

SLOVAK NATIONAL CENTRE FOR HUMAN RIGHTS



ALTERNATIVE REPORT

on the implementation of the Convention on the Elimination of All Forms of Racial
Discrimination

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Introduction

The Slovak National Centre for Human Rights (hereinafter referred to as the “*Centre*”) as an **independent and non-profit legal entity** is a specialized national institution that **promotes the observance of the principle of equal treatment and develops its activities in combating discrimination.**

The Centre was established by the Act of the Slovak National Council No. 308/1993 Coll. on the Establishment of the Slovak National Centre for Human Rights, which became effective on 1 January 1994 (hereinafter referred to as the “*Act*”). At that time the Centre performed mainly tasks in the area of research and education, gathered and disseminated information on racism, xenophobia and anti-Semitism in the Slovak Republic, and provided library services. Since the effect of Act No. 136/2003 Coll., which amended the Act, the Centre, among other things, has monitored and evaluated the observance of fundamental rights and freedoms, including the rights of the child, and the Centre is obliged to elaborate and publish, on a yearly basis, for the preceding calendar year, a report on the observance of human rights in the Slovak Republic through the Internet or also through nationwide periodicals.

Act No. 365/2004 Coll. on Equal Treatment in some Areas and on Protection from Discrimination (hereinafter referred to as the “*Anti-discrimination Act*”) extended the responsibilities of the Centre in the area of monitoring of the principle of equal treatment and providing discrimination victims with legal services. The Centre renders legal aid to the victims of discrimination and manifestations of intolerance, issues on demand of natural persons or legal entities or on its own initiative expert opinions regarding the observance of the principle of equal treatment, and is also authorised to represent a participant in the proceedings to deal with the violation of the principle of equal treatment.

The Centre is the **only Slovak institution for equality**, i.e. for evaluating the observance of the principle of equal treatment under the Anti-discrimination Act.

Pursuant to the prov. of Article 1, par. 2 of the Act, the Centre **performs tasks** in the area of human rights and fundamental freedoms including the rights of the child (hereinafter referred to as “human rights”). For such purpose, the Centre **in particular**:

- a) monitors and evaluates the observance of human rights and the observance of the principle of equal treatment according to special law,*
- b) gathers and provides on demand information on racism, xenophobia and anti-Semitism in the Slovak Republic,*

- c) carries out researches and surveys for the provision of data in the area of human rights, gathers and disseminates information in this area,*
- d) prepares educational activities and participates in information campaigns aimed at increasing tolerance of society,*
- e) safeguards legal aid to the victims of discrimination and manifestations of intolerance,*
- f) issues on demand of natural persons or legal entities or on its own initiative expert opinions regarding the observance of the principle of equal treatment according to a special regulation*
- g) performs independent inspections relating to discrimination,*
- h) elaborates and publishes reports and recommendations on the issues related to discrimination,*
- i) provides library services, and*
- j) provides services in the area of human rights.*

It is necessary to add that the role of the Slovak National Centre for Human Rights is not to judge the constitutionality or lawfulness of adopted laws affecting unfavourably the position of individuals, although such laws regulate the area of relations, to which the Anti-discrimination Act applies, however, the Centre can call attention to such defects, predominantly in the report on the observance of human rights in the Slovak Republic for the respective calendar year.

The Slovak National Centre for Human Rights hereby presents an Alternative Report on the implementation of the Convention on the Elimination of All Forms of Racial Discrimination for a period of years 2009 - 2012.

Article 2

“Pursuant to Art. 2 of the International Convention on the Elimination of All Forms of Racial Discrimination the States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races.”

In order to do this:

- a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;
- b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;
- c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;
- d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;
- e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

In the preamble of legislative measures, the Slovak Republic’s Report focuses on legislative measures in the area of criminal law, both in the area of Criminal Substantive Law (the Criminal Law) and Criminal Procedure (the Criminal Procedure Act). The Centre

appreciates such legislative measures of the Slovak Republic and considers them as one of the appropriate tools for consistent, growing and expanding elimination of all forms of racial discrimination. On the other hand, however, it is necessary to remark that racial discrimination is not only a category of criminal law, but mainly a category affecting a lot of all-society relations, which are regulated by special generally binding legal regulations. The areas in which it is the positive legal liability of the state to prevent, identify, eliminate and protect in the form of prevention unequal treatment on discrimination grounds race, are laid down in particular by Act No. 365/2004 Coll. on Equal Treatment in some Areas and on Protection from Discrimination, amending and supplementing certain other laws. As is made clear from the name of the Anti-discrimination Act itself, this Act does not regulate the principle of equal treatment in general, in all areas of social life, but it focuses only on areas directly enshrined in the Act. Pursuant to Article 3 of the Anti-discrimination Act, this principle is applied only in connection with the rights of persons established by special acts in employment and similar legal relations, social security, and healthcare, the provision of goods and services and education. As is made clear from the above stated, racial discrimination (in the Slovak conditions, in particular with respect to the Roma ethnic minority, to a lesser extent to Slovak citizens or inhabitants a race other than the majority population) affects substantially comprehensive, diverse and often cross-sectional policies of the state both on a central and local level, including municipal authorities, but only in areas where municipal authorities perform delegated public administration tasks on the basis of statutory mandates. As it is clear it is not primarily an area of criminal law, which dominates the whole Periodic Report of the Slovak Republic where it is required to transpose a statement or information about general or framework optics of racial discrimination. Also in parts where the Report deals with particular areas of fight against racial discrimination it informs on legislative changes in the relevant area, but not with an emphasis and explanation of the specific impact of the elimination of racial discrimination, whereas paradoxically, Art. 2 with a malnourished content refers to other measures. The fact is that in the area of social security, in particular of social support, social insurance, state social assistance and social benefits there is a long-term lack of conceptual legislative activity by the state preventing all forms of racial discrimination. There are long-term and sustained problems regarding an access to employment services, housing (for Roma settlements, with an emphasis on “legal housing“), non-discriminatory access to education and directed provision of social benefits and social support in a suitable form not only for the majority population, but also for other groups, mainly for the Roma. The Slovak National Centre for Human Rights has always participated

and participates on their own initiative in activities leading to an analysis of the need to enhance efficiency and effectiveness of the real condition of apparent and hidden forms of racial discrimination. Legislative output that the Centre is not authorised to affect, which would deal with issues and shortcomings described in this part or in other parts of the report, however, have been recorded to a small extent. One of the problems of active approach to the elimination of all forms of racial discrimination is the concept of temporary special measures which has been emphasized by the Centre. This is closely linked to the principle of non-discrimination, which is the opposite to the principle of equality constituting part of fundamental rights and freedoms. The concept of temporary special measures is closely related to the principle of non-discrimination, which is the opposite to the principle of equality constituting part of fundamental rights and freedoms. The term “*equality*” can be perceived in two plains. On one hand, it is formal equality of all persons before the law, when every person must be treated equally regardless of, e.g., sex, race or ethnicity. However, sometimes the formal approach to equality is not sufficient to safeguard real (material) equality in practice. Due to the need to remove factual obstacles, which make the exercise of rights and freedoms of certain persons or groups of persons more difficult, material equality is enforced in practice. The means for reaching it is in particular special measures, which are to eliminate adverse effects of discrimination, to which the persons or groups of persons concerned were exposed in the past, as well as to prevent continued and on-going discrimination. For authorised entities temporary special measures enshrined in the Anti-discrimination Act should have become an active means for reaching equal opportunities in practice. Entities from among the public administration, which decided to adopt temporary special measures, have a legal obligation to monitor, assess and publish them. The temporary nature of special measures is linked to the obligation to finish the performance of measures when the set objective is achieved. The Centre’s position is to be, by course of law, the recipient of reports regarding the justification of the presence of temporary special measures, if they are sent to them by state administration bodies. In practice, however, the Centre is predominantly an expert consultant in the preparatory phase - in decision making on whether the temporary special measure is to be adopted, which principles should be applied, and whether the temporary special measures do not go beyond areas of relations regulated by the Anti-discrimination Act. Moreover, on a yearly basis, on their own initiative the Centre contacts central state administration bodies in writing to inform the Centre on adopted temporary special measures, as well as on planned activities in this area. With regard to the existing inequality in Slovak society, which results from sustained stereotypes in viewing

marginalized groups, it is very illusory to rely on the elimination of inequality and provision of completely equal opportunities. It is rather the task to gradually reduce and alleviate the manifestations of unequal treatment in society. Again, the Slovak National Centre for Human Rights claims that in Slovakia the concept of temporary special measures in particular with respect to temporary special measures of legislative nature is applied very rarely. Specific support of disadvantaged groups is applied in the form of projects and initiatives, which are as a rule limited in time and financially. In comparison with experience from other EU countries we can assess real implementation of temporary special measures in the Slovak Republic as low. The Centre appreciates much the cooperation and effort of entities authorised to adopt temporary special measures in the monitoring and assessing them a lot. At the same time, just like in the past years, the Centre must observe that still there is a misunderstanding or wrong interpretation of the adoption of temporary special measures and approach to their implementation.

