



# JUSTICE DENIED: ROMA IN THE CRIMINAL JUSTICE SYSTEM OF SLOVAKIA

CHALLENGING DISCRIMINATION PROMOTING EQUALITY

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## Introduction

This report on Roma in the criminal justice system of Slovakia is one of four country reports produced by the European Roma Rights Centre (ERRC) in partnership with Fair Trials which examine the impact of anti-Roma racism and the extent to which institutional discrimination is embedded in the criminal justice systems.

The evidence from the four reports, covering the Czech Republic, Slovakia, Serbia, and North Macedonia, **confirms that at every stage of criminal proceedings, Romani defendants face discrimination** from police, judges, prosecutors, and often their own lawyers. Between May and September 2020, researchers in each of the four countries conducted interviews with people of Romani origin and criminal justice professionals, including defence lawyers, prosecutors, judges, and police officers.

In recent years, Slovakia provided one of the most cruelly absurd and emblematic examples of how anti-Roma racism perverts the course of justice. Romani victims, who were beaten and injured following a notorious mass raid in Moldava nad Bodvou in June 2013, testified as witnesses to the extreme police violence and subsequently ended up charged with perjury. The prosecutor attributed alleged irregularities in their testimonies to their “Roma mentality (*mentalita romica*)”, which according to an ‘expert’ opinion, is characterised by “*low trustworthiness, a propensity to lie and emotional instability*”, as well as being *asocial* and unable to comply with social norms.<sup>1</sup> A full seven years after the initial raid, the European Court of Human Rights ruled, on 1 September 2020, in the case of *R.R. v. Slovakia*, that there had been substantive and procedural violations in the investigations, and awarded each of the applicants €20,000 in damages and €6,500 costs.<sup>2</sup>

In its 2020 report on Slovakia, the European Commission against Racism and Intolerance (ECRI) expressed grave concerns concerning the reports of large-scale violent police raids in Romani settlements often carried out without arrest or search warrants, raids that in many cases caused injuries to members of the Roma minority, including children and elderly persons. ECRI stated that despite “*the substantial number of complaints relating to serious acts of violence committed by members of the police services against Roma*”, none of the subsequent investigations of police interventions between 2013 and 2020 resulted in a conviction or disciplinary sanction against officers involved.<sup>3</sup>

Despite the lack of reliable ethnically disaggregated data, most of those interviewed for this research agreed that Roma were overrepresented in the criminal justice system. Police officers that were interviewed estimated that Roma accounted for between 30% and 80% of those arrested within their precincts. Lawyers estimated that Roma accounted for between 20% and 50% of criminal cases in their respective practices.

1 Andrej Bán, *The case of Moldava: Raid and “mentalita romica”*, *tyždeň*, 19 June 2017. Available at: <https://www.tyzden.sk/reportaze/40301/razia-a-mentalita-romica/>.

2 European Court of Human Rights, *R.R. v. Slovakia*, Strasbourg, 1 September 2020. Available at: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-204154%22%5D%7D>.

3 ECRI, *Report on the Slovak Republic (sixth monitoring cycle) 8 December 2020*. Available at: <https://rm.coe.int/ecri-6th-report-on-the-slovak-republic/1680a0a088>.

Judges downplayed, or denied outright, the existence of discrimination in the criminal justice system in Slovakia, and emphatically refuted the notion that anti-Roma prejudice played any role in decisions made; and repeatedly asserted that there was no difference between Roma and ‘other types of defendant’. Prosecutors responded in a similar fashion, and denied any bias as they were bound by rules set out in the legislation. However, when questioned about Roma distrust in the system, they exposed their own anti-Roma prejudice when they responded that Roma were often ignorant or entitled; one suggested that the state could do more to teach Roma “*values and fundamental principles of co-habitation*”, another deplored the ‘Roma mindset’ to “*remain unpunished for their actions and expect positive discrimination.*”

Police officers who were interviewed claimed that they had never witnessed any conduct that they would regard as discriminatory or racially biased; questioned the validity of allegations of police brutality; denied that racial profiling played a role in arrests; and stated that they used force only when necessary, and always in a proportionate manner. The accounts given by Romani interviewees and defence lawyers were completely at odds with the police officers’ perceptions. One defence lawyer stated that “*Roma cases are often not properly investigated; evidence seems to be unreliable and the criminal responsibility of the defendants is doubtful.*” For their part, Romani interviewees expressed their lack of trust and perception of the system as plainly unjust. One recalled a police raid on a Romani neighbourhood where he and many others were indiscriminately beaten by the police. Another described over-policing as commonplace, how police came to their neighbourhood “*ten times each day, even when no incidents were reported.*” She also claimed that police officers would sometimes taunt and provoke Romani people, challenging them to ‘face-off’ against them.



■ One defence lawyer stated that “Roma cases are often not properly investigated; evidence seems to be unreliable and the criminal responsibility of the defendants is doubtful.”



Prosecutors, judges, and police speak of ‘communication challenges’ and ‘failures to understand societal norms’, with the obvious inference that the blame for a broken system lies with Roma in Slovakia. There is a lack of capacity among criminal justice professionals to question the laws and fining policies of a system that criminalises the most marginalised for the commission of petty offences, that disproportionately targets and incarcerates Roma, and only serves to exacerbate socio-economic exclusion and reinforce discrimination.

This research further corroborates the findings of the 2020 Fair Trials reports on Bulgaria, Hungary, Romania, and Spain, that where anti-Roma racism is not only pervasive in society, but engrained and routinised in the criminal justice system, there is precious little justice to be had for Roma.<sup>4</sup> The ready resort to racist prejudice by many judges, prosecutors and police when talking about Roma, combined with their emphatic denials that prejudice plays any part in their deliberations and assertions that all are equal before the law, reflects the extent to which anti-Roma racism is normalised in the processes, attitudes, and behaviour of these institutions. This report provides further evidence of one unassailable fact: that Roma face structural racism at all stages of the criminal justice system, both as defendants and victims. This series of reports aims to break the silence over the mistreatment of Roma, and to challenge governments’ continued denial of the racism that underpins disparities in criminal justice systems across Europe.



4 Fair Trials, 2020. Available at: [https://www.fairtrials.org/sites/default/files/publication\\_pdf/FT-Roma\\_report-final.pdf](https://www.fairtrials.org/sites/default/files/publication_pdf/FT-Roma_report-final.pdf).

## Methodology

In order to compile this report, researchers carried out a series of semi-structured interviews with people of Romani origin and professionals working in the criminal justice system. Interviews were based on questionnaires prepared by the ERRC separately for each group of respondents. The interviews were conducted between May and September 2020 by an ERRC consultant working as an NGO lawyer in Slovakia.

In total, 15 people were interviewed: two were people of Romani origin from different regions of Slovakia; three were police officers working as specialists in Romani communities; four were prosecutors (one being a district prosecutor, two being regional prosecutors, and another being a criminal prosecutor in the Prosecutor's General Office, including specialists in narcotics-related crimes and family or juvenile delinquency); four were defence lawyers (all of whom had experience representing Romani people both as defendants and as victims of police violence or other crimes); and two were judges in first instance courts. One interview was conducted in person, one via teleconferencing (Skype), and thirteen by telephone, based on the preferences and availability of the respondents, as well as the capability to meet in person with regard to restrictions associated with the ongoing COVID-19 pandemic.

The research was guided by the following ethical principles: (1) *informed consent*: all persons interviewed were informed of the content of the project and the processing of the information obtained via interviews, having to give prior written or oral<sup>5</sup> authorisation for the same; (2) *data protection*: the data obtained in the course of the research was processed confidentially, stored securely, and the anonymity of the participants vis-à-vis third parties was guaranteed in relation to the statements made during the interviews; (3) *proper use of data*: the data obtained during the interviews carried out for this research will only be used in the context of this project.

Interviewees were selected taking into account two main factors: experience with the criminal justice system, and geography. Interviews with prosecutors and judges were limited by the co-operation of authorities and their input into the selection of interviewed professionals. With regard to lawyers, four lawyers were selected due to their experience with working with Romani people, while another declined to participate in the interview citing lack of experience.

Researchers interviewed two people of Romani origin with experience of the criminal justice system. The interviews were facilitated by lawyers who had worked with the interviewees or their families in the past, or who were providing legal aid to them at the time of the interview. One interviewee was a Romani woman and a relative of several Roma charged with criminal offences, whilst the other was a Romani man who had been charged with a criminal offence himself. Both interviews were conducted via telephone. A third prospective interviewee refused to give answers via telephone and a subsequent personal meeting could not be facilitated.

<sup>5</sup> In cases where the interview was conducted via phone or teleconference, the information sheet, including the informed consent with the conditions of participation in the research, was sent to the participant by email beforehand and oral consent was sought at the beginning of the interview. The consultant performing the interview was responsible for ascertaining that the participant understood the conditions of the research and consented to them, which the consultant then acknowledged via signature on the information sheet.



Researchers interviewed three police officers. These interviews were facilitated by the Presidium of the Police Corps of Slovakia, which selected nine police officers from different regions, all of whom specialised in working with Romani communities (*referent pre prácu v komunitách, referent špecialista*). Three of those responded to the requests for an interview, all of whom were male. All three of these interviews were conducted by phone. Four policemen did not respond to requests for an interview, while another two indicated they were willing to provide the interview but did not respond to further requests to arrange the meeting. The interviewed police officers were all experienced officers, with at least 15 years' experience in the Police Corps and at least 4 years' experience of working with Romani communities.

Researchers conducted interviews with four prosecutors. These were facilitated by the Prosecutor's General Office, which selected five prosecutors from different regions: two from the district prosecution service, two from the regional prosecution service, and one from the Prosecutor's General Office. Three of the prosecutors were male and two were female. Four interviews were conducted by phone, while one prosecutor did not respond to request for an interview. The prosecutors were all experienced with seniority ranging between 12 and 30 years. The four prosecutors interviewed specialised in a range of different criminal offences. One prosecutor specialised in domestic and sexual violence, as well as family-related crimes;

one specialised in drug-related offences; one specialised in environmental crimes; and the final one specialised in violent crimes.



Researchers interviewed four defence lawyers, all of them lawyers practising in Slovakia. The lawyers were selected on the basis of their experience with the Romani community and criminal justice system. Three of the lawyers interviewed were male, while the fourth was female.

Finally, the researchers interviewed two judges from courts located in Prešov region, where there is a large Romani population. These interviews were facilitated by contacting the specific courts, with the presidents of the courts providing contact

details for criminal judges. These interviews were all conducted via telephone. The judges worked in criminal law and tried criminal cases on a daily basis. They had been working in the judiciary for 22 and 19 years and had dealt with criminal law cases at district courts for 22 and 11 years respectively. Both worked at the district courts, acting as judges in the first instance and both were male.

