NGO submission for the 4th Universal Periodic Review cycle concerning Slovakia

The submitting NGO: Center for Civil and Human Rights (Poradňa)

The Center for Civil and Human Rights (Poradňa)[1] – Slovak independent NGO focusing on the protection of human rights - presents its submission for the 4th Universal Periodic Review (UPR) concerning Slovakia for the review by the Human Rights Council.

The submission results particularly from ongoing human rights field monitoring, strategic litigation and advocacy efforts of our NGO and outlines the selected issues of concern regarding equal enjoyment of human rights of Roma minority in Slovakia:

- Racially motivated police violence and lack of effective investigation in this area
- Discrimination of Roma minority in public life
- Discrimination of Roma children in primary education
- Lack of effective access to justice in cases of racial discrimination
- Discrimination of marginalised members of Roma minority in access to digital technologies

We are concerned that Slovak government authorities have fallen short of addressing these issues effectively over recent years and that progress in fulfilling human rights obligations of Slovakia is insufficient.

We note that our NGO simultaneously provided additional relevant information for the 4th Universal Periodic Review cycle concerning Slovakia also within a joint submission presented by the partner NGO Women's Circles. It particularly concerns intersectional discrimination against Roma women with particular focus on their discrimination in reproductive and maternal health care and ongoing lack of access to justice for Roma women survivors of forced sterilizations.

1. Racially motivated police violence and lack of effective investigation in this area

[1] The Center for Civil and Human Rights (Poradňa pre občianske a ľudské práva, "Poradňa") is a Slovak independent grass-root NGO that from 2002 has addressed discrimination against Roma minority in Slovakia in various areas of public life. It has been particularly active in the protection of reproductive rights of Roma women. Poradňa pursues its mission by human rights monitoring, strategic litigation as well advocacy activities. It closely links its work with extensive cooperation with many local Roma women activists. For more information, please visit: https://www.poradna-prava.sk/en/ Contact E-mail: poradna@poradna-prava.sk

This chapter provides relevant information on the implementation of recommendations from the 3th UPR cycle on the importance to prevent excessive use of force by police officers, particularly against Roma, and lack of access to justice in Slovakia. It is specifically relevant for the recommendations within the: Theme: D25 Prohibition of torture and cruel, inhuman or degrading treatment
Theme: D51 Administration of justice & fair trial: 121.96 (Canada) - A/HRC/41/13/Add.1 - Para. 5
Theme: B32 Racial discrimination: 121.49 (Azerbaijan) - A/HRC/41/13/Add.1 - Para. 3

Based on our long and ongoing experience of monitoring racially motivated police violence and representing Roma ill-treated by the police in criminal proceedings – we argue that the Slovak Government has been insufficient to effectively address these practices and secure access to justice in this regard. In addition, it has fallen short of taking other effective policies and measures to prevent these practices in a complex manner. We still continue to commonly document credible claims of Roma living in marginalized communities about police brutality experiencing by them and we have been encountering serious shortcomings in the investigation of such cases which does not sufficiently meet criteria for effective investigation laid down by the international law. Possible racial motive is generally downplayed and falls short of effective investigation as well.

In January 2023 our NGO in cooperation with the partner NGOs presented the submission[2] to the Committee of Ministers of the Council of Europe that particularly concerned the execution of the judgment of the European Court of Human Rights (ECtHR) in a case *R.R. and R.D. v Slovakia* from September 2020.[3] This submission also highlights several judgments of the ECtHR from recent years against Slovakia concerning police violence against our Roma clients.[4] They not only confirm fundamental failures in investigation of these cases in Slovakia, but as such also indicate systemic nature of these failures having been repeated over years. The Committee of Ministers of the Council of Europe currently still continues to examine the execution of a number of these judgments.[5] In our referred submission we particularly emphasize that the criminal investigation of almost all cases concerning alleged police ill-treatment against Roma that we litigated within our strategic litigation program in the previous years has been halted at a certain stage of the proceedings, before reaching the court. Based on our field monitoring, we also point out that many cases in this area may not be reported at all, as the affected Roma may be afraid of victimization and do not trust the institutions responsible for investigation and justice.[6]

For illustration, we would like to mention the decision of the Office of the Inspection Service from February 2022, which after almost two years discontinued the criminal investigation into another widely reported case of the alleged police violence against several Roma children in the town Krompachy occurred in April 2020 during the Covid-19 pandemic, where the whole local Roma