Recommendations

In order to improve the given condition, the Centre recommends:

1. On the legislative level:

Adopting an amendment of the Anti-discrimination Act, which will enshrine with respect to temporary special measures:

- Adoption of preventive measures on how to prevent and avoid the violation of the principle of equal treatment in areas protected by the Antidiscrimination Act, including on the grounds of racial discrimination,
- Include municipalities and regional self-government units in entities authorised to adopt temporary special measures,
- Modification of the position of an evaluator of special measures and modification of the procedure in determining the groundlessness of further duration of temporary special measure,
- Clear formulation of the competences of the Slovak National Centre for Human Rights.

2. On the level of public policies:

- Adopt comprehensive strategic and cross-sectional decisions of the state in favour of disadvantaged groups of inhabitants, which would help eliminate social and economic racial differences in comparison with the majority population.
- Specify an amount of resources from public budgets to cover demonstrated needs for the adoption of temporary special measures.
- Incorporate the cooperation of state administration bodies and municipal authorities and non-governmental sector into the process of the adoption of temporary special measures.
- Pay higher and permanent attention to the monitoring and mainly to the assessment of special measures by authorised state administration bodies.
- Include also municipalities among entities authorised to adopt temporary special measures so that they can become an active tool for real enforcement of racial equality in society.

Article 3

“Pursuant to Art. 3 of the International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter referred to as the “Convention”) the States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.”

According to Article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter referred to as the “Convention”) the States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.

- **Anti-Roma walls**

The concept of state housing policy until the year 2015 sets the basic objectives and plans for the housing strategy in housing development and together with supporting economic tools for the development of housing it creates conditions for accessible housing to the inhabitants of the Slovak Republic. A certain minor part of inhabitants, however, with respect to their educational, cultural and social level is not able to ensure adequate housing for them in a standard manner and way. Marginalized groups of population are distinguished by complete social exclusion as a result of the action of factors such as the loss of housing, long-term unemployment, dependence on drugs, insufficient social adaptability, membership in a certain ethnic group in regions with high unemployment, marginal position of the whole settlement, etc. From the point of view of all social indicators including the housing, the largest and specific marginalized group in Slovakia is the members of socially excluded Roma communities.

In the Slovak Republic, the long-term concept of housing for marginalized groups of population prohibits spatial segregation. Localization of construction may not deepen spatial and social segregation but it has to be the means of integration of the inhabitants of the affected Roma community. The issue is mainly the distance from the municipality and access to public services used jointly by Roma as well as non-Roma community in the municipality. A small construction (according to the Construction Act) representing, for example, a physical barrier - a wall, may be regarded as such a construction. The governmental concept of housing of marginalized groups of population includes the concept of segregation pursuant

to spatial separation of Roma and non-Roma settlement through physical distance or physical barrier. The long-term concept of housing for marginalized groups of population focuses on dealing with the issue of housing for the members of socially excluded Roma communities in urban or village concentrations, spatially segregated and separated settlements and is a specific supplement of the concept of state housing policy.

Segregation construed in relation to housing, called also residential or seat segregation, may be generally defined as unproportional deployment of certain groups of population in residential zones of towns and municipalities. In other words, it is spatial depiction of social inequalities because the rate of segregation reflects the rate of social inequality in the society.

The fundamental argument for the construction of walls is that the walls are supposed to protect the property of non-Roma inhabitants living in the neighbourhood of Roma settlements, ensure the protection of public policy etc. and not to separate (segregate) the Roma from non-Roma population.

Involuntary segregation is linked with the risk of creation of socially vulnerable racial and ethnical minorities not integrated into the labour market. It is the expression of social differences and social inequality of the society. Within majority society animosity to the segregated group of inhabitants may grow and this may result in their stigmatization.

Specific cases in Slovakia

In 2009, a wall was built in the village of Ostrovany (Sabinov district), which was 150 meters long and more than two meters high. The fence from municipal resources stands on private lots of land, and the mayor of the village says that it is to protect the inhabitants. The local board of representatives insists on its decision that the construction of concrete fence does not violate the legal rules of the SR.

In 2010, in the town of Michalovce a second wall following up on the construction built in 2009 was built. The newly built wall prevented the inhabitants of the settlement Angimlyn from cutting short their way to the town (across the lawn between blocks of flats). The wall was meant to be built at the expenses of the community of owners on Leningradská ulica according to information released in the media. According to the town's statement the wall was built at the expenses of flat owners. The town was the owner of the land. Construction of the wall was said to have prevented the pollution in the surroundings of the block of flats. According to a town's statement the wall did not present any discriminatory obstacle or

handicap. The town at the same time added that it conducted field social work and it had informed of the endorsement of the Local Strategy of Complex Approach to Marginalized Groups of Inhabitants.

In 2010, information on the planned construction of fence in Trebišov was released in the media. The statement of the town of Trebišov about the construction was in the meaning that the owners and tenants of the block of flats had asked for the construction of the fence on town's land. The construction was meant to be composed of the fence, made partly of mesh and partly of bricks, behind the block of flats in the area of greenery and garages. The wall and the fence were supposed to be financed at applicants' expenses. According to the town's statement the reason for construction was the devastation and pollution of greenery. By that time the area had been used by inadaptable youth for activities contrary to the public policy of the town. The town has also drawn up and endorsed the Local Strategy of Complex Approach of the Town the aim of which is complex solution to Roma settlement in the form of combination and concentration of diverse areas of individual partial projects.

In 2010, the town of Prešov built a panel wall eight meters long at the end of Murárska Street, which is a no-thoroughfare street, which prevented the inhabitants of Roma settlement from passing through a country road from the location of Stará Tehelňa to the town. This way the Council House reacted to many protests of citizens from Murárska, Veselá and Kotradova Streets who complained of robberies in their gardens, in courtyards and physical attacks mainly to elderly people and children.

In 2011, a controversial concrete wall was built also in Vrútky, which was meant to prevent growing disorders in the Roma settlement. This way the town of Vrútky wanted to deal with tension between the local Roma and citizens from neighbouring blocks of flats, but the problems remained. According to the Vrútky City Council it is not segregation and they were not able to find another solution for the protection of property and security of citizens.

After Ostrovany, Michalovce - part Angi Mlyn, Trebišov, Sečovce, Lomnička, Prešov, Vrútky and Plavecký Štvrtok, during 2012, segregating walls were built also in Partizánske, Zlaté Moravce and Sered'.

The inhabitants of a block of flats in Ulica 1. mája Street in Zlaté Moravce built a fence, which fenced them against the neighbouring Roma. They say that the Roma made a mess below the windows, dirt and disorder. The town supported the idea and issued consent to the partition of communal land with a small construction. According to the mayor of Zlaté Moravce, in Zlaté Moravce is high demand for fences dividing the "inadaptable" from "decent" people, and he argues that the fence is meant to protect them against dirt, waste,

noise, vulgarity and conflicts. The town of Sered' bricked up the entrance in a concrete fence into the area at the sugar factory where the Roma live. Thus people from the locality can get behind the gate of the area only through one entrance and according to their words they feel like prisoners. The mayor says that they had to act this way due to higher security, order and due to the non-payment of waste removal. The Roma draw attention to that the town restricted the access for ambulances, and that while other family houses had access to the embankment, they have lost this access and the children have no place to play. The mayor stated that this was the final solution. The self-government claims that the new wall is used, among other things, also for sports activities, i.e. squash or basketball.

Also the town of Partizánske has built a fence in Nábrežná ulica Street, and the mayor plans to further fence four other blocks of flats in Nábrežná ulica Street. According to the mayor's statement, antisocials live there who cause problems to the inhabitants of houses in neighbouring Komenského Street, and the fence presents a solution. It is meant to provide better control of inadaptable fellow citizens. The local authority decided on the fence after the petition of unsatisfied citizens.

Similar cases when towns separate inadaptable people from the surroundings with various building conversions grow constantly. The Centre holds an opinion that the construction of barriers is only a fast and illusory solution; in fact barriers between groups of people deepen more. Acute problems in co-existence must be solved immediately, between the mayor and the Roma Mayor (vajda).

Recommendations

For a purposeful and real solution of anti-Roma walls in Slovakia the Centre recommends:

The municipal authorities to:

- Build a long-term strategy of co-existence in the municipality in terms of Roma inclusion concurrently with mutual active non-confrontational communication about solutions to acute problems of co-existence.
- If persistent criminality is a problem and the municipal police, e.g. due to a lack of staff they are not capable of removing the problem; the municipality should find a system solution in collaboration with the competent institution, i.e. local unit of the Police Force of the Slovak Republic.

