SLOVAKIA: LESSONS IN DISCRIMINATION

AMNESTY INTERNATIONAL: SUBMISSION TO THE 46TH SESSION OF THE UPR WORKING GROUP, 6 MAY 2024

SUMMARY

This submission was prepared for the Universal Periodic Review (UPR) of Slovakia on 6 May 2024. In it, Amnesty International evaluates the implementation of recommendations made to Slovakia in its previous review, including in relation to Roma rights, rights of LGBTI+ people and women´s rights.

It also assesses the national human rights framework regarding healthcare, right to family, sexual violence, police violence and upholding of international treaties and conventions.

With regard to the human rights situation on the ground, Amnesty International raises concern about discrimination of Roma people, discrimination of LGBTI+ people and discrimination of women. It ends with a set of recommendations to Slovakia which, if implemented, would contribute to improving the human rights situation.

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FOLLOW UP TO THE PREVIOUS REVIEW

Roma people

1. In its last review, Slovakia received 21 recommendations on access to education, elimination of segregation and inclusion of Roma children in the education system. Slovakia supported all the received recommendations. In 2022, the Ministry of Education, Science, Research and Sports of the Slovak Republic published guidance on school desegregation[i], which is yet to be fully implemented. On May 9, 2023, the National Council of the Slovak Republic passed law no. 245/2008 Coll. on education and training (referred to as the Education Act)[ii], which regulates several aspects of the education system but does not contain any measures to address discrimination against Roma children in schools.[iii]

2. Despite the government's official apology[iv] for the illegal sterilization of thousands of Roma women between 1966 and 2004, in the review period no effective compensation mechanism for affected women had been adopted. No comprehensive survey of the number of women who have been sterilized without their informed consent has been conducted.

3. Contrary to supported recommendations from the previous review, the government failed to establish an independent and impartial oversight authority over the police to investigate alleged cases of ill-treatment and bring those responsible to justice, and to properly investigate police violence against Roma people.

LGBTI+ people

4. Slovakia received 12 recommendations on promotion of equality of LGBTI+ people, supporting 11 and noting one. Three focused on eradicating hate speech against LGBTI+ people and taking concrete measures to address this issue. Despite serious incidents of violence against LGBTI+ people - such as the murder of two people and injuring of one person in the Tepláreň queer bar in October 2022,[v] classified by government investigators as a "hate crime"[vi] - the government took no measures to limit hate speech against LGBTI+ people or introduce any legislative initiatives to amend the Criminal Code. Political representatives made discriminatory and stigmatizing comments about LGBTI+ people,[vii] both before and after the attack.

5. Despite three supported and one noted recommendation to ensure equality for same-sex couples by adopting a specific legislative measure to ensure equal legal rights for same-sex partnerships, the parliament did not pass any legislative initiatives in this regard.[viii]

Women's rights

6. Despite a noted recommendation, Slovakia did not adopt a comprehensive program on sexual and reproductive health and rights nor allocate sufficient resources for implementation. A study by Možnosť voľby shows that women face a wide range of obstacles accessing reproductive health care and contraception.[ix] Two recommendations aimed at supporting women from marginalized groups to access sexual and reproductive health care. Slovakia made no effort to address this.

7. Slovakia did not revise the Healthcare Act to ensure access to safe abortion and remove requirements for mandatory counselling, medically unnecessary waiting periods and third-party authorization. There have been more than 20 legislative initiatives proposed to restrict access to safe and legal abortion care.[x] None passed.

THE NATIONAL HUMAN RIGHTS FRAMEWORK

8. The legal definition of rape is not consent-based. Rape continues to be defined in the Criminal Code as using force, the threat of force or the use of the victim's defencelessness. Cases in which the victim froze or was unable to defend herself/himself often go unpunished.

9. There is no legal framework on provision of healthcare for people seeking gender-affirming care. This has led to the lack of respectful gender-affirming healthcare providers and vast differences between the legal conditions and obstacles in practice for people seeking gender-affirming healthcare and accessing the legal gender affirmation process.[xi]

10. There is no legal mechanism to ensure impartial investigation of excessive use of police force.

11. Marriage is defined in the constitution as a "union of a man and a woman".[xii] This acts as a barrier to propose legislation concerning legalization of same-sex unions. There is no legal recognition for same-sex couples in Slovakia; Slovak civil law does not allow same-sex couples to marry, nor does it allow them to enter a civil union of any kind. Same-sex couples do not receive a pension in case of their spouse's death; nor are they allowed to own shared estate or become legal guardians for their children if their partner is the biological parent.