[2] Center for Civil and Human Rights (Poradňa), European Roma Rights Centre (ERRC) and Forum for Human Rights: Rule 9 submission with regard to the execution of R.R. and R.D. v Slovakia judgment of the ECtHR of 1 September 2020. Submitted on 30 January 2023. Available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680aa1982
[3] R.R. and R.D. v Slovakia, judgment of the ECtHR from 1 September 2020, no. 20649/18.
[4] E.g. Decision of the ECtHR in a case M.B. and others against the Slovak Republic from 1 April 2021, no. 45322/17. Decision of the ECtHR in a case R.R. and R.D. against the Slovak Republic from 1 September 2020, no. 20649/18. Decision of the ECtHR in a case A.P. against the Slovak Republic from 28 May 2020, no. 10465/17. Decision of the ECtHR in a case Adam against the Slovak Republic from 26 July 2016, no. 68066/12. Decision of the ECtHR in a case P.H. against Slovakia from 8 September 2022, no. 37574/19.
[5] For details about status of the examination of these judgments see: https://hudoc.exec.coe.int/eng#{%22fulltext%22:[%22R.R.%22],%22execdocumenttypecollection%22:[%22CEC%22],%22execidentifier%22:[%22004-56501%22]}
[6] See Center for Civil and Human Rights, Minority Rights Group Europe, EPEKA Slovenia. Equality and justice on the sidelines: Comparative report on discrimination against Roma and their access to justice in Slovakia and Slovenia, November 2022, p. 9. Available at: https://bit.ly/3Gku9oR

community was under area quarantine.[7] While directly representing the aggrieved children in this criminal proceeding and thus knowing its development in detail - we consider it insufficient and as such ineffective.

In a rare case of police violence against Roma reaching the court in Slovakia – like a widely reported high profile case of ill-treatment against six Roma boys at a police station in Košice from 2009 - the criminal proceedings in this case lasted for almost 12 years. Given we have been providing the aggrieved Roma boys with free legal representation over these years - we argued that Slovak courts have been unable to decide fairly, without delay and within reasonable time and were unable to provide victims with effective access to justice.[8] In February 2023, this assertion was ultimately recognized by the ECtHR, which ruled that the Slovak authorities failed to ensure effective access to justice for injured claimants.[9] In May 2023, the Constitutional Court of the Slovak Republic – in line with the ECtHR judgment – ruled on violations of constitutional rights of Roma boys.[10] It also quashed the acquittals of the general courts of the accused police officers and remitted the case back to the Košice II District Court for further proceedings. In sum, after 14 years from this striking incident of police brutality against Roma - the Slovak courts in August 2023 resumed the court proceeding against the accused police officers. The further development and the result of these proceedings remain unclear now.

This case clearly shows how complex and structural are obstacles in access to justice in cases of racially motivated police violence in Slovakia, which includes not only investigation by the police inspection body, but also decision making of courts.

We are convinced that shortcomings in this area have deep and systemic, while having roots in existing institutional racism and require resolute steps from the government authorities, which are still missing.

Proposed recommendations:

- Establish a fully independent autonomous institution, outside of the structures of the Ministry of Interior and Police Forces that will be responsible for investigation of complaints of alleged ill-treatment by the police officers as well as all complaints alleging possible racial motive;

- Introduce a mechanism for the external evaluation of the effectiveness of investigations of police ill-treatment with an aim to identify systemic deficiencies in the investigation process of such cases in Slovakia;

- Secure continuous education of all persons investigating cases of police ill-treatment as well as state prosecutors and judges on standards of effective investigation of torture, cruel and inhuman treatment laid down by the jurisprudence of the European court of Human Rights and the UN Istanbul protocol.

- Address biases and prejudices of all persons investigating cases of police ill-treatment as well as state prosecutors and judges by introducing comprehensible lifelong sensitisation education, starting from the sensitisation of students at law faculties.

[7] For details about this case in English see media article: https://bit.ly/3nTFbrx
[8] For additional details in English see our press release informing about the acquittal of the accused police officers from December 2020: https://bit.ly/3c8dwQY
[9] M.B. and Others v. Slovakia (No. 2), judgment of the ECtHR of 7 February 2023, no.63962/19.
[10] For details see our English press release with reference to the judgment: https://poradna-prava.sk/en/news/the-case-of-ill-treatment-of-roma-boys-at-the-police-station-in-kosice-returns-to-the-district-court-the-constitutional-court-of-the-slovak-republic-ruled/

2. Discrimination of Roma minority in public life

This chapter provides relevant information on the implementation of a wide range of recommendations from the 3th UPR cycle on the importance to effectively address ongoing discrimination of Roma ethnic minority including Roma women, in Slovakia.