- Place public constructions in the municipality so that there is no spatial and social exclusion of Roma community inhabitants.
- In cooperation with the labour office with respect to the Roma population use more intensively the established supportive tools, such as the concept of special beneficiary.
- Improve cooperation and communication between the parties involved, on the basis of an obligation in favour of the Roma integration.
- Reflect this cooperation into positive changes on the local level by increased co-responsibility and strengthened capacities on the part of local authorities, civic society and the Roma themselves.
- Care about urban planning, economic and territorial development with respect to Roma inclusion.
- Reduce the share of the Roma with access to housing and utility lines and the share among the other inhabitants.

The Plenipotentiary of the Slovak Republic Government for Roma Communities to:

- Monitor prepared zoning plans of municipalities whether these meet the criteria reflecting the real state of national/ethnic composition of inhabitants and if they are based on the needs of all the inhabitants of the municipalities and if they can ensure the creation of equal living conditions.
- Monitor via their regional offices the construction of buildings that should serve all inhabitants in towns and municipalities (e.g. services, health care, education, traffic connection) with the aim of identifying possible segregation character of their placement in time.
- Pay special attention to most disadvantaged micro-regions and segregated districts.
- Use effective monitoring methods for an assessment of the effect of measures for Roma integration.

State authorities to:

- Define in all relevant provisions of the construction law of the Slovak Republic the explicit prohibition of spatial and social segregation with respect to the distance of and access to public services and proportionality of the deployment of population groups in residential parts of municipalities or towns through construction. The goal of the recommendation is to uplift the protection against any segregation from the level of

conception materials to the level of the Construction Act and related regulations which regulate the construction industry legally and determine the approval and control mechanisms along with statutory sanctions.

- Develop clear policies in the area of housing for the elimination of segregation.
- Measures in the area of housing must be part of a comprehensive approach, which includes education, health, social care, employment and security and measures for desegregation.

Conclusion

The Centre, referring to the examples of existent negative practice in Ostrovany, Michalovce, Trebišov, Sečovce, Lomnička, Prešov, Plavecký Štvrtok, Vrútky, Partizánske, Zlaté Moravce and Sereď, expresses severe worries that self-government bodies have been establishing systematically and for a long time an unacceptable social trend in the field of human rights in Slovakia that reminds of a return to the past. The Centre evaluates critically that it is the area of human rights where the self-government chooses outdated methods and resorts to cheap one-off measures on a more primitive level of social development instead of efficient application of modern legal means. Building of walls is the expression of authoritative physical separation of the people living in one social room and amounts to a factual confirmation of inequality of citizens in everyday life. Concurrently, it is a manifestation of lacking prevention of discrimination. The walls substitute the helplessness of towns and municipalities, which failed and resigned themselves to their active mission. Where the towns and municipalities don't adapt system measures there is the absence of active communication about burning issues of coexistence and legal prevention means aren't used.

Such acts of segregation that deepen social intolerance diminish social cohesion among people and have a negative impact on the formation of attitudes within the society. That's why the Centre warns of social harm of the specific measures taken for the construction of isolating walls as well as of the trend in the development of attitudes of self-government. It at the same time expresses the wish calling for the re-assessment of measures and reversal of the nascent negative social phenomenon.

Self-governments argue that fences and walls are meant as the protection against dirt, waste, conflicts and also serve as anti-noise screens. In addition, they should be used also for sports such as tennis, squash or basketball.

On the average one anti-Roma wall is built every third month in Slovakia. An average quarterly development of walls separating population groups for the period under review was not an only event, but a warning trend in Slovakia. The construction of walls and fences becomes a standard in towns throughout Slovakia, which also declare newly built walls in towns in Central and Western Slovakia in 2012. It is evident that the number of anti-Roma walls does not drop; yet municipalities and towns in Eastern Slovakia become an idol for towns in Central and Western Slovakia, which accept the model of isolating walls.

The situation has escalated in several towns. It proves also a “March for the rights of decent people” in Partizánske, in which hundreds of people participated.. The citizens' initiative “*Stop to asocials in your town*” came with an idea to organize the march. Part of the march which was supported also by inhabitants of other towns was the signature of the “*petition for decent people*”, which was launched on 6 September 2012 in Partizánske. After the event in Partizánske, two protest marches were held also in Bratislava entitled “*Jointly for decent and secure life! Jointly against corrupt politicians and asocials!*”. (see Civil laws /Art. 5 d)/ Marches and petitions for the rights of decent people (par. ix) the right to freedom of assembly).

In our society the need for public discussion on existent social differences, their tolerability, separation and incipient segregation of certain groups of inhabitants, level of tolerance towards them and the conditions of acceptance of such inhabitants lingers on.

Analysis of the state of facts and synthesis of obtained information on the part of the Centre follows from numerous respective questions and answers from individual towns and municipalities. Current practice refers to the fact that the constructions often affect the Roma population directly or indirectly. That's why the Centre insists on its stance that this is a phenomenon and the goal is to secure the separation of ethnical settlement of the Roma from the dwellings of the non-Roma by means of a construction barrier. This procedure causes factually their social separation as well. The entire situation does not contribute to the improvement of relations between non-Roma and Roma inhabitants and it does not lay foundations for the integration of the Roma into the majority society either. On the contrary, it diminishes social cohesion among the people.

Article 5

From among a circle of rights contained in Article 5 of the Convention on the Elimination of All Forms of Racial Discrimination the Centre considers it necessary to pay special attention to the following rights:

- Art.5 c)- The right to take part in the Government, the right to conduct public affairs
- Art.5 d)- The right to nationality, the right to freedom of assembly and association
- Art.5 e)- The right to work, the right to housing, the right to health protection

As far as the right to security of person is concerned (letter b), this issue is contained in the part devoted to Art. 4 and in the part to Art.5 in connection with the right of assembly. The issue of the right to own property alone (letter d) par. v) is linked to the part devoted to the right to housing. We deal specifically with the issue of the right of education with emphasis on discrimination and segregation on grounds of membership in the Roma minority in the part related to Art. 3.

POLITICAL RIGHTS /Art.5 c)/

The representation of Roma minority in the Parliament, municipal authorities and in the Government (the right to take part in the Government and the right to conduct public affairs)

In Slovakia, the Roma widely recognise as the most important and also the most trustworthy decision level for them the municipal self-government. After decentralization reforms municipalities have many competences, which place tools into the hands of self-governments for dealing with many issues in local Roma communities. As the outcomes of the recent municipal elections show, the Roma are increasingly interested in participation in decision-making processes of the self-government.

In 2010, the Roma were present on tickets of three Roma parties, the Roma Initiative in Slovakia (RIS), the Party of Roma Coalition (SRK) and the Party of Social Solidarity (SSS), as well as on tickets of many majority political parties (in most cases SMER-SD, SDKÚ-DS, Most-Híd, HZDS, KDH and others), or as independent candidates. Many Roma ran for the position of mayors. According to NDI (the National Demographic Institute) estimates, the number of candidates for mayor posts almost doubled from 60 candidates to roughly 120 in 2006 and 2010 respectively.

In 2010, 29 Roma mayors were elected, predominantly in Eastern and Central Slovakia. A Roma woman - Mária Oračková from Lomnička was elected for the first time for the position of a woman mayor, and thus became the first Roma woman mayor in Slovak history. In comparison with the results of municipal elections in 2006, much more Roma were elected into town and local councils (approximately 330 in 2010 in comparison with roughly 230 in 2006). It is interesting that 121 out of the Roma elected into the councils stood as candidates for Roma political parties (SRK, RIS, SSS and their coalitions), the rest for majority political parties, or as independent candidates. It means that more Roma were elected on the tickets of majority parties and it clearly demonstrates that many Roma have a strong potential to be equal partners and members of the mainstream municipal politics and can join successfully the process of negotiations with the representatives of local and regional structures of majority political parties.

In 2010, also the number of municipalities where the Roma were in nomination and elected, increased: they were elected in roughly 130 Slovak municipalities; in 2006 it was in 95 municipalities. The number of Roma mayors increased from 19 in 2006 to 29 in 2010. It is interesting that for elected Roma women the ratio to the men in both years is relatively identical - and very low. In comparison with 2006, when 11 Roma women were elected into councils, in 2010 it was twenty.