## Roma in Slovakia

Slovakia has one of the largest Romani communities relative to its population in Europe. According to the 2021 census, there were approximately 156,000 Romani people living in Slovakia, which represents about 3% of the overall population.<sup>6</sup> Real numbers, however, are likely to be significantly higher. The 2013 Atlas of Roma Communities estimated that the real figure might comprise 400,000 people<sup>7</sup> and the latest data (2019) from the Office of the Plenipotentiary of the Slovak Government for Romani Communities suggested that it might in fact reach 440,000 people.<sup>8</sup> Most of the disadvantaged Romani communities are located in East Slovakia, in the regions of Prešov, Košice, and Banská Bystrica.<sup>9</sup>

According to the United Nations Development Programme (UNDP) survey, the demographics of Romani populations in Slovakia are fairly balanced: men make up 50.6%, while women make up 49.4% of the population. In terms of age, the figures are somewhat less balanced: 40.2% are under 15 years old (compared to 15.5% in the geographically close general population), 24.6% are between 15 and 29 years old (compared to 19.7% in the geographically close general population), 24.1% are between 30 and 49 years old (compared to 25.6% in the geographically close general population), and only 11.1% are older than 50 (compared to 39.2% in the geographically close general population).<sup>10</sup>

Approximately 42% of Roma in Slovakia live in separated or segregated neighbourhoods without adequate infrastructure.<sup>11</sup> 27% live in homes in some level of disrepair, with leaking roofs, damp walls, or other structural issues.<sup>12</sup> In segregated Romani neighbourhoods, 45% of homes are not connected to the public water supply<sup>13</sup> and 56% are not connected to sewage facilities.<sup>14</sup>

According to the Second European Union Minorities and Discrimination Survey (EU MIDIS II), an EU-wide survey of minorities' and migrants' experiences of discrimination, 87% of Romani people in Slovakia are at risk of poverty compared to just 13% of the general population.<sup>15</sup> The share of Romani people who live in households that they can afford to keep adequately warm is just 80%.

<sup>6</sup> Slovak Statistical Office: 2021 Census. Available at: <https://www.scitanie.sk/>.

<sup>7</sup> United Nations Development Programme, *Atlas rómskych komún na Slovensku (Atlas of Romani Communities in Slovakia)*, 2013. Available at: [https://www.minv.sk/?atlas\\_2013](https://www.minv.sk/?atlas_2013).

<sup>8</sup> Denník N: Na Slovensku žije podľa odhadu 440-tisíc Rómov (+ interaktívna mapa), 25 September 2019. Available at: <https://dennikn.sk/1584122/na-slovensku-zije-podla-odhadu-440-tisic-romov-interaktivna-mapa/>.

<sup>9</sup> Abel Ravasz et al: *Atlas rómskych komún na Slovensku 2019*. Available at: <https://imbbmi.files.wordpress.com/2021/03/atlas-romskych-komunit-2019.pdf>.

<sup>10</sup> United Nations Development Programme, *Report on the Living Conditions of Roma households in Slovakia 2010*, 2012. Available at: <https://www.undp.org/content/dam/rbec/docs/Report-on-the-living-conditions-of-Roma-households-in-Slovakia-2010.pdf>.

<sup>11</sup> United Nations Development Programme, *Atlas rómskych komún na Slovensku*, 2013, p. 14.

<sup>12</sup> EU Fundamental Rights Agency, *Second European Union Minorities and Discrimination Survey: Roma – Selected findings*, December 2017, p. 35. Available at: <http://fra.europa.eu/en/publication/2017/eumidis-ii-main-results>.

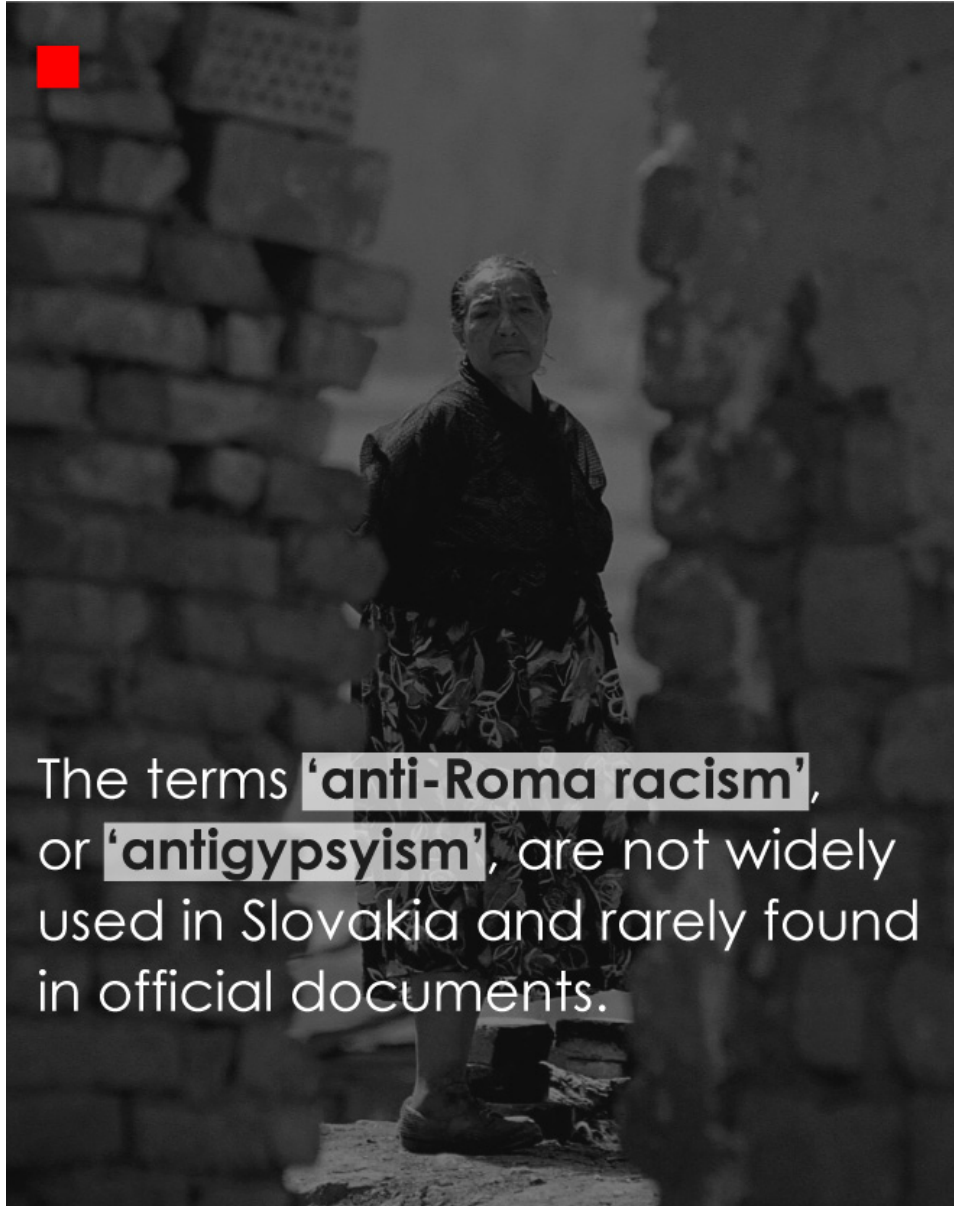
<sup>13</sup> United Nations Development Programme, *Atlas rómskych komún na Slovensku*, 2013, p. 20.

<sup>14</sup> *Ibid*, p. 27.

<sup>15</sup> EU Fundamental Rights Agency, *Second European Union Minorities and Discrimination Survey: Roma – Selected findings*, December 2017, p. 35. Available at: <https://fra.europa.eu/en/publication/2016/second-european-union-minorities-and-discrimination-survey-roma-selected-findings>.

## Public perceptions of Roma

The terms ‘anti-Roma racism’, or ‘antigypsyism’, are not widely used in Slovakia and rarely found in official documents. However, research has consistently revealed that discrimination against Roma is widespread and systematic, and instances of racist, anti-Roma attitudes and behaviours are commonplace.



The terms ‘anti-Roma racism’, or ‘antigypsyism’, are not widely used in Slovakia and rarely found in official documents.

In 2019, the Eurobarometer survey on discrimination was conducted amongst 27,438 EU citizens, including 1,081 respondents in Slovakia. 41% of those respondents said that they

felt that discrimination on the basis of an individual being Roma was widespread in Slovakia; 46% stated that they would not feel comfortable having a Romani person elected to the highest position in Slovakia; 46% stated that they would not feel comfortable having a Romani person elected to the highest position in Slovakia, and 55% would not be comfortable if the Prime Minister was a person of a different skin colour; and 15% said that they would not feel comfortable having a Romani person as a colleague.<sup>16</sup>

According to a further survey, which looked into the attitudes of Slovakian youths, a staggering 61% of respondents aged 15-19 said they would not want to have a Romani person as a neighbour.<sup>17</sup>

Those negative attitudes seem to be reflected in the experiences of Romani people, with a large number of Romani respondents reporting incidents of harassment or abuse. In the EU MIDIS II study, 54% of Romani respondents from Slovakia said that they had experienced discrimination in the last five years, with 30% of them claiming to have experienced discrimination in the last year. Most of those 54% said that that discrimination had occurred when looking for a job (53%) or when accessing services (40%).<sup>18</sup> In a further study published by the EU Fundamental Rights Agency in 2018, 37% of Romani respondents from Slovakia reported experiencing racial harassment in the last 12 months, while 43% of school children said that they

had faced some of form of verbal harassment in the last 12 months.<sup>19</sup>

<sup>16</sup> European Commission, *Special Eurobarometer 493: Discrimination in the EU - Slovakia*, September 2019. Available at: <https://europa.eu/eurobarometer/surveys/detail/2251>.

<sup>17</sup> Inštitút pre verejné otázky, *Občianske spolunazhívanie očami tínedžerov*, 2019. Available at: [http://www.ivo.sk/buxus/docs//publikacie/subory/Obcianske\\_spolunazhivanie\\_ocami\\_tinedzerov\\_2019.pdf](http://www.ivo.sk/buxus/docs//publikacie/subory/Obcianske_spolunazhivanie_ocami_tinedzerov_2019.pdf).

<sup>18</sup> EU Fundamental Rights Agency, *Second European Union Minorities and Discrimination Survey: Summary of main results – SK*, 2017. Available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2019-eu-midis-ii-summary-results-country-sheet-slovakia\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-eu-midis-ii-summary-results-country-sheet-slovakia_en.pdf).

<sup>19</sup> EU Fundamental Rights Agency, *A persisting concern: anti-Gypsyism as a barrier to Roma inclusion*, 2018. Available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2018-anti-gypsyism-barrier-roma-inclusion\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-anti-gypsyism-barrier-roma-inclusion_en.pdf).

