

WRITTEN COMMENTS

OF THE EUROPEAN ROMA RIGHTS CENTRE AND CENTER FOR CIVIL AND HUMAN RIGHTS, CONCERNING SLOVAKIA

For Consideration by the Committee on the Rights of the Child for the consideration at its 72nd Session (17 May - 3 June 2016)



CHALLENGING DISCRIMINATION PROMOTING EQUALITY

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INTRODUCTION

The Center for Civil and Human Rights (Poradňa pre občianske a ľudské práva, hereinafter also referred to as „Poradňa“)¹ and the European Roma Rights Centre (hereinafter also referred to as “ERRC”)² hereby jointly submit this report to the United Nations Committee on the Rights of the Child (hereinafter also referred to as “Committee”) for the consideration at its 72nd Session (17 May 2016 – 03 June 2016). The report provides updates on the issues disproportionately impacting Romani children in Slovakia, which were brought to the attention of the Committee before its 72nd Pre-sessional Working Group, including:

- police ill-treatment and harassment;
- access to water and sanitation;
- discrimination of Romani children in education;
- segregation of Romani patients, including children, in hospitals;
- the practice of sterilisation of Romani girls without parental and informed consent.

The report we submitted to the Committee for the Pre-sessional Working Group included also chapters on discriminatory legislation, adequate standard of living and Romani children in institutional care. However, the submitting NGOs have not registered updates in relation to them that is why they are not included in this alternative report although the violations described in these areas still persist and we request the Committee to consider them during the constructive dialogue with Slovak representatives during the Session.

POLICE ILL-TREATMENT AND HARASSMENT - ARTICLE 2 AND ARTICLE 37

As mentioned in the submission to the Pre-Session of the Committee, the submitting NGOs, have recorded a significant number of verbal and physically violent attacks and incidents of harassment against Roma including minors by both State actors (police) and non-State actors (private individuals). Precise data is impossible to collect as many hate crimes go unreported, there is no hate crime data disaggregated on the basis of ethnicity, and in certain cases racial motives are not taken into account. In most of the cases monitored, there have been no successful prosecutions of offenders. Since the submission of the report for the Pre-Session, prosecutions were terminated in two major cases of police harassment.

In the autumn of 2012, four Roma settlements located in Kežmarok District (Stráne pod Tatrami, Huncovce, Podhorany, and Rakúsy) were raided by the police. It appears that no arrest warrants or search warrants were presented. The police entered houses situated in settlements and searched them. Some people, including children, were physically and verbally abused. The ERRC is currently working with a Slovak lawyer to pursue complaints against the police. The Inspectorate of the Interior Ministry (i.e. the body responsible for dealing with complaints against the police) closed the criminal proceedings without hearing any of the victims of the raids who filed complaints. Although, the supervising prosecutor referred the matter back for further investigation, the Inspectorate again discontinued the prosecution. This decision, stating that the actions of intervening police officers did not amount to criminal offences, was upheld by the supervising prosecutor on 18 January 2016, i.e. three and half years after the violent raids took place.

On 16 and 19 June 2013, two incidents took place in Moldava nad Bodvou, a town in Eastern Slovakia. The first incident took place on 16 June 2013. The local Roma community held a small festival. The municipal police were consulted and visited the settlement during the afternoon, making no objections. At 23.00 hours, the state police

1 The Center for Civil and Human Rights (*Poradňa pre občianske a ľudské práva* or *Poradňa* hereafter) is a non-governmental organization based in Slovakia focused on the protection of human rights with particular emphasis on the rights of minorities and protection from discrimination. *Poradňa* has for a long time worked on the issue of discrimination against Roma ethnic minority in various areas of public life. It has also been active in the protection of reproductive rights and protection from police brutality. *Poradňa* employs strategic litigation to combat discrimination and human rights abuses against minorities. Visit us at: www.poradna-prava.sk.