The fact is that a majority of Roma mayors and deputies were elected in municipalities with prevailing Roma population. From a certain point of view we can admit that the demographic factor contributes to an improvement of statistics for Roma candidates. However, it is true that in many cases mayors and deputies were elected also in municipalities with a lower representation of the Roma, and the main factors of their election were quality and fair election campaigns, which were able to mobilize the Roma, or many of candidates were re-elected, and the voters voted for them due to their good results in the preceding electoral term. Many Roma mayors were also able to obtain votes from non-Roma voters, mainly in some municipalities in Central and Western Slovakia, e.g. Veľký Grob, Hubice or Val'kovňa. On the other hand, a suspicion exists that a certain amount of Roma candidates were elected due to alleged perfectly organized buying of votes. However, the same is true also for many non-Roma candidates. Before elections the NDI worked with several Roma candidates, organized training and networked the Roma who already have experience in elections and work in town councils with those who have just started and gained the first experience. On all such meetings and training Roma candidates were directed to fair election campaigns and many of them demonstrated that also in Roma communities one can be

successful thanks to fair and quality campaign. These results are the best answer to speculations about Roma vote buying.

We can say that this growth of the Roma elected on the local level is partially also thanks to NDI training and long-term systematic work in the area of Roma political participation. It is interesting to monitor the results of such Roma candidates who were part of campaign teams of Roma candidates in regional elections or in elections to the National Council of the SR. These candidates already had rich experience in an election campaign; many of them had prepared quality election programmes. They attempted to communicate to voters through well prepared strategies, in most cases based on direct communication and door-to-door campaign. Even though on the regional and national level Roma candidates were not successful from the point of view of direct election, their campaigns were successful from the point of view of enforcement of a certain culture of political campaigns in Roma communities and in gaining political experience for many Roma candidates and leaders. Although the media constantly present scandalous reports about inadequate education and vote buying in the context of Roma political participation, such positive success and quality and fair campaigns can present a certain hope for the future. In this context it is surely a success to see Roma candidates discussing their election programmes, improving and communicating their election missions and leading door-to-door campaigns in segregated Roma settlements. Many of such campaigns were successful, whether or not Roma candidates were elected, or whether only several votes were missing, e.g., in the municipalities of Rudňany, Vítkovce, Smižany, Cígeľka, or in the district Rimavská Sobota.

In election participation of the Roma we can speak about two trends. One is markedly negative and threatens democratic principles of free elections; the other is positive and strengthens democracy and fair elections. A negative trend is vote buying in Roma communities, whether by Roma candidates or by majority politicians. In Slovakia, this trend is markedly growing. A positive trend is higher emphasis of several Roma candidates on more professional election campaigns focused on direct communication with voters. Several Roma candidates are aware of the efficiency of such campaigns, the aim of which is to gain higher support of their community. They realize that it is important to be in permanent contact with the community not only before elections, but also throughout the election cycle. In this context it is a favourable signal to see Roma candidates working on their election programmes, communicating their missions and developing communication strategies, mobilizing teams of volunteers and leading door-to-door campaigns.

One of the members of the Slovak National Council - Peter Pollák is a Roma with university education and experience in the area of social work, has also dealt with the administration of EU projects. Today, the opposition member of the Slovak National Council, Peter Pollák, is a new Plenipotentiary of the Slovak Republic Government for Roma Communities and currently prepares a strategy for dealing with Roma issues in Slovakia, the so-called Roma reform.

According to Irena Bihariová from the association People Against Racism, a political discussion about the Roma fell to the level of Internet discussions and the submitted reform only follows the continued demonization of the Roma in Slovakia. She said that Pollák's measures are politically motivated and present only an emotional answer to the emotional setting of the public. She reproaches the Plenipotentiary for that in his speech he does not highlight the "*historical poverty and peripherization*" of the minority and the problem of social benefits, which is understood among the Slovak public in a broader context. In her opinion the measures are only a populist repression and their impact will be felt mainly by the majority.

Katarína Mathernová from the World Bank who collaborated on a report on the status of the Roma in Slovakia says that "*the problem of Roma in Slovakia is the problem of one fatal poverty that nobody in Central European and European context can imagine.*" From the point of view of labour productivity, in a sample of Roma from settlements, Slovakia belongs to 25% of poorest world countries. In her opinion the key is to deal with preschool education of children, which is only one solution in one area. According to Juraj Horváth, the Executive Director of the Slovak National Centre for Human Rights: "In the long term Roma's life in Slovakia has been accompanied by the culture of poverty, which now has changed to the cult of poverty."

"Pollák makes a crucial mistake also in that by submitting a draft reform he does not consider all-society problems and the situation in Slovakia at all. Without an economic study and real estimate of costs the whole reform seems to be merely a lump of intellectual and scholastic ideas", says a cultural anthropologist and Roma expert and adds that probably Pollák's reform will not be successful because the biggest problem will be financing possibilities.

CIVIL RIGHTS /Art.5 d)/

Amendment of Act on Nationality of the SR (par. iii) the right to nationality)

The Centre considers it appropriate to highlight the issue of right to nationality, which is linked to an amendment of Act No.40/1993 Coll. on nationality of the Slovak Republic, as amended (hereinafter referred to as the “Act on nationality of the SR”).

Act on nationality of the SR was amended with effect from 17 July 2010 and the purpose of amendment was to introduce a new method of the loss of nationality in the SR. The amendment was primarily, however, a reaction to legislative changes in the Hungarian legal regulations concerning double nationality from May 2010, which with effect from 2011 simplified the access to Hungarian nationality for foreign nationals who are of Hungarian origin and speak Hungarian. Subsequently, the Slovak Republic legalized that the Slovak nationality can be lost also by the acquisition of nationality of another state on the basis of express manifestation of will by the acquirer. According to the Act, such an express manifestation of will means an application, declaration or another act leading to the acquisition of nationality of another state. By adoption of Hungarian or another nationality, such a person loses Slovak nationality *ex lege*. However, no loss of nationality occurs pursuant to Article 9 par. 17 and 18, if nationality of another state is acquired upon birth or if the national acquired nationality of another state with respect to marriage with a foreign national, provided that spouse’s nationality of another state was acquired during the validity of marriage.

Both states with controversial amendments of legal regulations regarding nationality ratified the European Convention on Nationality 1997 and undertook that their legislative regulations would not be in contradiction to it. Therefore it is necessary to say that according to international law neither of the countries breached its obligations. The European Convention on Nationality does not contain a provision which would hinder the Republic of Hungary from allowing the acquisition of Hungarian nationality to ethnic Hungarians living abroad. At the same time Art. 7 par. 1 of the relevant Convention contains enumerative reasons on the basis of which the loss of nationality can occur. The reason for the acquisition of nationality of another state, which is introduced by amendment of Act on nationality of the SR, is one of specified reasons.

This amendment was criticized due to its discriminatory impact on the members of national minorities, mainly of Hungarian living on the territory of the Slovak Republic who would, if they acquired the nationality of the Republic of Hungary, automatically lose Slovak nationality and the related rights. Statistical figures, however, indicate that the amendment of Act does not have exclusive and primary impact on the Hungarian minority living on the

territory of Slovakia. According to available information most persons who lost Slovak nationality on the basis of Act on nationality after July 2010 lost it due to the adoption of Czech nationality. They were followed by persons who adopted Austrian, German and only in the fourth place Hungarian nationality.¹ In April 2012, the Slovak Prime Minister announced that he planned to amend the Act on nationality not to harm the citizens of the SR who apply for nationality of another state, but later he announced that with respect to the Republic of Hungary the Act must have been valid further because it is a country where law is in force to which the SR reacted in its relevant legislation.

Recommendations

An adequate solution of the whole issue would be concluding a bilateral agreement between the Slovak Republic and Hungary, which would deal with the issue of double nationality according to the current social and legal conditions.²

Marches and petitions for rights of decent people (par. ix) the right to freedom of assembly)

The issue of the right to freedom of assembly and association and the enforcement of such right in a manner discussed herein must be understood in the context of Art.5 b) of the Convention on the Elimination of All Forms of Racial Discrimination, which guarantees the right to security of person. The right to freedom belongs to significant political rights guaranteed by the Slovak Constitution in Article 28. The conditions of the enforcement of the right to assembly are regulated by Act No. 84/1990 Coll. on the Right of Assembly. The enforcement of the right to assembly serves to citizens for the application of freedom of speech and other constitutional rights and freedoms, for the exchange of information and views and for participation in dealing with public and other common issues by expressing their opinions and statements.

¹ According to data published in July 2012, in the SR, Slovak nationality was lost on the basis of Act on nationality by 296 persons, due to the adoption of nationalities of other states as follows: Czech (149), Austrian (37), German (34), Hungarian (25), British (17), Dutch (11), American (10), French (2), Icelandic (2), Norwegian (2), Australian (1), Belgian (1), Chinese (1), Canadian (1), Swiss (1), Italian (1) and Ukrainian (1).