Our ongoing field monitoring in marginalised Roma communities confirms that Roma minority still remains one the most marginalized groups in Slovakia, facing manifold and complex inequalities practically in every aspect of life. The lack of tangible progress in this are over recent years in Slovakia captures the comparative research report that our NGO published in cooperation with the partners in November 2022. While also including references to other recent relevant research sources - this research report primarily relies on first-hand information from our human rights field monitoring conducted in marginalised Roma communities and essentially concludes that: i./ residential segregation, inadequate housing, and lack of access to safe drinking water, electricity, sanitation still prevails in many Roma communities. ii./ Many Roma children face widespread discrimination in access to education by being disproportionately and wrongly placed in special education and segregated primary schools and classes iii./ Discrimination of Roma in access to employment remains widespread iv./ Marginalised Roma face various problems with public medical services, including discrimination. These inequalities are driven by persistent negative attitudes among the majority population towards Roma minority.[11] The results of this research show that the Slovak government's efforts to effectively address these issues in recent years have been insufficient and did not lead to significant tangible improvements that would be markedly visible in marginalised Roma communities and in everyday lives of marginalised Roma.

As we stressed in the referred research report, the Government policy strategies in this area recognise key shortcomings and challenges and set related relevant goals. However, all tangible progress in the coming years will essentially depend on the real commitment of the state institutions to thoroughly implement the proposed policies and measures, including allocating sufficient financial resources and ensuring long-term sustainability. The current complexity and structural character of the problems described requires considerable financial investments as well as a close cooperation of government departments and municipalities.[12]

Proposed recommendation:

- thoroughly implement the National Strategy for Equality, Inclusion and Participation of Roma until 2030 and the related action plans, while being increasingly committed to tackling deep-rooted structural forms of discrimination, particularly segregation in housing, education and other areas and institutional racism on various levels.

3. Discrimination of Roma children in primary education

This chapter provides relevant information on the implementation of a wide range of recommendations from the 3th UPR cycle on the importance to effectively address discrimination and segregation of children of Roma minority in Slovakia.

[11] Center for Civil and Human Rights, Minority Rights Group Europe, EPEKA Slovenia. Equality and justice on the sidelines: Comparative report on discrimination against Roma and their access to justice in Slovakia and Slovenia, November 2022. Available at: https://bit.ly/3Gku9oR
[12] Ibid. pp. 20-21.

In previous years our NGO has thoroughly monitored the occurrence of segregation of Roma children in primary education, conducted strategic litigation in this area and advocated towards the Government authorities to take effective action.

Following our findings from the field - we argue that segregation of Roma children still remains widespread in Slovakia and manifests itself in a range of forms. In particular, many Roma children are disproportionally placed and segregated in special schools for children with "mild intellectual disabilities" or segregated special classes established within mainstream primary schools. Many Roma children remain to be segregated in mainstream classes within schools or in ethnically homogenous Roma-only schools often established close to residentially segregated Roma communities or which have gradually arisen due to *white flight* of non-Roma children to distant schools outside local neighbourhoods and other social factors.

Importantly, from 2015 the European Commission has been leading infringement proceedings against Slovakia for violating the EU Racial Directive for persisting segregation of Roma children and in April 2023 it ultimately decided to refer Slovakia to the Court of Justice of the European Union for failing to effectively tackle the issue of segregation of Roma children in education.[13] This development essentially confirms that the Slovak Government has been unable to effectively address the given problem and ensure Roma children equal access to inclusive education without segregation.

In recent months, the segregation of Roma children in education and ongoing failures of the state authorities to tackle it have been recognised by the Supreme court of the Slovak republic by two landmark judgments, which were delivered as a result of successful strategic *actio popularis* litigation of our NGO.[14] The Supreme court held the Slovak republic represented by the Ministry of Education republic accountable for segregation of Roma children in an ethnically homogeneous schools in the vicinity of two disadvantaged Roma communities, while emphasizing that the government authorities are responsible also for segregation that arose spontaneously and not with the purposeful intention of separating Roma children from majority children. We find it particularly concerning that the state authorities did not fully acknowledge these final judgements so far and did not translate them into prompt and effective desegregation measures. On the contrary, the government authorities currently consider addressing insufficient capacities of many Roma-only segregated schools by supporting construction additional annexes to these schools, which would only maintain existing school segregation in Slovakia.

