However, the relevant authorities did not accept her recommendations.

In 2023 and 2024, the Public Defender of Rights continued to receive individual complaints concerning specific re-education centres, which were formally referred to the General Prosecutor's Office for further action.

In 2023, the General Prosecutor's Office built upon the former Public Defender of Rights's investigation and conducted a detailed monitoring of the conditions in re-education centres. The findings<sup>30</sup>, published in early 2024, revealed that most

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<sup>29</sup> Public Defender of Rights , Annual Report on the Activities of the Public Defender of Rights for 2014 , available at: <https://vop.gov.sk/report/sprava-o-cinnosti-verejneho-ochrancu-prav-za-rok-2014/>.

<sup>30</sup> General Prosecutor's Office of the Slovak Republic, Evaluation of the State of Legality in Re-education Centers (ZHODNOTENIE O STAVE ZÁKONNOSTI V REEDUKAČNÝCH CENTRÁCH), Bratislava, 2023, p. 65-67.

systemic shortcomings persist and that the situation in re-education centres has not improved over the past decade and, in some respects, may have worsened.

The findings from the General Prosecutor's Office's monitoring activities revealed serious shortcomings in the functioning of re-education centres in Slovakia. According to the findings, these centres, in their current configuration, fail to fulfil their legally mandated purpose and do not provide a safe environment that upholds children's rights. While they offer basic necessities such as shelter and food, they lack effectiveness in re-education, professional support for children with behavioural or social issues, and meaningful reintegration into society.

According to the General Prosecutor's Office report, the centres fail to ensure enhanced protection and assistance for children, as required under Article 20(1) of the Convention on the Rights of the Child. Issues include insufficient living conditions, such as inadequate room sizes, lack of essential furniture, and absence of hot water for hygiene.

The findings also highlight alarming restrictions on children's personal freedoms, including prolonged stays in isolation rooms and restrictive rules on communication with external parties, including with parents.

According to the report, children often live under stricter conditions than those in detention facilities, with little understanding of why they were placed in these centres or the duration of their stay. Staffing issues exacerbate the situation, with centres employing insufficient numbers of psychologists despite housing children with severe behavioural and psychiatric challenges. The absence of adequate professional care contributes to systemic rights violations and, in some cases, criminal activities within the centres themselves.

The General Prosecutor's Office expressed that this situation is unacceptable, constituting a breach of Slovakia's obligations under the Convention on the Rights of the Child. Based on the findings, the General Prosecutor's Office recommended comprehensive systemic reform of the re-education centres.

In 2024, the Ministry of Education, Science, Research, and Sport of the Slovak Republic prepared a draft Concept for the Development of Special Educational Facilities in Slovakia for 2024–2026. The concept contains several prospective measures and changes. However, the concept should include more substantial systemic reforms aimed at fundamentally developing and overhauling special educational facilities.

When working with a child placed in a re-education centre, it is essential to adopt a rehabilitative and supportive approach rather than relying on punitive measures for past behaviours. This requires a shift in mindset toward understanding and addressing the underlying causes of the child's actions, focusing on fostering their personal growth, emotional well-being, and social reintegration.

It is crucial to resolve these root causes before selecting appropriate interventions that align with the latest evidence-based practices for supporting children with behavioural challenges. A key role in this process is family engagement, the involvement of qualified staff with adequate professional training, and quality education tailored to the individual needs and interests of the child.

It is equally important to focus on working with the child and their family before placement in such a facility. However, there is a lack of daily and outpatient assistance that could serve as preventative measures to avoid the need for institutionalization. Filling this gap requires collaboration across multiple sectors, including education, labour, and healthcare.

**Proposed Recommendation for the State Party:**

The Slovak government should undertake a comprehensive systemic reform of re-education centres to ensure they align with children's rights and international standards. The current model of residential care should transition to individualized, rehabilitative approaches that address the underlying causes of children's behavioral challenges while prioritizing their holistic development and reintegration into society. Emphasis should be placed on deinstitutionalization, with increased investment in preventative mechanisms, such as accessible outpatient services and early intervention programs, to reduce the need for residential placements.

Placement decisions must be guided by the best interests of the child and based on thorough psychological and pedagogical assessments. These decisions should prioritize the child's needs, talents, and aspirations over institutional capacity. Punitive practices, such as the use of isolation rooms, must be eliminated and replaced with supportive interventions that promote emotional well-being and personal growth. Furthermore, systematic engagement with families is essential, offering tailored support to strengthen the home environment and prepare for the child's reintegration after their time in care.

The government should ensure the availability of an adequate number of qualified psychologists, psychiatrists, and trained staff capable of meeting the complex needs of children in care. Educational opportunities must be significantly improved, ensuring access to quality, diverse, and market-relevant programs, including language learning, with a focus on equity and individual potential. Improvements to living conditions, including appropriate space, hygiene, and recreational resources, are critical to meeting international standards.

Finally, the government should foster collaboration across sectors, including education, healthcare, and social services, to create a cohesive support system for children and their families. These measures must be implemented alongside a robust monitoring and evaluation system to ensure accountability and the fulfilment of children's rights as outlined in the UN Convention on the Rights of the Child.