## Public portrayals of Roma

In the media, Roma are frequently stereotyped and depicted as criminals or abusers of the social welfare system. Reports are often published of Romani people destroying their homes or living in substandard conditions.<sup>20</sup> Where images are used, they are typically of Roma in sub-standard housing, or of small children walking around barefoot and half-naked. Falsehoods about Romani communities are also proliferated throughout the media and social media. The most-watched commercial TV channel has in recent years broadcast videos about Roma slaughtering and eating dogs, with the commentary suggesting this is common practice in Romani communities.<sup>21</sup> In some instances, Roma have been misreported by media as not having to pay for medication,<sup>22</sup> and unemployed Romani mothers have been misreported as receiving more in welfare payments than employed mothers.<sup>23</sup> More recently, during the COVID-19 pandemic, Romani people were misreported as receiving free food and alcohol from the state.<sup>24</sup> Beyond the media, high-profile figures, including politicians, have been known to make openly discriminatory or anti-Roma remarks. As might be expected, most of these remarks came from politicians belonging to the far-right extremist party, Kotlebovci – Ľudová strana Naše Slovensko (Kotleba – People's Party Our Slovakia), which made it to the Parliament for the second time in 2020.

In October 2016, one of the party's MPs, Milan Mazurek, made racist, anti-Roma remarks on the radio station, *Rádio Frontinus*, referring to Roma as “asocials” and “animals in the zoo.” He was later convicted by the Slovak Supreme Court and ordered to pay a fine of €10,000. As a result of the conviction, he became the first Slovak MP to lose his seat in Parliament as a result of a hate crime.<sup>25</sup> Despite this, Former Prime Minister and head of the SMER party, Robert Fico, defended Mazurek, saying that Mazurek only said what the “*whole nation thinks*” and should not be punished for expressing his opinion.<sup>26</sup> In December 2016, Fico also said of Romani people: „*We have to start making order in the Romani settlements! ... Personally, I will stand behind police forces, I'll fight with Mrs Dubovcová [the former Ombudsperson] and international organisations,*

20 Romea.cz: *Slovak media depict Roma stereotypically and often anonymously*, 3.1.2015. Available at: <http://www.romea.cz/en/news/slovak-media-depict-roma-stereotypically-and-often-anonymously>.

21 See for example: <https://www.markiza.sk/clanok/1972040>.

22 Omediach.com, *Opäť sa šíri 8-ročný hoax, že Rómovia nemusia platiť za lieky, reaguje aj ústredie práce*, 26 November 2019. Available at: <https://www.omedich.com/hoaxy/16710-opaet-sa-siri-8-rocny-hoax-ze-romovia-nemusia-platit-za-lieky-reaguje-aj-ustredie-prace>.

23 Aktuality.sk, *The old hoax on benefits for non-working Roma is circulating on social networks again*, 20 May 2020. Available at: <https://www.aktuality.sk/clanok/791715/na-socialnych-sietach-znovu-koluje-stary-hoax-o-davkach-pre-nepracujucich-romov/>.

24 Spravy.pozri.sk, *Quarantined Roma received free alcohol and food from the state. It's a hoax shared by thousands of people*, 11 May 2020. Available at: <https://spravy.pozri.sk/clanok/romovia-v-karantene-dostali-od-statuzadarmo-alkohol-a-potravinu-je-to-hoax-ktory-zdieľali-tisicky-ludi/1513756>.

25 Spectator.sme.sk, *Far-right MP Mazurek found guilty. He will lose his seat*, 03 September 2019. Available at: <https://spectator.sme.sk/c/22203605/far-right-mp-mazurek-found-guilty-he-will-lose-his-seat.html>.

26 Spectator.sme.sk, *Mazurek only voiced what the whole nation thinks, said Fico*, 06 September 2019. Available at: <https://spectator.sme.sk/c/22206328/mazurek-only-voiced-what-the-whole-nation-thinks-said-fico.html>.

*but we have to establish order in Romani settlements ... There is a new generation that does not want to work.*<sup>27</sup> He also described the Prime Minister at the time, Igor Matovič, as “*the Prime Minister of Roma, the Prime Minister of Gypsies*” adding that “*he does not care about anyone else*”.<sup>28</sup>

When the head of the People’s Party Our Slovakia, Marian Kotleba, ran for head of the Banská Bystrica self-governing region, he adopted the following slogan in his campaign: “*with your support I can surely do away with the unjust advantages for [not only] gypsy parasites*”. Such is the prevalence of these sorts of attitudes, the Slovak Supreme Court did not even consider this statement to fall under racist defamation.<sup>29</sup> Even more disconcertingly, the district chair of the Kotleba’s Party in Vranov nad Topľou, Jozef Mihalčin, once said of Roma: “*When I was 18, the Gypsies only walked up to the bridge. When they came to the bridge, I kicked them and threw them into Topľa (river). They were always a dirt that had nothing to do in the city.*”<sup>30</sup>

However, such remarks are by no means limited to the far-right People’s Party Our Slovakia. The head of the populist *Sme Rodina* (Our Family) party, Boris Kollár, commented on the proposal to merge the special needs schools with the mainstream schools by saying: “*If any idiot approves of this, I wish that his children would go to the classroom with those backward and often demented Gypsy children.*”<sup>31</sup>

Additionally, during the initial investigation of the 2013 Moldava nad Bodvou police raid, the then Interior Minister, Robert Kaliňák, commented on the credibility of evidence given by Romani victims against police officers: “*If you place them on the same level, you are insulting me*”.<sup>32</sup> Kaliňák has also made comments alleging incest in Romani communities.<sup>33</sup>

27 Aktuality.sk, *Roma are terrified how they are condemned by the Prime Minister*, 30 April 2020. Available at: <https://www.aktuality.sk/clanok/399906/romovia-su-zhrozeni-ako-ich-odsudzuje-premier/>.

28 Dennikn.sk, *Minuta*, 30 April 2020. Available at: <https://dennikn.sk/minuta/1877227/>.

29 Spectator.sme.sk, *Mazurek Top court: ‘parasite’ not racist term*, 20 May 2013. Available at: <https://spectator.sme.sk/c/20046994/top-court-parasite-not-racist-term.html>.

30 Press tv, *VIDEO: AKO ČLEN LSNS V MLADOSTI SKOPÁVAL RÓMOV DO RIEKY*, 17 February 2020. Available at: <https://presstv.sk/zpravy/video-ako-clen-lsns-v-mladosti-skopaval-romov-do-rieky/>.

31 Netky.sk, *Boris Kollár sa vyjadril o rómskej problematike na školách: Hovorí o cigánskych a dementných deťoch*, 17 May 2016. Available at: <http://www.netky.sk/clanok/boris-kollar-sa-vyjadril-o-romskej-problematike-na-skolach-hovori-o-ciganskych-a-dementnych-detoch>.

32 Video.sme.sk, *Kaliňák: Policajtov a Rómov z Moldavy nedávajte na jednu úroveň, uráža ma to*, 08 January 2014. Available at: <https://tv.sme.sk/v/28963/kalinak-policajtov-a-romov-z-moldavy-nedavajte-na-jednu-uroven-uraza-ma-to.html>.

33 See for example: <https://enrsi.rtvs.sk/articles/coronavirus/82335/interior-minister-kalinak-we-cant-close-our-eyes-before-roma-incest>.



## Government initiatives to tackle anti-Roma discrimination

In order to combat anti-Roma discrimination the government adopted the Slovak National Roma Integration Strategy (the Strategy) in 2012, the principal aims of which are: “*stopping the segregation of Romani communities, a significant positive turn-around in the social inclusion of Romani communities, non-discrimination, and a change in the attitude of the majority population towards the Romani minority*.”<sup>34</sup>

However, there appears to have been little effective action since then, and the results of the Strategy have been disappointing. This lack of progress could be attributed to a lack of political will and interest from the SMER Party, which led the government for the majority of the period between 2012 and 2020. In 2012 the then Plenipotentiary for Romani Communities, Peter Pollák (of the OĽaNO party), stated that he had not read the Strategy and would instead prepare his own set of legislative proposals which he named the “*Right Way - Roma Reform*”. These plans have remained largely unimplemented, and the lack of any relevant data means that, even where certain measures are implemented, their effectiveness cannot be analysed.<sup>35</sup>

Since April 2008, the Slovak National Centre for Human Rights (SNCHR), which also acts as the Slovak Equality Body, has been permitted to undertake independent investigations concerning discrimination<sup>36</sup> and act as a legal representative in disputes concerning the anti-discrimination law (ADL).<sup>37</sup> The SNCHR’s main tasks also include monitoring human rights issues, conducting research on discrimination and racism in society, and supporting victims of discrimination.<sup>38</sup>

However, the SNCHR has been widely criticised for not fulfilling its role as the equality body,<sup>39</sup> or supporting victims of discrimination. By way of example, as of 2018 the SNCHR had not pursued *actio popularis*<sup>40</sup> in any cases where Romani communities harassed

34 Slovak National Roma Integration Strategy, 2012, p. 3. Available at: [https://ec.europa.eu/info/sites/info/files/roma\\_slovakia\\_strategy\\_en.pdf](https://ec.europa.eu/info/sites/info/files/roma_slovakia_strategy_en.pdf).

35 For more detailed evaluation of the Strategy by NGOs please see the following reports: SGI - Inštitút pre dobré spravovanie spoločnosti a škola dokorán, n.o., *EXTERNÉ HODNOTENIE STRATÉGIE SR PRE INTEGRÁCIU RÓMOV DO ROKU 2020*, 2014. Available at: [http://stary-web.governance.sk/assets/files/publikacie/SGI\\_Hodnotenie\\_Strategie\\_SR\\_pre\\_integraciu\\_Romov\\_do\\_roku\\_2020.pdf](http://stary-web.governance.sk/assets/files/publikacie/SGI_Hodnotenie_Strategie_SR_pre_integraciu_Romov_do_roku_2020.pdf); Centre for the Research of Ethnicity and Culture et al., *Civil Society Monitoring Report on Implementation of the National Roma Integration Strategy in Slovakia*, 2018. Available at: [http://cvek.sk/wp-content/uploads/2018/04/RCM\\_2017\\_Slovakia\\_EC\\_approved.pdf](http://cvek.sk/wp-content/uploads/2018/04/RCM_2017_Slovakia_EC_approved.pdf), the 2019 report is available at: <https://romadatadotorg.files.wordpress.com/2019/09/rcm-civil-society-monitoring-report-2-slovakia-2018-eprint-fin-2.pdf>.