Proposed recommendations:

- Condition the distribution of European union, national, regional and local funds for education on the development and realisation of complex desegregation plans; take responsibility for development of these plans and their effective implementation;

- Address segregation of Roma children in education, accounting for its close relationship with housing segregation and discrimination of Roma in other areas.

4. Lack of effective access to justice in cases of racial discrimination

This chapter provides relevant information on the implementation of recommendations from the 3th UPR cycle on the importance to improve implementation of domestic anti-discrimination legislation and access to justice in cases of racial discrimination. It is specifically relevant to the

[13] For details see: https://ec.europa.eu/commission/presscorner/detail/en/ip_23_2249

[14] Judgement of the Supreme court of the Slovak republic of 15 December 2022. Ref. no: 5Cdo/102/2020, Judgement of the Supreme court of the Slovak republic of 12 July 2023. Ref. No: 5Cdo/220/2022. Both judgments are available at https://poradna-prava.sk/en/strategic-litigation/

recommendation within the Theme: B32 Racial discrimination – 121.48 (Iraq) – A/HRC/41/13/Add.1 – Para. 3

Despite the fact that Roma in Slovakia continue to face racial discrimination in various areas of public life, they rarely defend themselves by legal means. The research report that our NGO published in cooperation with partners in November 2022 shows that reasons for that are manifold, ranging from lack of information about legal remedies and possibilities of legal aid, fear of victimisation, lack of trust in justice system to overall social deprivation and poverty forcing them to focus on other daily issues.[15] Last but not least, Roma as well as other discriminated persons in Slovakia continue face serious legal barriers to effectively achieve justice in domestic courts, which discourage them to take legal action.

Based on our extensive engagement in representing discriminated Roma in court proceedings from 2004 - we argue that domestic Anti-discrimination Act continues to be poorly implemented in practice. We keep observing the following barriers in access to justice, which have been symptomatic and persistent over years:

- Widespread reluctance of courts to determine racial discrimination, and if this is the case, the application of reversed burden of proof continues to fall short of a legal consistency;
- The courts tend to downplay the seriousness of racial discrimination, overlooking or not understanding its *prima facie* impact on human dignity. In some instances there remains a certain bias or preoccupation since they deal with cases of discrimination against Roma minority;
- Extreme length of the judicial proceedings (usually at least several years) and extreme endurance required on the side of the complainants and their legal representatives to carry on with the proceedings;
- Insufficient engagement of the Slovak Equality body/NHRI institution in addressing cases of racial discrimination in courts, even though it has this competence.

We regrettably do not observe any significant progress in removing barriers for people facing racial discrimination and the Slovak government authorities have to intensify its efforts in this area.

Proposed recommendations:

- Significantly enhance the speed and efficiency of court proceedings concerning racial discrimination;

- Address biases and prejudices towards Roma minority among judges by introducing comprehensible lifelong sensitisation education, starting from the sensitisation of students at law faculties.

5. Discrimination of marginalised members of Roma minority in access to digital technologies

Within ongoing field monitoring of our NGO in marginalised Roma communities we widely document a widespread problem of unequal access of Roma to digital technologies – specifically the Internet, computers and smartphones. Limited access to these technologies or lack of skills in using them put

[15] See Center for Civil and Human Rights, Minority Rights Group Europe, EPEKA Slovenia. Equality and justice on the sidelines: Comparative report on discrimination against Roma and their access to justice in Slovakia and Slovenia, November 2022, p. 12-15. Available at: https://bit.ly/3Gku9oR

them at an increasing disadvantage in various areas of life. This overlooked dimension of inequalities facing by marginalised Roma increasingly came to the foreground during the pandemic of Covid-19 in Slovakia, particularly in connection with unequal access of disadvantaged Roma children to distant education via the Internet or barriers for disadvantaged Roma to register for vaccination against Covid-19 via the Internet. However, inequalities in this area remain present over time and endanger also the other disadvantaged groups in Slovak society, such as older people.

The digital skills and technologies are increasingly required from the people in a number instances. We argue that the Slovak Government is completely overlooking the problem of digital divide in marginalised Roma communities and fails to adopt effective measures to remove it.

Proposed recommendation:

- Promptly address discrimination of marginalised Roma and other disadvantaged groups resulting from their unequal access to digital technologies and lack of digital skills in all areas of public life.

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