² Today the Treaty between the Czechoslovak Socialist Republic and the People's Republic of Hungary is valid regarding the regulation of certain nationality issues (Prague, 4 November 1960), which was published in the Collection of Laws under no. 37/1961 and regulates the option of nationality in order to remove double nationality.

In the past months, the real application of the right to assembly was a “March for the rights of decent people“ in Partizánske, in which hundreds of people participated. The citizens' initiative “*Give stop to asocials in your town*“. Part of the march which was supported also by inhabitants of other towns was the signature of the “*petition for decent people*“, which was launched on 6 September 2012 in Partizánske. It is initiated by the mayors of Partizánske, Handlová and Žiar nad Hronom. Signatories to the petition demand more efficient enforcement of the following measures:

1. Deeper protection of the fundamental rights of decent people against asocials,
2. More stringent legislative sanctions for asocials restricting the human rights of decent people,
3. Payment of social benefits conditioned by performed work of the beneficiary of social benefit,
4. Lower age of criminal and legal liability of the minor from 14 years to 12 years of age,
5. Criminal and legal sanctions to parents for criminal acts of their children.

With respect to that the “petition for decent people“ was signed only by 43 616 persons, which does not meet the statutory requirement of 100 000 signatures, the General Assembly of the National Council of the SR will not discuss it.

After the event in Partizánske, two protest marches were held also in Bratislava entitled “*Jointly for decent and secure life! Jointly against corrupt politicians and asocials!*“. According to the organizers, the purpose of event is to support Slovak patriotism, national union, remember the national history, as well as to highlight all social and economic problems threatening the future of Slovak nation. However, the above marches were organized in the spirit of extremism. The assembly was organized by Oskar Dobrovodský who has long-term problems with inadaptable Roma neighbours in Malacky, together with Marián Mišún. At the march appeared also Marián Kotleba’s followers with the flags of organization Slovenská pospolitost’ (Slovak Brotherhood). Thus in practice the above stated assemblies serve also for the enforcement of extremist and racist opinions and present a potential threat to personal security of Roma citizens.

Recommendations

According to the opinion of the Centre, towns and municipalities should seek appropriate solutions and take preventive measures to deal with the issues of citizens who behave in an inadaptable manner rather than preparing petitions. Thus towns and

municipalities could, by systematic work with problematic citizens, limit various extreme forms of such behaviour, which consequently would not lead to marches and a serious escalation of human relations.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS /Art.5 e)/

No interest to employ the Roma (par i) the right to work)

Even though the antidiscrimination legislation in the SR prohibits the discrimination of persons in access to employment on grounds of their membership of a national minority or ethnic group, in practice extensive discrimination of the Roma happens in this area, which is demonstrated in the form of reluctance to and fear of employing the Roma.

Data from the research of UN Development Programme (UNDP, 2010) and of the World Bank (UNDP/WB, 2010) indicate an extremely high unemployment rate of the Roma in Slovakia. According to these data, in the periods under review, even 72% Roma men and 75% Roma women were unemployed. Thus today the Roma probably account for one half of all unemployed in the Slovak Republic.³ However, it is necessary to stress that official employment statistics by ethnic or national origin are not maintained in Slovakia. High unemployment of the Roma is a result of several factors, among which is primary their social exclusion. Negative approach of employers in employing the Roma stems from their low qualification, low working morals and last but not least from prejudice. A higher unemployment rate of Roma women in comparison with Roma men indicates another significant problem, which is multiple discrimination of Roma women, thus not only on grounds of membership of the Roma minority, but also on grounds of their sex. In conjunction with the economic crisis whose accompanying phenomenon is the growth of unemployment, it is necessary to remark that this was reflected in a negative way yet in less interest in filling vacancies by the Roma. Nowadays low qualification jobs, which were performed in particular by the Roma in the past are the source of subsistence for a wide group of socially dependant Slovaks, whereas usually non-Roma citizens are preferred.

The results of an extensive study of the Slovak National Centre for Human Rights focused on the observance of antidiscrimination legislation in labour-law advertisements⁴

³ Slovak Republic's Roma Integration Strategy up to 2012, p.13

⁴ Rovnaké príležitosti v pracovnej inzercii – mýtus alebo realita?, Bratislava, 2011

revealed, among other things, also frequent and unreasonable demanding of candidate's photograph. Such requests were found, e.g., for the position of a storekeeper, which can be a hidden tool for discrimination of the Roma because the employer can determine the membership of Roma minority based on the photograph. Employers demand a photograph as they know that specifying the condition of non-Roma origin would violate the principle of equal treatment. From the monitoring of media in this area we can also point out cases when the Roma reacted to offers of jobs over the phone, the job was promised to them, or they were invited for an interview, and subsequently when the employer found out on the meeting that they are the Roma, they did not get the job.

The Government of the Slovak Republic, in the Slovak Republic's Roma Integration Strategy up to 2020, sets the target inter alia to eliminate discriminatory treatment of the Roma in the labour market, but all priority policies which contain the obligations of the Slovak Government for a period of 2012 - 2020 are merely targets, but the means for achieving them are not formulated completely, sufficiently, comprehensively and clearly.

Even though in a case from practice stated by the Centre in this part, discrimination on grounds of membership of Roma national minority in access to employment was not proved, in Slovak practice such discrimination really happens, albeit it is difficult to prove it and the Roma rarely take legal steps to protect themselves against it. Discriminatory procedures of employers are often masked by neutral conditions, but they lead to the preference of non-Roma job applicants, not only in cases where there are equally qualified applicants, but also in cases where a Roma applicant otherwise would seem to be more suitable.

The Centre expresses serious worries about negative attitudes of employers to employing the Roma in Slovakia. A high unemployment rate of this group of inhabitants markedly contributes to overall unemployment in the country, in particular in less developed Slovak regions where the concentration of the Roma population is higher. Today often the only possible employment for the Roma is for seasonal labours, which, however, in the long term do not present a solution to high unemployment and low standard of life of this marginalized group. The economic condition of the Roma associated with impossibility of getting a long-term job increases Roma's dependence on state social benefits and presents one of obstacles to their full-valued integration within the majority society.

Case from Slovak National Centre for Human Rights practice

In 2010, the Slovak National Centre for Human Rights dealt with a problem of Roma complainant who objected to discrimination against herself as regards approach to employment. Having completed university education with a certificate in history - pedagogy, she applied for a position of a history teacher at an elementary school. The school recorded her application in 2009, but in the school year 2009/2010 they did not employ her and even established employment with a person who did not have the required completed university education. Following that the complainant believed that it was a discriminatory approach on grounds of her Roma origin. Also the complainant's sister who applied for the position of an educator at a special elementary school and who graduated from a College of Education and who had work experience from previous years as a teacher assistant at an elementary school, had the same problem with employment. School principals stated that one of reasons for her rejection were references obtained from her previous job, as well as alleged problems with her sister who had worked at the school before.

The Centre used all of its competences to help the sisters with access to employment. It communicated with relevant institutions, such as School Inspection, School Authority, Labour Inspectorate, the Ministry of Education of the SR and with the organizers of the schools concerned. The Centre provided the complainants with an option of out-of-court settlement of the dispute through mediation. Since the sisters objected also to the alleged spreading of untrue information and slander on the part of several statutory bodies of addressed schools, the Centre pointed out the possibility of claiming protection of personality in which it had provided them with complex legal advice.

Striving to help the complainants, the Centre sent 14 written documents (various applications, notices, expert stances) and conducted at least 10 personal meetings with the given institutions and persons without interrupting contacts with complainants. Primary reasons were the lack of evidence and facts referring to discrimination on grounds of membership of Roma minority. The Centre came to the conclusion that despite the suspicion of discrimination, the complainant wouldn't have borne the burden of proof in a lawsuit objecting to discrimination. Thus the fundamental precondition of the transfer of the burden of proof to the defendant, would not be satisfied. Taking into consideration the social situation of the complainant, the Centre didn't want to expose her to failure in court proceedings and high court fees she would have been forced to pay. Complainant's representation before the court was taken over by the Center for Civil and Human Rights. In March 2011, the court of

first instance decided that there had been no discrimination against the complainant confirming thus the legal opinion of the Centre.