36 *Ibid.*

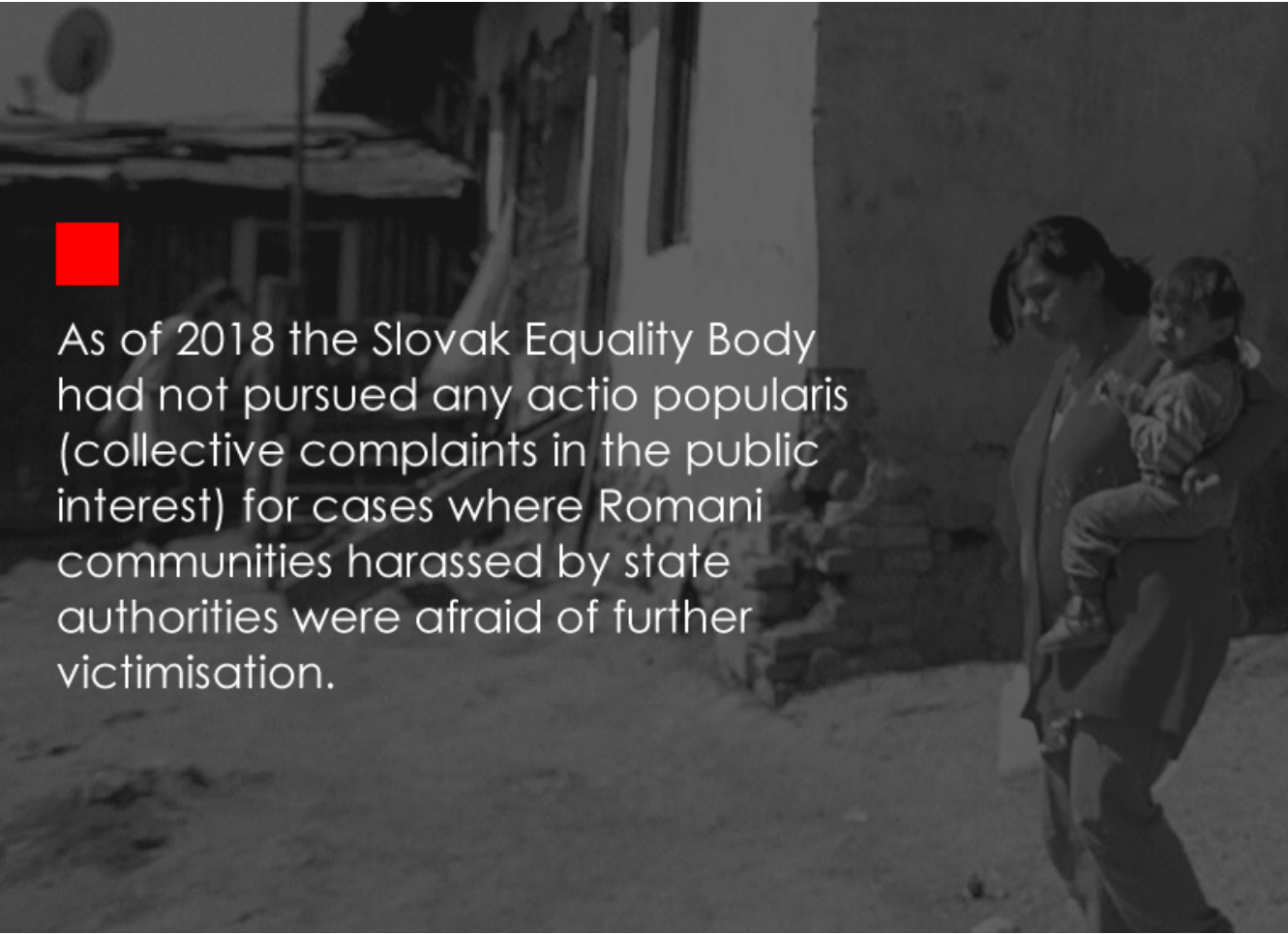
37 *Ibid.*, Article 1(3).

38 Act No. 308/1993 Coll., Article 1(2).

39 See e.g. European Roma Rights Centre, *Written Comments by the European Roma Rights Centre concerning Slovakia For Consideration by the European Commission on the Transposition and Application of the Race Directive and on the Legal Issues Relevant to Roma Integration*, 2013, p. 6. Available at: [http://www.errc.org/uploads/upload\\_en/file/slovakia-red-written-comments-5-april-2013.pdf](http://www.errc.org/uploads/upload_en/file/slovakia-red-written-comments-5-april-2013.pdf).

40 Latin – “popular action” – a legal action brought by an individual or organisation on behalf of a larger number of people in defence of the public interest.

by state authorities were afraid of further victimisation.<sup>41</sup> Several attempts were made to address these deficiencies and reform the SNCHR, including by transferring its responsibilities to the Public Defender of Rights.<sup>42</sup>



As of 2018 the Slovak Equality Body had not pursued any *actio popularis* (collective complaints in the public interest) for cases where Romani communities harassed by state authorities were afraid of further victimisation.

<sup>41</sup> Centre for the Research of Ethnicity and Culture et al., *Civil Society Monitoring Report on Implementation of the National Roma Integration Strategy in Slovakia*, 2018, p. 31. Available at: [http://cvek.sk/wp-content/uploads/2018/04/RCM\\_2017\\_Slovakia\\_EC\\_approved.pdf](http://cvek.sk/wp-content/uploads/2018/04/RCM_2017_Slovakia_EC_approved.pdf).

<sup>42</sup> Sme.sk, *Ombudsman by mal prevziať právomoci národného strediska pre ľudské práva*, 18 April 2018. Available at: <https://domov.sme.sk/c/20806678/verejny-ochranca-prav-ombudsman-gal-snslp.html>.

# International criticisms of Slovak anti-Roma discrimination

There have been a number of high profile (but largely unsuccessful) court cases brought against Slovakia in light of investigations into violent acts carried out against Romani individuals by state and non-state actors.

These include:

- several cases brought against the state for its response to violence against Romani victims on the part of the police;<sup>43</sup>
- several cases challenging the state's unlawful sterilisations on members of the Romani community;<sup>44</sup> and
- several cases alleging discrimination in access to housing and employment.<sup>45</sup>

43 *Mišigárová v Slovakia* (ECtHR). Facts available at: <http://www.errc.org/press-releases/court-slams-slovakia-for-death-of-romani-man-in-police-custody> and judgment available at: [https://hudoc.echr.coe.int/eng#{%22dmdocnumber%22:\[%22878641%22\],\[%22itemid%22:\[%22001-102279%22\]}}](https://hudoc.echr.coe.int/eng#{%22dmdocnumber%22:[%22878641%22],[%22itemid%22:[%22001-102279%22]}}).

*Koky v Slovakia* (ECtHR). Facts available at: <http://www.errc.org/cikk.php?cikk=4202> and judgment available at: <https://hudoc.echr.coe.int/eng?i=001-111410>.

*Adam v Slovakia* (ECtHR). Facts available at: <https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-5447219-6828020&filename=Judgment%20Adam%20v.%20Slovakia%20-%20alleged%20slapping%20of%2016-year%20old%20Roma%20in%20police%20custody%20.pdf> and judgment available at: [https://hudoc.echr.coe.int/eng#{%22tabview%22:\[%22document%22\],\[%22itemid%22:\[%22001-165230%22\]}}](https://hudoc.echr.coe.int/eng#{%22tabview%22:[%22document%22],[%22itemid%22:[%22001-165230%22]}}).

*Lakatošová and Lakatoš v Slovakia* (ECtHR). Facts available at: <http://www.errc.org/cikk.php?cikk=4570> and judgment available at: <https://hudoc.echr.coe.int/eng?i=001-188265>.

*A.P. v Slovakia* (ECtHR) Facts available at: <http://www.errc.org/cikk.php?cikk=4952> and judgment available at: [https://hudoc.echr.coe.int/eng#{%22tabview%22:\[%22document%22\],\[%22itemid%22:\[%22001-200556%22\]}}](https://hudoc.echr.coe.int/eng#{%22tabview%22:[%22document%22],[%22itemid%22:[%22001-200556%22]}}).

44 *K.H. v Slovakia* (ECtHR). Facts available at: <https://www.escri-net.org/caselaw/2009/kh-and-others-v-slovakia-european-court-human-rights-application-no-3288104> and judgment available at: [https://hudoc.echr.coe.int/eng#{%22tabview%22:\[%22document%22\],\[%22itemid%22:\[%22001-92418%22\]}}](https://hudoc.echr.coe.int/eng#{%22tabview%22:[%22document%22],[%22itemid%22:[%22001-92418%22]}}).

*V.C. v Slovakia* (ECtHR). Facts available at: <https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=002-290&filename=002-290.pdf> and judgment available at: [https://hudoc.echr.coe.int/eng#{%22tabview%22:\[%22document%22\],\[%22itemid%22:\[%22001-107364%22\]}}](https://hudoc.echr.coe.int/eng#{%22tabview%22:[%22document%22],[%22itemid%22:[%22001-107364%22]}}).

*N.B. v Slovakia* (ECtHR). Facts available at: <https://uniteforreproprights.org/resources/n-b-v-slovakia/> and judgment available at: [https://hudoc.echr.coe.int/eng#{%22tabview%22:\[%22document%22\],\[%22itemid%22:\[%22001-111427%22\]}}](https://hudoc.echr.coe.int/eng#{%22tabview%22:[%22document%22],[%22itemid%22:[%22001-111427%22]}}).

*I.G. and others v Slovakia* (ECtHR). Facts available at: <https://www.globalhealthrights.org/health-topics/i-g-and-others-v-slovakia/> and judgment available at: [https://hudoc.echr.coe.int/eng#{%22tabview%22:\[%22document%22\],\[%22itemid%22:\[%22001-114514%22\]}}](https://hudoc.echr.coe.int/eng#{%22tabview%22:[%22document%22],[%22itemid%22:[%22001-114514%22]}}).


45 *L.R. and others v Slovakia* (UN CERD). Facts available at: <http://www.errc.org/cikk.php?cikk=3556> and decision available at: [http://www.errc.org/uploads/upload\\_en/file/01/4F/m0000014F.doc](http://www.errc.org/uploads/upload_en/file/01/4F/m0000014F.doc).

*V.S. v Slovakia* (UN CERD). Decision available at: <https://www.poradna-prava.sk/en/documents/opinion-of-the-cerd-in-the-case-of-v-s/>.

## Representation of Roma in the criminal justice system

In the absence of any comprehensive reports or surveys which collect data on the ethnicity of suspects and defendants, there are no official statistics on the proportion of Roma in the criminal justice system. However, there was a broad consensus amongst the Romani interviewees, police, judges, prosecutors, and defence lawyers interviewed for this study that Roma are overrepresented, and that the majority of them are accused of petty, non-violent offences.

Police officers interviewed for this research said that they had daily contact with Roma when exercising their duties. Roma formed a substantial proportion of the people arrested within their precincts, ranging from 30% to 80% of those arrested. Prosecutors, judges, and defence lawyers generally felt less comfortable providing estimates of the proportion of Roma in the criminal justice system, given the lack of official data. However, they tended to agree that there was some degree of overrepresentation. One prosecutor, for example, estimated the proportion of Romani defendants as between 60% and 90%, depending on the type of crime. Judges provided estimates that were somewhat lower, ranging between a quarter and a half of all defendants. These were comparable to the estimates given by lawyers. The proportion of their practice consisting of representing Romani people in criminal proceedings varied from 20% (Interview 8, Defence Lawyer) to more than 50% (Interviews 1 and 10, Defence Lawyers).



It was clear from the interviews that Roma are most commonly accused of minor offences.

In one example, police brought charges against a Romani boy who took wood from the forest worth €0.26.

It was clear from the interviews that Roma are most commonly accused of minor offences. Police officers, prosecutors, judges, and defence lawyers agreed that Roma were most likely to come into conflict with the criminal justice system for petty property-related crimes, such as theft, or offences relating to ‘endangering the moral upbringing of a child’ (i.e. for having neglected compulsory school attendance). In one example, police brought charges against a Romani boy who took wood from the forest worth €0.26.<sup>46</sup>

There were several interviewees that questioned the necessity of prosecuting people for these types of very minor crimes, especially for property crimes where only a very small amount of lumber or crops were allegedly stolen.