12. Slovakia has not ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

THE HUMAN RIGHTS SITUATION ON THE GROUND

Roma people

13. The European Union Agency for Fundamental Rights (FRA)[xiii] and follow-up research[xiv] by Amnesty International in 2023 to its 2017 report[xv] found that Roma children in Slovakia are systematically denied equal access to education.[xvi] Measures proposed by Slovakia's Supreme Court following a 2020 judgment, based on European jurisprudence and good practice, were not included in the amendment to the Education Act of May 2023.[xvii] Following long-standing noncompliance with EU rules on racial equality,[xviii] in April the European Commission (EC) filed a lawsuit against Slovakia at the Court of Justice of the EU for not effectively solving the issue of segregation of Roma children in education.[xix] Slovakia introduced legislative reforms and adopted several strategies and action plans.[xx] However, the EC concluded that the reforms adopted so far were insufficient.[xxi] Segregation of Roma children in education continues with an increase in the numbers of children educated as such.[xxii]

14. In June 2021, the government apologized for the police raid on Budulovská street in Moldava nad Bodvou from 2013,[xxiii] during which 65 police officers attacked approximately 30 Roma people, leaving them injured and their homes damaged. In June 2022, the European Court of Human Rights (ECHR) published a decision[xxiv] that Slovakia violated Articles 3 and 14 of Convention for the Protection of Human Rights and Fundamental Freedoms. The government committed to pay financial compensation,[xxv] but did not take necessary measures to address problems identified by the ECHR, the UN Committee on the Elimination of Racial Discrimination, and non-governmental organizations regarding police violence against Roma people.[xxvi]

15. Survivors of police violence in Roma settlements in Vrbnica (2015) and Zborov (2017) still await decision of the ECHR in a case filed in 2018.[xxvii] This lack of accountability for alleged violations by the police[xxviii] is common. In extreme cases, victims and survivors of police violence themselves face repression.[xxix]

16. In September 2023, the European Parliament issued a resolution concerning Roma living in settlements,[xxx] noting that the COVID-19 pandemic highlighted inadequate housing conditions, impacting Roma, and especially Roma women, disproportionately.[xxxi] Slovakia has made no substantial and significant steps towards improving the living conditions of thousands of Roma people living in informal settlements in segregated neighborhoods across Slovakia.

17. Slovakia put several Roma settlements under compulsory quarantine during the Covid-19 pandemic, arguing that such measures were necessary for public health. However, they were disproportionate and discriminatory.[xxxii] In April 2020, Slovakia began mandatory testing in Roma communities with the assistance of the army.[xxxiii] Slovakia conducted no investigation into the quarantining and the means used to enforce it. Amnesty International research concludes there was an over-reliance on police and armed forces to enforce public health measures in informal Roma settlements.[xxxiv]

LGBTI+ people

18. In October 2022, parliament voted on a draft law that would bring small improvements to the lives of same-sex couples.[xxxv] It didn't include a framework to register and legally recognize same-sex partnerships or marriages; only provisions that would allow same-sex partners to access the health documentation of their partner and inherit their property. The proposal did not pass the second reading.[xxxvi] Discrimination in law against same-sex couples persists.[xxxvii]

19. In April 2022, the Ministry of Health issued new *"Guidelines for the unification of procedures for the provision of health care for gender change"*.[xxxviii] Amnesty International Slovakia considered this act to be an important step towards protecting the human rights of transgender people, but noted several recommendations for amendments.[xxxix] It creates a legal framework for the provision of health care for gender transition. It clearly states a set of medical procedures required before proceeding with legal transition, while sterilization and/or castration, which was sometimes practiced in Slovakia, are not required.

20. The publication of the guidelines was followed by criticism and stigmatizing statements by some politicians and members of the public.[xl] On 18 May, the Ministry of Health suspended the operation of the guidelines, despite opinions of the professionals[xli] and experts[xlii]. In the summer of 2022, the Standard Procedure on the provision of health care was developed, further regulating medical procedures and rules for medical personnel. At the end of 2022, the Ministry of Health did not renew the validity of the professional guidelines nor approve the standard procedure, leaving transgender and non-binary people in a legal and medical vacuum preventing them from accessing gender affirmation care and legal transitions in a manner consistent with human rights.