Recommendations

Aiming at the elimination of the male and female members of Roma nationality in access to employment, the Centre recommends:

- Setting functional mechanisms for efficient use of temporary special measures, focusing on the support of Roma employment in practice, and the monitoring.
- Paying higher attention to multiple discrimination that Roma women face (i.e. discrimination on grounds of membership of the Roma national minority along with discrimination on grounds of sex).
- Enhancing the awareness of the Roma in the labour market regarding their right related to the access to employment.
- Adopting effective measures aimed at assistance to the members of Roma minority to integrate them in the labour market not only in state-owned and self-government enterprises and organizations, but also in the private sector, and monitoring and assessing the impact of such measures on a regular basis.
- Motivating municipalities to establish social enterprises in order to deal with employer's reluctance in employing marginalized groups.
- In risk municipalities allowing low qualification jobs for the performance of activation works also to organizations of public character, the Church, non-profit organizations, etc.
- To a greater extent use sanction mechanisms in the context of statutory measures, in the event of repeated violation of the existing legislation no toleration of its non-observance.
- Applying effective monitoring methods to assess the effect of measures for the elimination of Roma discrimination in access to employment.

Right to housing (par. iii))

Yet many Roma live in conditions which do not reach the minimum standards of average housing. In certain regions of Slovakia segregated living still prevails and even

expands. Subsequently segregation seriously restricts Roma's access to education, employment or health care. Segregated living means an insufficient or interrupted access to education. Living in a separated area means fewer opportunities to become aware of job opportunities or, for instance, impossibility to use public transport to go to work. Inadequate housing standards result in an impaired health condition and higher morbidity, and segregated living means a more difficult access to health care. Predominantly persons living in unofficial settlements are extremely vulnerable to forced eviction. Cases of forced eviction of the Roma without prior notice exist, including eviction without consultation with the affected community, forced eviction with the assistance of the police, with no substitute housing provided. It is obvious that one of the causes of unfavourable conditions of Roma housing is racial discrimination, both direct and indirect.

The Roma in the area face also racist reactions of local non-Roma inhabitants and applicable discriminatory measures on the level of local authorities.

The Roma are dispersed throughout the territory of Slovakia. There are big differences in their quantity, concentration and reproduction behaviour in particular Slovak regions. The highest concentration of the Roma population is registered in the south of Central Slovakia and in entire Eastern Slovakia. Perhaps the most significant factor dividing the Roma into several groups is their social-economic situation, which is closely linked to the method of housing.

In Slovakia, the major part of the Roma lives in homes which are considered inadequate. Adequate living is understood as one which has an access to drinking water, energy for cooking, to heating and lighting, amenities and facilities for washing, space for food storage, waste removal, sewerage, etc. In Roma settlements and houses many of such facilities do not exist. An insufficient access to stable and safe housing affects many Roma who carry the burden of poverty in housing. The inhabitants of settlements are often affected by violent practice of forced eviction. A lack of guarantee in housing and use of land divests the Roma of economic independence, physical security and human dignity and contributes to their marginalization. Most of informal Roma settlements and communities have no guarantee of legal form of housing, which means that their citizens have no control of what will happen to the house where they live.

Housing in villages: The Roma live in settlements, which are often several kilometres far away from a municipality. Settlements in close proximity to a municipality are often separated with a creek, field, and the like. They live in houses from wood or unburnt bricks

with very modest equipment; in most cases without drinking water, sewerage and electricity. In the summer the life in settlements concentrates usually outdoors. They cook on cook-stoves brought by them in front of the house, eat and wash outdoors, organize parties and events. Most of such houses are built on the land of another and without the planning and building permission, which causes problems today with respect to an amendment of the Construction Act, and which results in more serious problems with respect to the removal of illegal and unlawful constructions.

Living in towns: Numerous families were transported into town panel houses within a programme for the liquidation of Roma settlements. In urban environment we can meet either town ghettos with a marked or absolute share of the Roma or independent municipal districts with a higher concentration of the Roma, e.g. a group of low-standard houses, low category flats in blocks of flats or new social flats in separate blocks of flats.

The fact is that unlike the “non-Roma“ inhabitants the Roma have considerable advantages and benefits in the area of housing. The state provides and performs free of charge construction of blocks of flats for this ethnic group, whereas this assistance with respect to the other national minorities and Slovak citizens is in a certain way discriminatory as no favourable housing of such type is provided to them (lodging services are provided in the form of crisis centres, however, only of temporary nature). In addition to this, within central government aid to underprivileged families or young people no construction of flats is planned. If housing is provided to such groups of citizens upon the satisfaction of conditions, among which is income from employment, they must duly pay the rent and expenses associated with the rent, which is financed by the state for the Roma. Other groups of inhabitants are not relieved from responsibility for any damage to state or private property, and are not released from debts for electricity, water or gas.

As far as eviction is concerned, in many cases it is impossible to really carry it out, even despite the fact that the same laws apply to the Roma as to other groups of inhabitants. The law does not distinguish a Roma, a Slovak or a member of another nationality or ethnic group, but it clearly defines the terms of tenant, landlord, etc. regardless of origin, race or colour.

Allocation of social flats

The allocation of social flats in places where such flats exist in Slovakia, is very problematic. According to Act No. 369/1990 Coll. on local governments, local boards of representatives can establish commissions to address social issues including housing, but the Act does not impose the liability to do so. With respect to a self-governing nature of the construction of flats, procedures associated with the allocation of social flats differ in particular municipalities. Therefore the regulation of social housing on the local level without a really existing directive on the national level creates the situation in Slovakia where in practice the allocation process is open to possible discrimination on grounds of race or ethnic origin.

Tenants' rights and eviction

The legislation related to the lease of real property, relations of the landlord and the tenant and eviction is enshrined in the Civil Code. According to this regulation the landlord may cancel the lease contract for reasons as provided by law, which include: the landlord needs the flat for himself/herself or the members of his/her family; the tenant has stopped to carry out work to which his/her service tenancy is linked; gross damage to leased flat or continuous violation of peaceful living of other tenants or owners of flats; threat to security or breach of good morale in the house; gross violation of obligations in particular by failure to pay by the tenant of the rent or payment for services provided with the flat for a period longer than three months, or by subletting the flat or its part to another without written consent of the landlord; due to public interest it is necessary to handle the flat or house so that it is not possible to use the flat; or if the flat or house requires repairs during which the flat or house cannot be used minimum for six months; if the tenant has stopped to meet the conditions for using a flat for special purpose; or if the tenant uses the flat without consent of landlord for purposes other than housing.

The provision of Article 710 par.4 the Civil Code stipulates that if notice is given on grounds of that tenant did not pay the rent or payment for services provided with the flat, and demonstrates that at the date of delivery of notice the tenant was in material need for objective reasons, the notice period shall be extended by a six months protection period. However, Act No. 599/2003 Coll. on Material Need does not distinguish material need for subjective and

objective reasons, and thus we can assume that today nobody can apply the extension of notice period on grounds of material need for objective reasons.

The Act does not contain landlord's obligation to obtain a consent of court to cancel the lease contract, whereby the burden of proof is transferred to the tenant. Over the course of three months the tenant must file a motion to the court and demonstrate that none of the conditions was met.

The Civil Code specifies in detail the types of substitution of flat (a substitute flat, substitute housing, shelter), which should be provided in the event of cancellation of lease contract. If the lease contract is cancelled for reasons stated in Article 711 par. 1 d) (the tenant breaches grossly his/her obligations resulting from leasing the flat in particular by failure to pay the rent or payment for services provided with the flat for a period longer than three months, or by subletting the flat or its part to another without written consent of the landlord) and the tenant proves that he/she is in material need for objective reasons, he/she has the right only to substitute housing. In other cases of cancellation of lease contract pursuant to Article 711 par.1 d), the tenant shall have no right to substitute housing; if it is grounds for special consideration, the tenant shall have the right to a shelter. The tenant is not obliged to move out of and vacate the flat until a corresponding substitution of flat is provided to him/her. The tenant who vacates the flat is obliged to make a contract on compensation for flat within 30 days of delivery of written notice regarding the provision of substitution of flat; if the lease contract is not concluded unreasonably by the tenant, then his/her right to substitution of flat shall cease to exist.

The consequences of this Act in practice allow the performance of forced eviction to a great extent with impunity, whereas only little protection is offered to the victims of forced eviction according to the Slovak rules of law.

Specific case 1

Luník IX is a borough in the city of Košice. In this residential area is the highest density of Roma population in Slovakia falling on one municipality (100%). The capacity of flats in the residential area is 2 400 persons. In 2010, 6600 inhabitants were registered in Luník IX, of which roughly 2 200 are children. On the average, one flat is occupied by 14-16 people. The birth-rate in this city district is 150 - 170 children per year; mortality roughly 5%. Almost 100% of the inhabitants of this city district are debtors or bad payers of rent and energies. Unfavourable social and hygienic conditions of the inhabitants of residential area

present a hardly soluble burden for the city of Košice, which is part of a complex solution to the Roma issue in Slovakia.