## 9. The Rights of Children of Incarcerated Parents

### a) Ensuring the Rights of Children of Incarcerated Mothers (Articles 3 and 9)

The Public Defender of Rights has consistently emphasized the need to establish facilities for mothers with small children serving prison sentences or to amend legislation to allow for or facilitate the use of alternative sanctions for such mothers. These measures align with Slovakia's obligations under the Convention on the Rights of the Child, particularly Articles 3 and 9, which emphasize the best interests of the child and the importance of family unity.

In response to the 2018 report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Slovak government stated that a legislative process was underway to amend selected provisions of the Penal Code and expand the substantive legal conditions for imposing house arrest. If these changes are not implemented or fail to allow convicted mothers with children to serve sentences in home environments, the government plans to explore additional measures. The aim is for a convicted woman who is a mother of a child under the age of five (absent any legal, personality, or other contraindications) to serve her sentence in a natural family setting or another non-custodial environment with social services.<sup>31</sup>

To date, these changes have not been adopted. Work is currently underway to amend the law on the execution of prison sentences. The proposed draft abandons the option of establishing special wards for mothers with children and instead introduces a mandatory deferral or suspension of sentences for mothers with children under the age of two years old.

Regarding pre-trial detention, the issue remains even more pressing, as pre-trial detention is not automatically suspended for pregnant women. Pregnant women continue to be held in standard prison wards alongside the general prison population. Following childbirth in detention, the child is taken from the mother and placed with family relatives or in institutional care. Paradoxically, if a pregnant woman in detention is convicted and begins serving her sentence, the sentence is deferred or suspended. The Public Defender of Rights has proposed changes in the legislative process to align the treatment of pregnant women in detention with that of convicted pregnant women.

#### **Revised Recommendation for the State Party:**

The Slovak government should adopt comprehensive measures to ensure that the rights and best interests of children are fully considered in cases involving their mothers' imprisonment or detention. This includes implementing non-custodial alternatives to imprisonment, such as house arrest or other community-based sanctions, for mothers with young children. Legislative reforms should address the needs of convicted mothers and pregnant women, ensuring policies prioritize family

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<sup>31</sup> Response of the Slovak Government to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its Visit to the Slovak Republic from 19 to 28 March 2018, CPT/Inf (2019) 21, Strasbourg, 19 June 2019., Available at: <https://www.coe.int/en/web/cpt/slovak-republic>

unity and the child's well-being, as required by Articles 3 and 9 of the Convention on the Rights of the Child.

In cases where detention is unavoidable, the government should ensure that facilities are adapted to provide a supportive environment for mothers and their children, allowing them to maintain meaningful bonds and access essential social services. Moreover, legislative processes currently underway should be expedited to eliminate inconsistencies, such as the different treatment of pregnant women in pre-trial detention versus those serving custodial sentences, aligning all policies with international standards and the best interests of the child.

### **b) Maintaining Family Bonds for Children of Incarcerated Parents (Articles 3 and 9)**

In 2024, the Public Defender of Rights identified violations of the right to family life in Slovakia's correctional facilities, particularly concerning the visitation conditions for children of incarcerated parents. These issues were highlighted in several complaints received by the Public Defender, which revealed that essential items for children, such as diapers, food, and drinks, were not permitted in visitation rooms, and some facilities lacked child-friendly spaces. While legitimate security concerns may limit certain items, such restrictions should not interfere with the child's ability to engage in a meaningful and dignified interaction with their parent.

According to the European Court of Human Rights (ECtHR) (*Khoroshenko v. Russia*, Application No. 41418/04), Article 8 of the Convention imposes a positive obligation on states to enable detained persons to maintain (and develop) family relationships and, where necessary, to assist them in doing so. From the perspective of the child, these obligations are critical to safeguarding their right to family life under Articles 3 and 9 of the Convention on the Rights of the Child, ensuring the child can sustain meaningful relationships with their parent, even in situations of incarceration.

Similarly, Article 24.4 of Recommendation Rec(2006)2 of the Committee of Ministers on the European Prison Rules states: "The arrangements for visits shall be such as to allow prisoners to maintain and develop family relationships in as normal a manner as possible." When applied to children, this principle underscores the need for child-friendly visitation arrangements that prioritize the best interests of the child and support their emotional and psychological development.

The Public Defender underscores the importance of ensuring that visitation practices prioritize the best interests of the child. Facilities must provide adequate spaces for child-parent interactions, allow necessities for minors during visits, and adapt the duration and conditions of visitation to meet the specific needs of families. Although some institutions have made progress in addressing these issues, the lack of standardized guidelines across all detention facilities remains a significant barrier to protecting children's rights and maintaining family bonds.

### **Revised Recommendation for the State Party:**

The Slovak government should develop and implement standardized guidelines for visitation practices in all correctional facilities to ensure compliance with Articles 3 and 9 of the Convention on the Rights of the Child. These guidelines must prioritize the best interests of the child by requiring child-friendly visitation spaces, permitting

essential items for children such as diapers and food, and tailoring visitation conditions to the specific needs of children and families. Clear standards should balance legitimate security concerns with the obligation to support meaningful family interactions, ensuring consistency across facilities and fostering the emotional and psychological well-being of children visiting incarcerated parents.

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JUDr. Róbert Dobrovodský, PhD., LL.M. (Tübingen)  
Public Defender of Rights

Contact:  
Martina Thominet  
Office of the Public Defender of Rights  
Grösslingová 35  
811 09 Bratislava  
T: +421 2 323 63 700  
Email: [martina.thominet@vop.gov.sk](mailto:martina.thominet@vop.gov.sk)