*“Cases may be eventually remitted to competent authorities as petty offences, but the entire investigation is usually conducted under the Act on Criminal Procedure, increasing costs, especially since young Roma require mandatory representation by a defence counsel.” (Interview 2, Prosecutor)*

One judge recalled a case where a Romani person was charged with the theft of lumber or crops and where the damages were estimated to be approximately €0.11.

*“It can be sometimes really seen that they had no other choice [to obtain food] than to steal from a shop and risk criminal charges.” (Interview 15, Judge)*

Questions were also raised about the benefits of prosecuting Romani defendants for not sending their children to school, and it was suggested that criminalisation of non-attendance in school had little to no impact on addressing the underlying challenges.

*“There are families that go round in circles. The child doesn’t go to school, so the parents are sentenced to community service. The child doesn’t go to school again, so the parents are given suspended sentence. The third time, [if the child doesn’t go to school], the parents are given a very short sentence of about three months, and then the child grows up and is outside the [age of] mandatory school attendance system, but the parents have another child, so the entire cycle repeats [...] we should find out whether the sentences in fact help ensure school attendance.” (Interview 15, Judge)*

<sup>46</sup> See: <https://spis.korzar.sme.sk/c/22603483/pre-drevo-za-26-centov-mu-hrozi-vazenie-pomaha-so-styrmi-surodencami.html>.

## Causes of overrepresentation

While there was broad agreement that there may at least be some degree of overrepresentation of Roma in the criminal justice system, there were differing explanations as to why this is.

A common perception amongst prosecutors and police officers was that the overrepresentation was largely driven by communication challenges between Romani communities and state authorities, as well as a lack of understanding of the criminal justice system by members of Romani communities. The police officers interviewed, for example, pointed to a lack of effective communication between authorities and Romani communities; a lack of proper education which may lead to situations where people are unaware that they might be committing criminal offences; and poor living conditions which mean that, in their view, Roma do not understand certain societal norms.

One prosecutor also pointed out that communication was a key challenge and pointed to the lack of procedural accommodations for Romani defendants that ultimately lead to their overrepresentation in the criminal justice system. Procedural accommodations should ensure that Romani defendants are properly informed of the content and purpose of the criminal proceedings:

*“[...] Information about their procedural rights is formalistic, too long, improperly worded, provided only in writing and not explained [...] Working with Roma communities properly would require appropriate methods of communication.” (Interview 5, Prosecutor)*

Judges, on the other hand, suggested that the overrepresentation of Roma in the criminal justice system might be because a number of specific offences are predominantly committed by Roma.

Despite overwhelming evidence of pervasive anti-Roma attitudes in Slovakia more broadly, there was very little acknowledgement that this resulted in anti-Roma discrimination in the criminal justice system. This was particularly the case amongst judges and prosecutors, who downplayed, or outright denied, the existence of discrimination in the criminal justice system. Several interviewees appeared to form this view on the basis that, in their experience, there were very few well-founded accusations of discrimination made by Romani defendants.

*“They complained about being brought before court by police when they did not respond to a summons. [...] They also complained about being unable to afford transportation from the police station back to their homes.” (Interview 2, Prosecutor)*

*“Roma often complain because they do not understand official procedure [...] they are required to appear before the authorities.” (Interview 3, Prosecutor)*



One prosecutor did however acknowledge that discriminatory attitudes exist in the criminal justice system and confirmed that he had come across discriminatory or offensive remarks against Roma, saying that: *“people saying such remarks do not exist are distorting reality”* (Interview 5, Prosecutor). However, he denied that such discriminatory remarks were common within the prosecution service.

Most defence lawyers agreed that there were patterns of discrimination against Roma in the criminal justice system.

*“Roma cases are often not properly investigated, evidence seems to be unreliable and the criminal responsibility of the defendants is doubtful.”*  
(Interview 10, Defence Lawyer)

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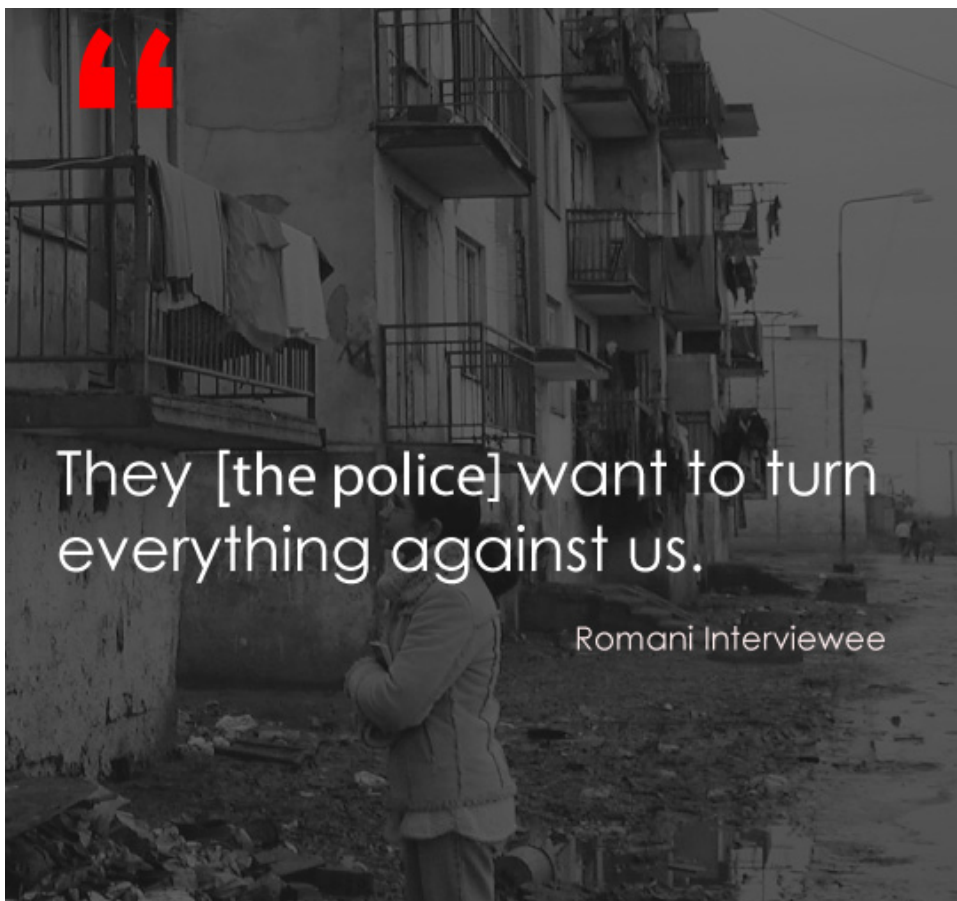
Roma cases are often not properly investigated, evidence seems to be unreliable and the criminal responsibility of the defendants is doubtful.

Defence Lawyer

However, the predominant view regarding the main causes of Romani overrepresentation was a lack of adequate information about the criminal justice system, and a lack of access to adequate legal representation.

It was clear that the two Romani interviewees viewed the criminal justice system as unjust. One of the respondents described a system that “*does not want to know our truth*” and stated that “*Slovak courts are unjust*” (Interview 12, Romani Interviewee)

*“The police and investigators, prosecutors, it is all just one gang. You cannot trust anyone here. Whatever you claim, she [police investigator] will refute it as if she was present, standing there with us. They want to turn everything against us.”* (Interview 13, Romani Interviewee)



Although they did not recall any discriminatory or degrading remarks against the Romani people by prosecutors or judges, one respondent suspected that such remarks might in fact be more common behind closed doors: “*the Roma perhaps do not understand them, and stay quiet instead, to avoid problems, since they face policemen with uniforms*” (Interview 13, Romani Interviewee). In the view of many Romani interviewees, the criminal justice system still is intent on convicting Romani people forcefully.

## Policing

The Code of Ethics of Members of Police Forces states that police officers in Slovakia are required to carry out their service irrespective of religious, racial, national, social, political, class, or other external factors.<sup>47</sup> However, there is a considerable body of evidence (both empirical and anecdotal) which suggests that, in reality, Roma are often subject to discriminatory policing practices.

In 2010, the EU Fundamental Rights Agency carried out an extensive European Union Minorities and Discrimination Survey (EU MIDIS I) which published a range of data on police stops and ethnic minorities. Overall, 7% of Romani respondents from Slovakia claimed that they had been stopped by the police in the last 12 months based on racial profiling. 17% of those respondents said that, during the last stop, the police acted in a disrespectful manner. 54% of Romani respondents from Slovakia claimed that they do not trust the police.<sup>48</sup> In 2019, the *European Commission Staff Working Document: Roma inclusion measures reported under the EU Framework for NRIS* reported that 6% of Roma in Slovakia who stated that they were stopped by police in the past five years thought that it was because of their ethnicity.<sup>49</sup> Without comparable data on stop-and-search amongst the general population it is difficult to draw conclusions on disproportionality of police stops involving Roma.

Romani communities have also been found to be subject to disproportionate policing. In 2017, the ERRC produced a report titled “*Ethnic profiling in Slovakia – Prejudiced policing of Roma neighbourhoods*” which concluded that: “according to the analysis of the 200 proposed locations for increased policing, a police unit is 40 times more likely to be appointed to a Roma community than a non-Roma community in Slovakia. Many municipalities with a high Romani population do not experience high crime rates but are nevertheless included in the list of 200 locations for increased policing.”<sup>50</sup>

There is also well-documented evidence that Romani communities are more likely to be subject to police brutality. In particular, there have been numerous reports of violent police action carried out under the so-called *Pátručia akcia 100* (Action Code 100) which gives the police powers to conduct broad searches of whole neighbourhoods. In April 2015, the Slovak Ombudsperson conducted an investigation which revealed that in 2013, 2014, and the first quarter of 2015, the highest number of Action Code 100 raids (259) were carried out in the Prešov region, where, according to the Atlas of Roma Communities, the largest percentage of “unintegrated Roma” live.<sup>51</sup> By way of comparison, no such raids were carried out in the Bratislava region (where far fewer Roma live).