In Luník IX, blocks of flats have been demolished for several years. Over the last 4 years, the city demolished 3 of them and plans further actions. The reason is disturbed statics of houses, which are often damaged by tenants. The first demolition took place in Luník IX in 2008. They placed the inhabitants of 70 houses into the residential area. During the following 2 years the situation repeated. Thus 3 domestic houses disappeared from the residential area, but the number of people did not decrease. Recently municipal deputies allocated 250 000 euros in the budget for demolition work. In the next demolition the city can have a problem with substitute housing.

Yet last demolition of a devastated block with disturbed statics was carried out in October 2012. The city as the owner had to proceed to the clearance of a block which was in the state of disrepair and with disturbed statics because it endangered the health and lives of inhabitants. The inhabitants had to leave more than 30 flats, but most of them did not have valid lease contracts. The city provided eight families which had either a lease contract or duly had paid for the flat or had a schedule of payments, with substitute housing directly in Luník IX. Emergency housing in tents was provided to the others. Another devastated part of a block of flats is planned to be demolished at the beginning of 2013. The city gives reasons for its measures by protecting the life and health of inhabitants.

Specific case 2

On 17.10.2012, the Slovak National Centre for Human Rights (hereinafter referred to as the "*Centre*") monitored the observance of human rights and performed a personal review in the village of Krásnohorské Podhradie by checking the escalated situation between the Roma and Slovak nationality, which led to a threat of demolition of the so-called "black" or illegal buildings.

A meeting was held with the Roma Mayor (Vajda) of settlement, which is part of the village Krásnohorské Podhradie. The Roma Mayor of settlement stated that they were houses without a building certificate and situated on the land of another, whereas in the past they had been built on communal land, but within the restitution they had been returned to particular natural persons. The Roma Mayor also stated that the owners of the relevant houses wished to settle the land and that negotiations were in progress with the owners of land regarding possible

purchase, but these negotiations were sabotaged by one of the joint owners of the relevant land, Mr. Kotleba, the leader of organization Slovenská pospolitost' (Slovak Brotherhood) who had demanded from these owners the donation of their shares for the purpose of exclusion of the Roma from the village.

According to Roma Mayor's information, the inhabitants of the Roma settlement had already applied at the Slovak Land Fund for consent to the exchange of communal lands for lands under the settlement, but it was rejected directly by the land owners, despite the willingness of village to exchange the land under the settlement for communal.

According to the meeting it was clear that the owner of one of relevant houses in the meantime became a co-owner of the relevant land. Nowadays all owners of houses have filed additional applications for the issue of building certificate in the municipal office.

A while back the inhabitants of settlement filed a project to the municipal office as an application for the European Union grant for the purchase of land situated under their real property, but nothing has changed in this issue yet.

The Centre provided the inhabitants of settlement represented by the Roma Mayor with legal advisory regarding the possibility (methods) of obtaining the ownership right to the land and also legal advisory with respect to possible demolition of the relevant houses.

The Centre offered assistance to the Roma Mayor with respect to direct submission of a copy of their project on a workshop of the European Roma Information Office, which is a non-profit organization founded according to Belgian law in 2003 and works so that "in Brussels the Roma issue and Roma voice can be heard", whereas this organization is a lobbyist group of the European Union.

In conclusion the Centre observed that the Roma need to obtain financial resources for the purchase of relevant real property as according to negotiations with the owners of land it is clear that they will be willing to sell the land, which is in principle more favourable to them than to give them to Mr. Kotleba. They will also need a lot of financial resources for the shooting of the relevant land by a geodesist, for the compilation of purchase agreements, requests for registration, as well as for administrative fees.

The Roma Mayor of settlement expressed that the situation in the settlement and also in the village was peaceful at that time, and the mayor had stopped consent to demolition work, the building office had not issued the demolition permit.

At the end of the meeting the Centre stated that it was ready to provide cooperation and assistance at any time to deal with the situation.

Recommendations

With a view to respecting and protecting the right to housing the Centre recommends:

- Respecting the right to public participation in the whole issue of housing.
- Providing legal protection against forced eviction, threats of eviction and demolition of housing.
- Respecting the right to equal treatment, including in the context of the allocation of finances designated for housing, access to finances.
- Taking steps aimed at the prevention of violation of standards regarding the right to housing by the state and its representatives.
- Respecting the right of privacy.
- Providing full guarantee of legal form of housing in all sectors of housing, with respect to all citizens.
- Reacting in a constructive way to the violation of rights to housing.
- Active supporting of persons, families and groups that are not able to meet their own needs of housing by its individual effort.
- Building housing in the vicinity of job opportunities, schools, health care facilities and open space.

Sterilization of Roma women (par. iv) the right to health protection)

The issue of forced and unlawful sterilization of Roma women in Slovakia has resonated in national and international discussions, opinions and reports for a decade and also has been the subject of the Concluding Observation of the UN Committee on the Elimination of Racial Discrimination in 2004⁵, in which the Slovak Republic was invited to take all compulsory steps required for the investigation of alleged cases of forced or violent sterilization, publish the outcomes of investigations, provide the victims with consistent legal remedies and prevent all sterilizations carried out without full and conscious consent. In the legislative context the remedy occurred by adopting Act No. 576/2004 Coll. on healthcare, healthcare-related services, and on amendment and supplementing certain laws (hereinafter the “Healthcare Act“), by introducing new legal regulations related to informed consent. By

⁵ Concluding Observation of the Committee on the Elimination of Racial Discrimination: Slovakia. 10.12.2004. CERD/C/65/CO/7

amending its legislation the Slovak Republic in 2004 adjusted the legal framework for conducting sterilization on the level of international standards. Guaranteeing a minimum 30 days period between giving informed consent and conducting sterilization protects women against irreversible consequences of sterilizations, to which they often had given consent as a result of pain experienced during delivery or insufficient information about its consequences. The amended act prevents the occurrence of similar situations in the future.

As to the request for the provision of remedies to the victims of forced sterilization, it is necessary to remark that Slovak courts either dismissed the actions of complainants or the awarded financial compensation to the victims was inadequate to the severity and irreversibility of infringement of victims' fundamental human rights. The representatives of the Slovak Republic rejected statements that in Slovakia in the past occurred unlawful sterilizations of Roma women. In 2010, the UN Committee on the Elimination of Racial Discrimination, on a meeting in Geneva recommended the Slovak government acknowledging a shortcoming in this issue in the past and compensating the affected women. In this period under review in the issue of unlawful sterilization, a significant shift occurred with respect to the protection of victims' rights by passing three judgments of the European Court of Human Rights against the Slovak Republic, which admitted the violation of fundamental rights of forcibly sterilized Roma women.

The Centre critically perceived the attitude of the Slovak Republic to cases in which Roma women objected to the illegality of their sterilizations and the violation of their fundamental human rights, before national courts. The Centre believes that in the spirit of the judicial decisions of the European Court of Human Rights the Slovak Republic will acknowledge its liability and provide the victims, in addition to financial compensation, also with an apology for the purpose of moral satisfaction. Even though no ethnic grounds were proved in the cases of sterilized women, an irrefutable fact is that it was them who were most frequently the victims of the legal regulations effective before 2004.

In this context it is necessary to refer to certain legislative plans directed to accessibility of sterilizations for women from a socially underprivileged environment. In 2011, a government draft law on socially excluded communities was submitted for amendment procedure, which contained also a paragraph related to possible free of charge contraceptives including sterilizations for women coming from socially excluded communities. With respect to that such accessibility of not only contraception but also of sterilizations would directly affect in particular Roma women from a socially underprivileged environment, in practice suspicions could arise of a new form of sterilization plan against

Roma women. In 2012, the National Council of the SR did not adopt a parliamentary draft amendment to the healthcare law, which was prepared by opposition MP Lucia Nicholsonová (SAS). She submitted it in August 2012; the draft was negotiated in the National Council SR at the 8th session, and a resolution was adopted that no discussions would continue about the draft law (i.e. Resolution No. 305 dated 29.10.2012) according to which women with at least four children and women aged over 35 years with at least three children should have been able to get sterilized, and the procedure covered by the health insurance. Among the opponents of the proposed amendment were presented views that such a system could be misused by private clinics and with an aim at obtaining resources for sterilization from a health care company they could unfairly attract Roma women from poor settlements to get sterilized for a financial contribution. At the same time, it is necessary to consider that with respect to the population trend in the SR, in practice the proposed conditions of the number of children would be met predominantly by women from the Roma minority, and thus the amendment could be focused indirectly against their reproduction.

The Centre does not agree with the legislative efforts, which appeared in 2011 and 2012 were aimed at the accessibility of sterilizations to socially underprivileged women as in practice such seemingly neutral legislative changes would affect mainly women from marginalized Roma communities. With respect to historic violation of reproduction freedom of Roma women in Slovakia they could present a new tool for their massive sterilization. If the Slovak Republic wishes to make contraception accessible also to women with limited financial resources, legislative plans should in general apply equally to all women.