21. In March 2023 parliament passed in the first reading an amendment to the Bill No. 301/1995[xliii] - the Birth Number Act – which, if adopted, would require transgender people to prove they have the 'correct' set of chromosomes to have their legal gender affirmed. The act regulates 'birth numbers', the personal 10-digit identifier given to everyone in Slovakia on the day they are born. As per the amendment, the birth number must be changed to have one's gender legally affirmed. Existing provisions of the law would effectively make this impossible, as most transgender people would not have chromosomes 'matching' their gender identity. This legislation would make legal gender recognition impossible.[xliv]

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Slovakia to:

Roma people

- Conduct prompt, independent, effective, and thorough investigations into all reports of human rights violations by the police, including torture and other ill-treatment.

- Ensure that all allegations and complaints of racially motivated actions and discrimination by police is thoroughly investigated and appropriate action is taken, and data on all actions taken against police

personnel is recorded and publicly available.

- Take effective measures to prevent the unnecessary and disproportionate use of force by police, and torture and other ill-treatment by the police, such as through training in the use of de-escalation techniques and other specific training in human rights and non-discrimination.

- Ensure that victims and survivors of human rights violations have access to effective remedies and reparations and are not subject to reprisals for reporting such violations.

- End spatial segregation in housing and education.

- Take measures to effectively implement the prohibition of discrimination as enshrined in the Together on one bench and the Anti-Discrimination Act.

- Adopt and operationalize a definition of what acts amount to "segregation" in education, utilizing the definition provided by the case law of the European Court of Human Rights and of the Prešov Court and to disseminate and promote it to all relevant education and monitoring authorities.

- Develop and implement adequate training on equal treatment and non-discrimination among teachers, directors, and other educational staff.

- Introduce a clear duty on all schools to de-segregate education. This should be accompanied by effective support for schools, including training and resources, and by incentives to develop comprehensive action plans aimed at de-segregation.

- Ensure that all children who have experienced discrimination are provided with effective remedies and the means to secure them, including by strengthening the mandates of national human rights monitoring bodies.

- Carry out an inquiry into treatment of Roma people affected by the disproportionate quarantines of Roma settlements during the Covid-19 pandemic, and provide remedy where violations are established.

LGBTI+ people

- Amend the Criminal Code to include specific reference to hate crimes based on sexual orientation and/or gender identity.

- Reject the proposed Bill No. 301/1995 Coll. (the Birth number Act) take steps to improve access to gender affirming care, and legal gender recognition, instead of limiting it.

- Take concrete and measurable steps towards making gender affirming care affordable and accessible for all.

- Eradicate all legal, bureaucratical, and practical obstacles to access legal gender recognition and gender affirming health care for transgender people.

- Adopt marriage equality legislation, extending full and equal marriage rights to same-sex couples.

Women's rights

- Ratify the Istanbul Convention and take further steps to prevent violence against women in Slovakia.

- Establish an independent body to conduct a comprehensive survey of the number of women who have been sterilized without their informed consent.

- Provide sufficient remedy and compensation to women, who have been sterilized without their informed consent.

- Adopt concrete and effective measures to address and prevent discrimination against Roma women with regard to their access to sexual and reproductive health and rights.

- Take effective measures to ensure women's access to safe abortion care, including by removing the requirement of mandatory waiting periods and third-party authorization.

- Remove financial barriers to accessing sexual and reproductive health services and modern contraceptive methods.

- Amend the Criminal Code so it includes a consent-based definition of rape.

- Allocate sufficient resources in order to provide accessible and affordable care for survivors of sexual violence and rape.

- Provide proper training and resources for the police force and prosecution to prevent secondary traumatization of survivors of sexual violence and rape and to ensure competent and sensitive treatment of survivors.

[i] Methodological material of The Ministry of Education, Science, Research and Sports of the Slovak Republic on desegregation of Roma children "Spolu v jednej lavici" (Together on one bench) https://www.minedu.sk/data/att/23399.pdf

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[x] Správa Amnesty International o stave ľudských práv v roku 2022: https://www.amnesty.sk/stav-ludskych-prav-v-roku-na-slovensku-v-roku-2022/

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[xii] Constitution of the Slovak republic: https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1992/460/

[xiii] Roma survey 2021: Roma in 10 European countries, main results: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2022-roma-survey-2021-main-results2_en.pdf

[xiv] Novela Školského zákona ignoruje nekvalitné segregované vzdelávanie rómskych detí: https://www.amnesty.sk/novela-skolskeho-zakona-ignoruje-nekvalitne-segregovane-vzdelavanie-romskych-deti/
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