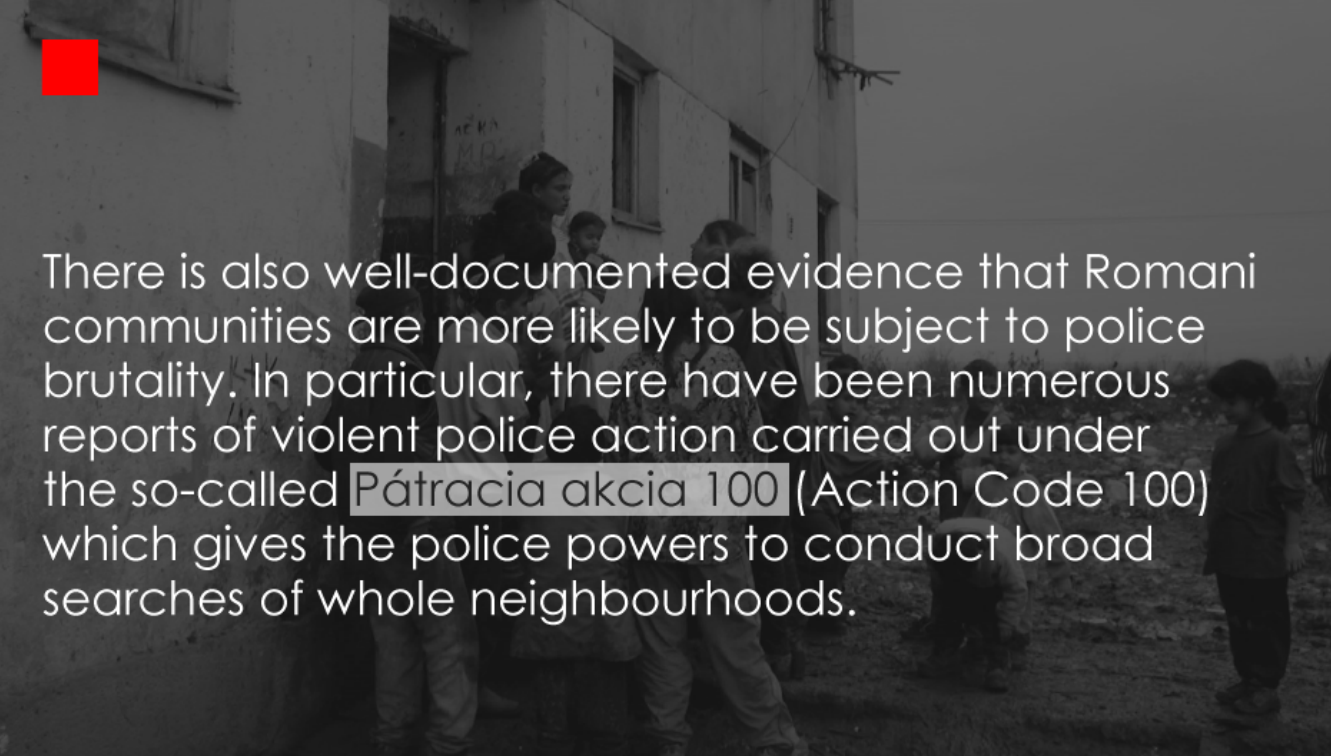
<sup>47</sup> See: [https://www.minv.sk/?eticky\\_kodex](https://www.minv.sk/?eticky_kodex).

<sup>48</sup> Fundamental Rights Agency, *European Union Minorities and Discrimination Survey - Data in Focus Report Police Stops and Minorities*, 2010. Available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/1132-EU-MIDIS-police.pdf?fbclid=IwAR3JGcOtJWGgAYS54F\\_NP3esyCn2cIaPSJIbecguJnJb1ZMTCK8kVC2N2No](https://fra.europa.eu/sites/default/files/fra_uploads/1132-EU-MIDIS-police.pdf?fbclid=IwAR3JGcOtJWGgAYS54F_NP3esyCn2cIaPSJIbecguJnJb1ZMTCK8kVC2N2No).

<sup>49</sup> European Commission Staff Working Document, *Roma inclusion measures reported under the EU Framework for NRIS*, 2019. Available at: <https://eur-lex.europa.eu/legal-content/FR/TXT/?qid=1575907500935&uri=CELEX%3A52019SC0320>.

<sup>50</sup> European Roma Rights Centre, *Ethnic profiling in Slovakia – Prejudiced policing of Roma neighbourhoods*, 2017. Available at: [http://www.errc.org/uploads/upload\\_en/file/Ethnic%20Profiling%20in%20Slovakia%20ERRC%20.pdf](http://www.errc.org/uploads/upload_en/file/Ethnic%20Profiling%20in%20Slovakia%20ERRC%20.pdf).

<sup>51</sup> The Atlas was published by UNDP in 2014 and is available at: [http://www.unipo.sk/public/media/18210/Atlas\\_romkom\\_web.pdf](http://www.unipo.sk/public/media/18210/Atlas_romkom_web.pdf).



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Despite these reports, there was little to no acknowledgement from the police officers interviewed for this research that there was any discrimination against Roma. None of the officers stated that they had witnessed any police conduct that they would regard as discriminatory or biased. While there was some acceptance that police officers might, on occasion, change the way they speak when interacting with Roma or make remarks based on certain ‘assumptions’ about Roma, they insisted that this was rare. (Interviews 6 and 11, Police Officers)

The police officers interviewed for this report denied that there was increased police presence in areas with larger populations of Romani inhabitants. They suggested that an increased number of officers specialised in working with the Romani community were stationed in such areas, but there was no increased police presence there. According to one officer, there are often insufficient numbers of Roma specialist officers and so they have to carry out regular police work on top of their specialist duties (Interview 6, Police Officer). Generally, the state authorities consider Roma specialist officers as a benefit to the communities, and in 2020 a report from the Ministry of Finance and Ministry of Interior argued in support of the specialisation, explaining that members of Romani communities are more likely to trust the local specialist and address him/her with their problems, although the Romani interviewees recalled different experiences. The report from 2020 also recognises that trust of the Romani communities in these officers is fragile and can be undermined when the officers participate in actions involving use of force or criminal investigations.<sup>52</sup>

The other two interviewed officers said that their precincts were sufficiently staffed, and one officer in particular praised the way in which unspecialised police officers helped specialists solve issues in Romani communities. They did however concede that occasionally municipal authorities would require an increased police presence in certain areas with an increased risk of crime (which may include Romani communities).

<sup>52</sup> The report is available at: [https://www.mfsr.sk/files/sk/financie/hodnota-za-peniaze/revizia-vydavkov/vnu-tro/revizia\\_vydavkov\\_mvst\\_20201215.pdf](https://www.mfsr.sk/files/sk/financie/hodnota-za-peniaze/revizia-vydavkov/vnu-tro/revizia_vydavkov_mvst_20201215.pdf).

The police officers interviewed also denied that ethnic profiling played a role in any arrests. They suggested that, although civilians living near Romani communities would often have negative views of Romani people, the police were not motivated by such biases or prejudices.

*“They are not arrested because they are Roma, but it’s true about half of our operations involve Roma suspects.” (Interview 11, Police Officer)*

One officer admitted that certain coercive measures (a legislative term for police conduct often involving use of force)<sup>53</sup> were frequently used against Roma, but suggested that this was perhaps due to the fact that most cases in his precinct concerned Romani suspects. He argued that the coercive measures theoretically may serve as a preventive measure, as he said that Romani people tend to abuse police trust. Another officer did not notice disproportionate use of coercive measures against Roma (Interview 9, Police Officer). The final officer said that he had not needed to use coercive measures against Roma for at least the last two or three years, and the use of coercive measures in his precinct was in any event very rare. Even if deployed, he said that officers did not resort to any measures that would result in bodily injuries (Interview 11, Police Officer).

The police officers also questioned the validity of allegations of police discrimination and brutality. Complaints against the police by Roma were said to be rare (Interview 9, Police Officer), or no more common than complaints from non-Romani people (Interview 11, Police Officer). One police officer commented that, to his knowledge, all complaints of misconduct were found to be unsubstantiated (Interview 6, Police Officer).

These comments should, however, be viewed in the context of criticisms against police complaints mechanisms in Slovakia. Statistics from the Office of the Inspection Service within the Ministry of Interior show that in 2020 there were 1,650 cases overall of suspected police misconduct with potential criminal liability. More than half of those (843) were rejected even before the pre-trial stage of criminal proceedings (prosecution) began. Only in 3.69% of cases (61), did the investigating officer file a motion proposing indictment to the prosecutor. Overall, six cases led to the initiation of plea-bargaining procedure.<sup>54</sup> The former Council of Europe Commissioner for Human Rights, Nils Muižnieks, commented that the Police Inspectorate in Slovakia does not meet the criteria required to be considered independent,<sup>55</sup> and this matter has been raised several times by the former and current Ombudsperson.<sup>56</sup>

Police officers’ denials about the existence of anti-Roma discrimination in the police contrast significantly with the accounts given by Romani people and defence lawyers in the interviews. Their experiences strongly corroborated reports of discriminatory and often violent policing against Roma.

<sup>53</sup> The extensive list of coercive measures is provided in Art. 50 of Act no. 171/1993 Coll. on Police Corps, including e.g. kicks, blows in self-defence or to overcome resistance, devices restricting movement, use of police dogs, firearms etc. The interviewees did not usually specify which coercive measures they use most frequently, generally or against Roma.

<sup>54</sup> Statistics available at: <https://www.minv.sk/?urad-inspekciej-sluzby>.

<sup>55</sup> Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe Following his Visit to the Slovak Republic from 15 to 19 June 2015, paras. 76-77. Available at: [https://rm.coe.int/ref/CommDH\(2015\)21](https://rm.coe.int/ref/CommDH(2015)21).

<sup>56</sup> See, e.g. Dennik N, *Zo sľužnosti na policajtov uspeje len každá dvadsiata, trestajú výčitkou*, 2015. Available at: <https://dennikn.sk/132018/zo-staznosti-na-spravanie-policajtov-uspeje-len-kazda-dvadsata/>.



Both Romani interviewees suggested that over-policing of Romani communities was a common occurrence. One respondent described how the police came to their community: “*ten times each day*” even when there had been no incidents (Interview 12, Romani Interviewee), and the other suggested that the police disproportionately targeted Roma even where there was no illegal activity (Interview 13, Romani Interviewee). She assumed that such police targeting was due to the ethnicity of the Romani people.

*“They control only things they shouldn’t, they do not care about things that matter”.* (Interview 13, Romani Interviewee)

Romani interviewees also recalled frequent violent encounters with the police. One respondent recalled a police raid on a Romani neighbourhood, where he and many others were indiscriminately beaten by the police (Interview 12, Romani Interviewee). The other interviewee said that she knows various Romani people who have been indiscriminately beaten and subjected to verbal abuse. This included a family member who, at the time of the interview, was still recovering from being struck in the head with a baton by a police officer. She also alleged that police officers would sometimes taunt and provoke Romani people, challenging them to face off against them (Interview 13, Romani Interviewee).


Defence lawyers tended to agree that Roma and Romani communities are subject to over-policing and discriminatory treatment.

*“The police are often at odds with Roma communities and often petty conflicts result in violent clashes with the police. [...] Public officials, including former members of government, openly called for closer monitoring and data collection of [residents in] problematic areas. However, these proposals were not defined on the basis of crime rates, but in fact specifically targeted regions with large Roma populations.”* (Interview 1, Defence Lawyer)

“

The police are often at odds with Roma communities and often petty conflicts result in violent clashes with the police. [...] Public officials, including former members of government, openly called for closer monitoring and data collection of [residents in] problematic areas.