Judgments of European Court of Human Rights on unlawful sterilizations

In the period from November 2011 up till now the European Court of Human Rights issued even three judgments, which confirmed the illegality of sterilizations of Roma complainants in Slovakia and the violation of their fundamental rights guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms. The first judgment of the European Court of Human Rights in the case of unlawful sterilizations of Roma women in Slovakia was a judgment in the case of V.C. v Slovak Republic dated 8 November 2011.⁶ The complainant was a Roma woman who was sterilized in Prešov Hospital during the delivery of her second child. Immediately before the end of the delivery via

⁶ Case V.C. v Slovakia, ECHR Ruling, Application No. 18968/07 of November 8, 2011

Caesarean section the medical personnel gave her an application for sterilization to sign to prevent that either she or the baby would die during further delivery. Subsequently on 12th June 2012, the European Court of Human Rights decided similarly on a complaint of another Roma woman who was sterilized after the second delivery in Gelnica Hospital, whereas at the time of sterilization she was not major.⁷ Even though in such case the Hospital needed consent from a representative for the sterilization of a girl, the Hospital had not asked it from her mother. The District Court in Spišská Nová Ves awarded her a compensation of 48 000 SKK (approx. 1 593 €), which, however, according to her legal representatives was not just satisfaction with respect to the irreversible and serious nature of intervention. The Regional and later the Constitutional Courts dismissed her appeals. The trend started by the above judgments was confirmed by the European Court of Human Rights also in the current judgment of November 2012 in a case of Roma women who had been unlawfully sterilized in Krompachy Hospital.⁸ The case involved three complainants, Roma women, of whom two were sterilized at adolescent age during delivery of their second child. They had not been informed of sterilization and they learnt of it only after it or upon inspecting their medical documents. The third complainant was sterilized during delivery without giving informed consent, however, she died during the proceedings before the European Court of Human Rights, and therefore the Court did not deal with her case. Slovak courts awarded to the other complainants in one case an unreasonably low compensation (approx. 1 593€) and in the second case they dismissed the action.

In all three judgments, the European Court of Human Rights condemned such practices in sterilization as the violation of complainants' rights to protection against inhuman and degrading treatment and right to protection of private and family life. The Court also awarded a compensation of non-proprietary damage to the complainants in an amount of 31 000€, 25 000€, 27 000€ and 28 500€.

In none of the cases did the Court deal with the issue of violation of right to protection from discrimination as in the opinion of a majority of judges the complainant did not provide sufficient evidence that her ethnic origin was the primary reason of inhuman and degrading treatment. A different view was expressed by Judge Mijović in the judgment to case V.C. v Slovak Republic, according to whom sterilizations performed on Roma women were not of an accidental nature, but were based on a negative attitude towards the Roma minority in Slovakia and because there was no other medical reason for sterilization, according to her it

⁷ Case N.B. v Slovakia, ECHR Ruling, Application No. 29518/10 of June 12, 2012

⁸ Case I.G. and Others v Slovakia, ECHR Ruling, Application No. 15966/04 of November 13, 2012

was clear that it was just the ethnic origin which was the main reason of such irreversible medical intervention.

Recommendations

Aiming at the prevention of unlawful sterilizations and providing means for effective legal protection to the victims of unlawful sterilizations as they happened past, the Centre recommends:

- Consistent monitoring of the observance of the legislation regulating the sterilization procedure by health care facilities with special emphasis on the procedure conducted on Roma women.
- Enhancing awareness of Roma women on the reasons and consequences of sterilization interventions and on the content and legal consequences of giving informed consent to the intervention.
- Acknowledging the responsibility of Slovak Republic for unlawful sterilizations and on the basis of judgments of the European Court of Human Rights ensuring moral satisfaction by making an apology to the victims, and executing the relevant judgments of the European Court of Human Rights by monetary compensation to the victims.

Article 7

“States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.”

Fields of teaching and education

The human rights education in the Slovak Republic is approached conceptually. In 2005, a National Plan for Human Rights Education 2005-2014 was drawn up, which is part of the implementation of UN Decade in the SR and from the point of view of strategy it is elaborated according to UN Directives. Human rights education also includes combating prejudices which lead to racial discrimination, promoting understanding, tolerance and friendship among nations and racial or ethnical groups.

In Slovakia, a school reform is under way in which human rights education is not omitted. In harmony with the National Plan for Human Rights Education 2005 – 2014, state educational programmes for particular subjects have been developed. Within general educational plans for primary education (ISCED 1) it is in particular an educational programme of Ethical education and within general educational plans for lower secondary education (ISCED 2) it is a National educational programme of Ethical education and a National educational programme of Civic education.

The Ministry of Education, Science, Research and Sport issues Pedagogical and Organizational Instructions on a yearly basis. In harmony with the National Plan for Human Rights Education 2005- 2014 the Pedagogical and Organizational Instructions for the school year 2012/2013 recommend integrating into the School Educational Programme topics related to multicultural education, education for humanisms and education in the fields of human rights, rights of the child, gender equality, prevention of all forms of discrimination, xenophobia, anti-Semitism, intolerance and racism and in the field of migration. Among the recommendations of the Ministry of Education, Science, Research and Sport are the following measures:

- Further organize the Human Rights Olympics as a nationwide competition for secondary school students, carry on organizing the Human Rights Olympics for primary school pupils,
- Conduct human rights education on the lessons and in schools so that it becomes an integral part of a lifetime process for promoting and protecting human rights, to support the value of a man as a human individual and the development of human relations in democratic society,
- With a view to the need of planning of the process of human rights education and protection and implementation, ensure effective cooperation of schools, parents, non-governmental organizations and general local community,
- Involve children and students in activities in the field of human rights education by organizing workshops, competitions, meetings, thematic exhibitions, visits of theatrical performances with the topic of human rights,
- Create conditions for continuous education for obtaining multiethnic and multicultural competences of teachers,
- Create a favourable multicultural environment in schools (through an indulgent and critical method of study of particular cultures to help students understand other cultures),
- Prepare and implement, in collaboration with non-governmental organizations and other institutions, popular education, activities, lectures, meetings focused on an enhancing of awareness of children and students on migrants.

Several institutions are involved in promoting human rights education.

Since 2000 an **Action Plan to Prevent All Forms of Discrimination, Racism, Xenophobia, anti-Semitism and other Manifestations of Intolerance** has been compiled, which focuses, inter alia, on enhancing of awareness of the Slovak citizens in the fields of human rights and antidiscrimination, on effective implementation of antidiscrimination legislation, dealing with the position of migrants in Slovakia, as well as on other specific activities in the area of prevention of intolerance, discrimination, racism, xenophobia and anti-Semitism. The Government Office of the Slovak Republic, pursuant to Act No. 524/2010 Coll. on the Provision of Grants under the powers of the Government Office of the Slovak Republic, within its grant scheme until March 2012 supported projects focused on the enforcement, promotion and protection of fundamental rights and freedoms, teaching and

education for human rights, rights of national minorities, childrens rights, rights of disabled persons, rights of other vulnerable groups and gender equality. In 2012, the human rights business passed under the Ministry of Foreign Affairs, which prepares a similar grants scheme – details about the grants scheme are not available at the moment.

Also the Slovak National Centre for Human Rights participates in human rights teaching and education. The Slovak National Centre for Human Rights pays high attention to the issue of racism, extremism and manifestations of intolerance and these topics are included in its educational events on a regular basis. In addition to training devoted especially to the issue of combating racism, extremism or anti-Semitism, the Slovak National Centre for Human Rights includes this issue (with respect to positive experience) also in education in the fields of non-discrimination and human rights. In implementing education for children and the youth instructors often face negative prejudice of the participants to the Roma. They often use arguments from their parents in justifying their anti-Roma attitudes, referring to the so-called "majority public opinion", to a great extent monitor the incidents of criminal acts with Roma element through the mass media and Internet. Many children hold an opinion that the Roma have only benefits in Slovak society and that in fact the Slovaks are the discriminated group. The Slovak National Centre for Human Rights participated in specialized seminars conducted within the implementation of updated "Action Plan to Prevent All Forms of Discrimination, Racism, Xenophobia, anti-Semitism and other Manifestations of Intolerance for the years 2009 – 2011". Within such cooperation, in 2010 and 2011, lectures for the Corps of Prison and Court Guard of the Slovak Republic were held. In 2010, a series of educational training was conducted for the policemen of the units of Border and Alien's Police of the SR. In 2012, a lecture was held on the topic human rights for the policemen in charge of searching for and documenting the criminal acts of extremism and domestic violence. Lectures for policemen dealing with extremism and audience violence are planned also in the future.

In this field also various non-governmental organizations are active, which take part in education and information campaigns in the area of human rights.