Defence Lawyer





However, there were mixed opinions as to whether this was due to ethnic profiling or part of a wider pattern of systemic discrimination. There was some recognition of “*covert patterns of discrimination*” by the police (Interview 10, Defence Lawyer), and acceptance that ethnic profiling could be the product of “*disproportionate targeting of Roma neighbourhoods by the police in performing searches for fugitives and people who have absconded from court proceedings*” (Interview 1, Defence Lawyer). However, one lawyer suggested that discriminatory practices reflected the individual prejudices of individual officers (Interview 7, Defence Lawyer), and another lawyer suggested that the reason that Roma were arrested more frequently was because they were “*caught during or immediately after committing an offence*” (Interview 8, Defence Lawyer), rather than racial prejudice.

Defence lawyers also noted incidences where discriminatory, and even violently hateful remarks, were made by police officers.

*“Especially when dealing with cases in eastern Slovakia, the police treated Roma with less respect, occasionally mocking them [when they were not present].”* (Interview 7, Defence Lawyer)

Interviewees described how pejorative and racist language is used by police officers in relation to Romani people. One lawyer recalled that “*certain disrespectful patterns of language that are considered common in the majority society*” were also common amongst police officers (Interview 8, Defence Lawyer).<sup>57</sup> One respondent recalled a situation where she overheard a police officer having a casual private conversation about Roma in a public place saying: “*they should be thrown into gas*”.



<sup>57</sup> By disrespectful patterns of speech the interviewee meant, for example, offensive remarks about someone’s ethnicity that are commonplace and widely tolerated by the non-Romani population of Slovakia, as well as stereotypical anti-Roma prejudices. Concerning such remarks from state authorities, the interviewee, a prosecutor, recalled an experience when they represented Romani victims of violent crimes and racist remarks. In another case, one police officer allegedly fondly recalled the times when police were allowed to treat Romani communities roughly under the pretext of maintaining discipline (Interview 8, Defence Lawyer).

## Judges and Prosecutors

There was very little criticism of judges and prosecutors in the interviews, and almost no acknowledgement by judges and prosecutors themselves that discrimination had any impact on their work.

Judges questioned whether discrimination is a serious issue in the judiciary on the basis that they had only very rarely observed Romani people making allegations that the courts were biased, racist, or discriminatory towards Roma. One judge only recalled two cases in his twenty years' experience in which a Romani defendant had accused the court or the judge of not being impartial (Interview 14, Judge). However, he said that such allegations addressed the way in which proceedings were conducted, rather than addressing the judge personally. The judges were generally aware of the low trust of the public in the judiciary, but: *"there is no difference in distrust [against judges] from Roma and other types of defendants"* (Interview 15, Judge).

There were similar responses from prosecutors. One prosecutor ruled out the possibility that prosecutors could be biased because they were bound by the rules set out in legislation. However, it became apparent from the interviews that some prosecutors might, in fact, have prejudiced opinions of Roma. For example, when questioned about Romani peoples' distrust of the criminal justice system, some prosecutors assumed them to be ignorant, or entitled. One prosecutor expressed that the state should act more *"to serve Roma and teach them values and the fundamental principles of co-habitation"* (Interview 2, Prosecutor). Another criticised the Roma 'mindset' to *"remain unpunished for their actions and they expect positive discrimination"* (Interview 3, Prosecutor).



## Lawyers and legal representation

Interviews with defence lawyers and judges strongly indicated that Romani defendants were heavily dependent on legal aid. This is unsurprising given that, according to the EU MIDIS II Survey, 87% of Roma in Slovakia were at risk of poverty, compared to 17% of the general population.<sup>58</sup>

All defence lawyers mentioned that, with a few exceptions, it was very rare that Romani defendants could afford to pay for their services privately.

*“At least 90% of Roma are represented through the legal aid system.”*  
(Interview 10, Defence Lawyer)

These experiences mirrored those of judges, who agreed that, in the majority of cases, Romani defendants either did not have legal representation or, where legal representation was mandatory, they had a defence lawyer appointed *ex officio*.

The majority of interviewees doubted that Romani defendants’ reliance on *ex officio* lawyers had a real impact on the quality of legal assistance. As one lawyer remarked:

*“Most of the criminal defence observed was appropriate, whether provided to indigent defendants or those that paid for their own representation.”* (Interview 8, Defence Lawyer)

Most lawyers expressly stated they do not make any distinctions between the defendants that they represent either through the legal aid scheme or by direct appointment. Judges also stated that they had never had concerns about the conduct of *ex officio* lawyers.

While there was some acceptance from a minority of defence lawyers that defence lawyers could be influenced by anti-Roma bias, none of them could provide any examples of cases in which lawyers provided sub-standard assistance to their clients because of their ethnicity.

The two Romani interviewees reported positive experiences with defence lawyers and the quality of assistance they had provided, and one said that: *“without our lawyer, we would be convicted already”* (Interview 12, Romani Interviewee).

However, they were aware that not all Romani defendants are so fortunate, and that they had heard of cases where ineffective legal assistance had been provided. They also raised concerns that some Romani defendants who were unable to find or pay for a lawyer went to trial unrepresented.

<sup>58</sup> EU Fundamental Rights Agency, *The Second European Union Minorities and Discrimination Survey, Roma – Selected findings*, 2018, Figure 1. Available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2016-eu-minorities-survey-roma-selected-findings\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-eu-minorities-survey-roma-selected-findings_en.pdf).

## Criminal justice outcomes

The lack of reliable ethnically disaggregated data in Slovakia means that it is impossible to ascertain ethnic or racial disparities in criminal justice outcomes with any degree of certainty. There were significant discrepancies provided by interviewees regarding the potential impact of anti-Roma discrimination on criminal justice decisions.

### Pre-trial detention

According to statistics from 2013 to 2015, less than 5% of people accused of crimes were detained pre-trial in Slovakia.<sup>59</sup> There are no official reports or studies on the frequency or length of pre-trial detention given to Romani defendants in comparison to defendants from the general population. However, as explained further below, various respondents interviewed for this study suggested that Romani defendants could be disproportionately subject to pre-trial detention, either on account of their particular living conditions or on account of implicit bias on the part of the justice system.

There was strong denial from prosecutors that ethnicity is ever a factor in pre-trial detention decisions. Judges tended to share this view, mentioning that there are strict rules written into the legislation as to when pre-trial detention may be authorised. They said that pre-trial detention is considered very strictly and cautiously.

*“Either the grounds to order pre-trial detention are there, or [they are] not, and it doesn’t matter whether the suspect is a Roma [...] I have never seen a sign that someone would be in pre-trial detention simply for being a Roma” (Interview 15, Judge).*

However, certain judges also accepted that Romani defendants were more likely to be considered at risk of flight, given their social and economic circumstances. For example, Romani people with no fixed address were occasionally detained because they were regarded as flight risks. However, they stressed that such cases “are assessed individually, in a similar way, for example, to how the cases of homeless people are assessed” and not in any relation to the ethnicity of the suspects (Interview 14, Judge).

They also said that pre-trial detention was sometimes the only option, particularly if the Romani defendant did not have the financial resources to pay for bail. Even where alternatives to pre-trial detention are possible, the judges said that technical issues meant that the alternatives were not viable. For example, they mentioned that supervision or monitoring with an electronic tagging bracelet was often not viable for Romani defendants because their living conditions (often having unreliable sources of electricity) made it impossible to install the requisite equipment.

<sup>59</sup> Vráblová N., *Custody, Possibilities using Alternatives to the Custody in Practise*, In: Jozef Záhora (ed.) ‘PRÍPRAVNÉ KONANIE – MOŽNOSTI A PERSPEKTÍVY, Zborník príspevkov z celoštátnej vedeckej konferencie s medzinárodnou účasťou konanej dňa 21’, April 2016. Available at: <https://www.paneuromi.com/wp-content/uploads/2017/03/zbornik.pdf>.

There were some defence lawyers that agreed with the views of judges; that socio-economic factors might disadvantage Romani defendants, but most were of the opinion that the overuse of pre-trial detention was a challenge for all defendants, not just for those from Romani communities. Some criticised the poor quality of pre-trial detention decisions overall, where *“suspects are often put in pre-trial detention by judges almost automatically, without closer scrutiny.”* (Interview 7, Defence Lawyer).

While Romani interviewees were unable to confirm whether Roma were more likely to be held in pre-trial detention, they expressed concerns that Roma were more severely impacted by pre-trial detention, particularly given the mistreatment they face in prison. One respondent mentioned that an intellectually disabled Romani person from his neighbourhood had been sexually harassed for several months whilst in detention, although he did not know who the perpetrators were. He said that the alleged harassment was not resolved in any way by the authorities and the allegations were dismissed. Another respondent alleged that correspondence with his family was withheld and the whereabouts of any such correspondence was unknown. Similarly, his personal belongings were not returned to him upon his release (Interview 13, Romani Interviewee).

### Plea deals and criminal orders

Interviews with prosecutors, judges, and defence lawyers showed that trial waivers, in the form of plea deals or criminal orders, were common ways of disposing of criminal cases. However, there was little explicit suggestion that either had a disproportionately negative impact on Roma.

Prosecutors, judges, and defence lawyers all denied that Romani defendants were subject to harsher plea deals, and they doubted that ethnicity had any material impact on plea bargaining. Although there was no explicit criticism that criminal orders were handed out discriminatorily, there were suggestions that a large portion of cases involving Romani defendants were dealt with through criminal orders. One judge, for example, estimated that around half the cases where defendants were of Romani background were decided by criminal orders, and one lawyer suggested that the majority of Roma accused of crimes received criminal orders.

This is a potential cause for concern, given that criminal orders are issued without a trial and without direct defendant participation. At the same time, criminal orders, if not challenged by the defendant within eight days since being served to the defendant, become binding and have the legal effects of a criminal conviction, with the maximum sentence allowed this way being three years of imprisonment. Only if the defendant lodges a defence of the criminal order (*odpor*) does a full trial take place. As one lawyer noted:

*“Without a proper hearing, with Roma clients generally do not challenge the validity of their sentencing decisions”* (Interview 10, Defence Lawyer).

### Sentencing

Judges, prosecutors, and defence lawyers all held the view that Roma did not receive harsher sentences than other defendants. One prosecutor even suggested that Romani defendants were sentenced more leniently.

*“Taking into account their social situation [and] property, they are often not sentenced to jail time.” (Interview 3, Prosecutor)*

However, these views differed from the perceptions of the Romani interviewees. One Romani respondent recalled that certain people from his community had been given disproportionately harsh sentences. For example, some Roma were allegedly sentenced to prison terms which were longer than those given to career criminals for offences such as stealing lumber to use for heating in the winter.



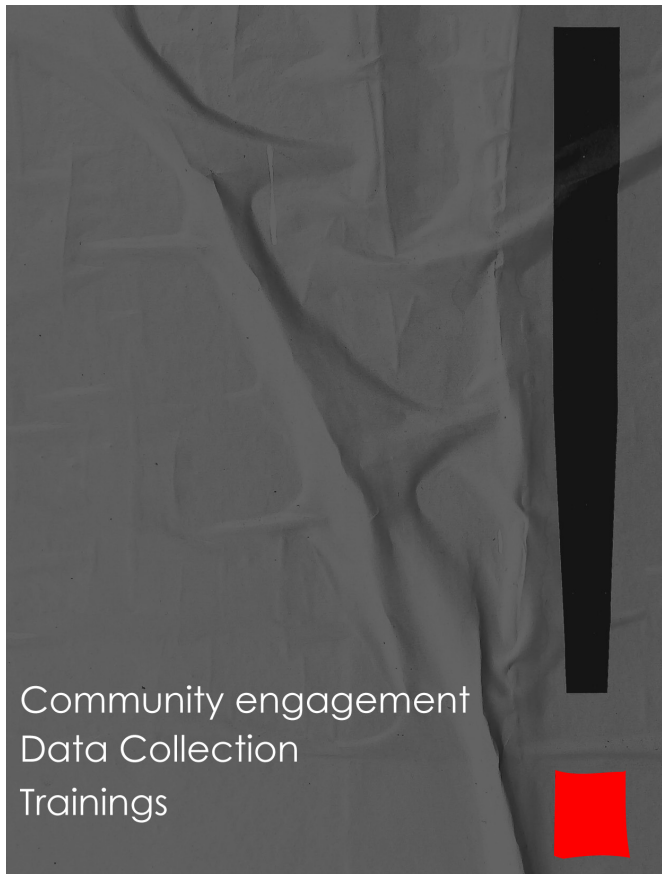


## Solutions and promising practices

Interviews highlighted that there were numerous efforts to improve relationships between police and Romani communities, especially through meetings and trainings. However, anti-discrimination did not appear to be the primary focus of such initiatives and it was clear that very few, if any, efforts were being made to address the risk of discrimination by others involved in the criminal justice system.

### Community engagement

The police officers interviewed spoke about initiatives that facilitated meetings between the police and Romani communities. One police officer commented positively on these meetings, which took place every three months, which included Roma and occasionally representatives of the Government Plenipotentiary for Romani communities, and which provided a forum to discuss various issues (Interview 11, Police Officer).



Although police officers appeared to be supportive of such meetings, interviews hinted that the primary purpose of them, at least from the perspective of police officers, was to ‘educate’ members of the Romani communities rather than to tackle discriminatory practices in the police. One police officer spoke positively about these meetings because they gave the police opportunities to explain the law and to discuss why certain behaviour is unlawful (Interview 9, Police Officer).

Prosecutors and judges appeared to share similar views; that better community engagement by the police could help prevent crimes and build trust.

*“First contact between Roma and police officers should be on a certain level [of professionalism]. [...] It would be very good to ensure communication between Roma and police officers in order to prevent criminal offences from being committed. This relates to what I was saying earlier [cases involving convictions of Roma parents for negligence of mandatory school attendance of their children] something should be done differently with that, compared to what is being done now.” (Interview 15, Judge)*

## Trainings

Interviews suggested that police officers had access to trainings designed to assist their work in Romani communities. In particular, there is a one-week training course for Roma specialist police officers, that takes place on a regular basis (Interviews 6 and 11, Police Officers). One interviewee recalled that Roma specialist police officers receive one week-long training course when they are appointed into the position, and then there would be regular meetings of these appointed Roma specialist police officers where they would meet for additional training and to exchange experiences. However the interviewee said while these meetings were frequent in the past, they are not common nowadays (Interview 6, Police Officer). Some police officers appeared to have received training in order to tackle discrimination and to improve relationships with Romani communities (Interview 6, Police Officer). Despite the existence of such training programmes, criticisms of police conduct towards Roma as discussed earlier seriously question the effectiveness of these trainings.

On the other hand, none of the prosecutors appeared to have received any training on non-discrimination. It was mentioned that only prosecutors involved in the prosecution of hate crimes would receive training on issues relevant to ethnicity or discrimination (Interview 2, Prosecutor). While judges stated they had received training on anti-discrimination, this was never specific to Roma and it did not specifically relate to racial or ethnic discrimination in the criminal justice system. Both judges interviewed for this study downplayed the need for this kind of training because, in their view, judges are already adequately qualified to make fair and impartial decisions.

*“As in criminal courts, all defendants are treated equally [so] such trainings are not required, and judges instead rely on their previous experience with Roma.” (Interview 14, Judge)*

## Data Collection

There is very little official data on ethnicity in Slovakia, and while there have been calls to collect ethnically disaggregated criminal justice data these have not always been motivated by a desire to tackle discrimination. In January 2018, for example, the then Minister of Interior declared the need to gather data on “Roma criminality”, i.e. criminal offences and misdemeanours perpetrated by Roma.<sup>60</sup> In this context, it was unsurprising that interviewees had mixed opinions on the idea of collecting ethnic data.

<sup>60</sup> See: <https://spravy.pravda.sk/domace/clanok/446097-kalinak-avizuje-statistiku-romskej-kriminality/>.

Both Romani respondents, for example, expressed some resistance to the idea of ethnic data collection, questioning whether it is necessary and expressing scepticism about the purpose of such data collection. One said they were afraid of having their ethnicity scrutinised during criminal investigations and stated that Romani people do not commit crimes that are serious enough to require such monitoring (Interview 12, Romani Interviewee). The other interviewee stated that the police would occasionally note down some personal data but was unable to tell whether such practice was threatening or dangerous (Interview 13, Romani Interviewee).

Police officers, on the other hand, thought the collection of data on ethnicity would most likely be beneficial. One mentioned that the Police Corps do collect this sort of data officially, but that it was not available to the public. Official collection of ethnic data would provide officials with the knowledge required to adopt policies that would address the most serious problems faced by Roma. Another police officer mentioned that it would not pose a risk and explained such data collection would allow for a broader appreciation of the ‘reality’.

One prosecutor shared this view and suggested that in order to improve services for Romani people, relevant data needed to be collected. However, they cautioned that such collection must be protected by appropriate safeguards. Another prosecutor was also in favour of ethnic data collection, albeit for different reasons. According to this prosecutor, data collection “*would eventually prove that Roma are subject to positive discrimination throughout the criminal proceedings*” (Interview 3, Prosecutor).

These responses suggest that there is a real risk that, where such data is collected, it could be used not for the purpose of tackling discrimination, but as a way of reinforcing already harmful stereotypes of Roma. As one of the judges noted:

*“It would not be beneficial, as it would further marginalise the groups about which data like these are collected, and could be manipulated afterwards to point out the crime rate of these communities.”* (Interview 14, Judge)

Three out of four of the defence lawyers interviewed stated that collecting data on the ethnicity of people who come into contact with the criminal justice system could be a good way of showing the impact of criminal justice on Roma, and to properly establish whether Roma are disproportionately affected in the criminal justice system. However, one lawyer warned against how the data might be used, suggesting it may be a “*double-edged blade*” (Interview 1, Defence Lawyer). Another lawyer openly stated the data should be collected independently and without police influence, citing fear of manipulation and abuse.

## Possible solutions

The Romani respondents gave suggestions for tackling anti-Roma discrimination based on their perceptions of where there were the greatest risks of abuse, including during detention and during interactions with the police.

In particular they suggested that there should be better protections for vulnerable individuals in detention, ensuring better access to support services, such as psychologists and doctors,

and they also suggested that there should be more effective oversight of the police; for example, through the use of body cameras (Interview 12, Romani Interviewee).

However, there was also recognition that there should be more structural changes to challenge the broader societal prevalence of anti-Roma discrimination, including through the increased representation of Romani people in higher positions.

*“We should be viewed more as humans, as decent people [...] if some Roma were to sit in parliament, perhaps the [problem of] racism would be solved.”* (Interview 13, Romani Interviewee)



## Conclusion

This report provides compelling evidence of the structural racism Roma encounter in the criminal justice system, and shows how, at every stage of criminal proceedings in Slovakia, Romani defendants face discrimination from judges, prosecutors and police. This abject failure of the system is rooted in antigypsyism, defined by the [European Commission against Racism and Intolerance \(ECRI\)](#) as

*“an ideology founded on racial superiority, a form of dehumanisation and institutional racism nurtured by historical discrimination, which is expressed, among others, by violence, hate speech, exploitation, stigmatisation and the most blatant kind of discrimination.”*<sup>61</sup>

In October 2020, the European Commission proposed its new strategic Roma framework aimed to step up action to address the ‘persistent failing’ on Roma inclusion, and the Commission called on Member States to show a “strengthened commitment to tackle persistent discrimination”.<sup>62</sup> Billed as the first direct contribution to implementing the [EU Action Plan against racism 2020-2025](#), the horizontal objectives include a renewed resolve to fight against direct and indirect discrimination, harassment, stereotyping, anti-Roma rhetoric, hate speech, hate crime, and violence against Roma; and plans to develop and promote a comprehensive system of support and targeted assistance to Romani victims of hate crimes and discrimination. Such measures, if they translate into concrete components of national action plans, are both necessary and welcome, as is the belated recognition by the European Commission that antigypsyism is systemic and rooted in public institutions.

Moreover, it is clear from the findings of this report that resolute action is needed in Slovakia to purge the criminal justice system of anti-Roma racism, to render law enforcement agencies publicly accountable, and to ensure that Roma, both as defendants and victims, have access to justice. Over the past two decades scores of recommendations have been compiled by UN and Council of Europe committees, by special rapporteurs and civil society organisations; and duly ignored by state authorities. By way of conclusion, a few key demands are worth restating:

- The government must provide prompt and effective remedies for victims of discrimination in law and in practice. Procedures for the initiation of complaints should be simple and flexible and expeditiously handled. Dissemination of information concerning the availability of remedies, including recourse procedures, should be widespread, and victims should be provided with legal assistance to pursue remedies.
- Authorities at national level must carry out prompt, impartial, thorough, and effective investigations into all allegations of excessive use of force, including torture and ill-treatment

<sup>61</sup> European Commission against Racism and Intolerance (ECRI) General Policy Recommendation Nos. 3 & 13: Key Topics. Council of Europe. Available at: <https://rm.coe.int/ecri-general-policy-recommendation-nos-3-13-key-topics-fighting-racism/16808b763c>.

<sup>62</sup> European Commission, The new EU Roma strategic framework for equality, inclusion and participation (full package), Brussels, 7 October 2020. Available at: [https://ec.europa.eu/info/publications/new-eu-roma-strategic-framework-equality-inclusion-and-participation-full-package\\_en](https://ec.europa.eu/info/publications/new-eu-roma-strategic-framework-equality-inclusion-and-participation-full-package_en).

by law enforcement officials, and ensure that those suspected of having committed such acts are immediately suspended from their duties throughout the period of investigation, while ensuring that the principle of presumption of innocence is observed;

- The government should adopt ECRI's General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, which asserts that racial profiling constitutes a specific form of racial discrimination and must be expressly prohibited by law.<sup>63</sup>

<sup>63</sup> ECRI, General Policy Recommendation N° 11 on Combating Racism and Racial Discrimination in Policing. Adopted 29 June 2007. Available at: <https://rm.coe.int/ecri-general-policy-recommendation-no-11-on-combating-racism-andracia/16808b5adf>.