2 The ERRC is an international public interest law organisation working to combat anti-Romani racism and human rights abuse of Roma through strategic litigation, research and policy development, advocacy and human rights education. Since its establishment in 1996, the ERRC has endeavoured to provide Roma with the tools necessary to combat discrimination and achieve equal access to justice, education, housing, health care and public services. The ERRC has consultative status with the Council of Europe, as well as with the Economic and Social Council of the United Nations. Visit us at: www.errc.org.

patrol arrived and requested that the music be turned down, and the community agreed to their requests. Later that night the police patrol arrived and harassed a Romani teenager. As a result, some children and a man with an intellectual disability threw stones at the police car. The police took the teenager (L.H.) and the Romani man (E.R.) into custody and initiated criminal proceedings against them. Charges were later dropped. However, Slovak criminal law requires criminal charges and accusations to be dropped immediately when the alleged perpetrator is found to be intellectually disabled. The investigator knew about E.R.'s condition from an expert report, which also stated the man was not a danger to society, and he should have been released immediately. The investigator had the expert report for a full month without acting upon it. In total, E.R. was held in custody for two and a half months.³

On 19 June 2013, more than 60 police officers returned to the Roma neighbourhood and conducted a violent police action resulting in injuries and damage to property to over 30 individuals (including children) who did not resist or obstruct the police. The Inspectorate of the Ministry of Interior did not find the police action to be unlawful and dismissed the complaint submitted by one of the injured Roma few weeks after the incident happened. However, upon the involvement of the prosecution and with significant delay, criminal proceedings were eventually initiated only 8 months after the incident.

In November 2015, the Inspectorate stopped the prosecution of four of the counts, including alleged violent assault at the police station where the victims had been brought after the initial incident. Our two NGOs through cooperating lawyers represented the victims in the case and submitted complaints to the supervising prosecutor. However, the complaints were dismissed as unfounded and the decision of the Inspectorate upheld as lawful. According to the supervising prosecutor, the Police Inspectorate's investigation fulfilled all criteria of an effective investigation into allegations of inhuman or degrading treatment or punishment as set forth by international law. He also argued that the Inspectorate is a fully independent body competent to investigate cases of suspected police violence, despite the fact that it operates within the institutional framework of the Interior Ministry, which is also in charge of the police.

On 22 March 2016, the Police Inspectorate discontinued prosecution in the last two counts on the alleged physical attacks by the police in the Budulovská settlement as well as alleged illegal entry to the houses. According to the investigator, the possible injuries were caused by legally employed force by the police officers, and as for the allegedly illegal entrance into the victim's homes, the investigator concluded that these were legal and conducted with the consent of the inhabitants. The legal representatives of the victims of the raid have filed another complaints to the supervising prosecutor to review the lawfulness of the decision.

The developments described above reinforce our stance that more systemic changes are necessary to achieve significant progress towards the elimination of police harassment against Roma (including Romani children) in Slovakia. At the same time, the actions of the Police Inspectorate of the Ministry of Interior show that there is a need for reform of the police complaints authority ensuring its institutional independence.

Poradňa and the ERRC encourage the Committee to recommend the following to the Slovak Government:

- Establish a fully independent autonomous institution, outside of the structures of the Ministry of Interior that will be responsible for investigation of complaints of alleged torture, cruel and inhuman treatment of the police officers as well as all complaints with a possible racial motive;
- Introduce a mechanism for the external evaluation of the effectiveness of investigations of police ill-treatment with an aim to identify systematic 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 with particular emphasis on standards of effective investigation of torture, cruel and inhuman treatment laid down by the jurisprudence of the ECtHR and the UN Istanbul protocol;
- Secure continuous education of experts in the field of psychology and medicine who are engaged in the investigation of police ill-treatment with particular emphasis on knowing UN Istanbul protocol with regard to its working engagement;
- Introduce mandatory recordings of police interrogation also in cases of minors under 18 and;
- Gather and disseminate data disaggregated by ethnicity to identify the extent of racially motivated police violence against Roma and the outcomes of these investigations.

³ ERRC, *Slovak investigation bodies disciplined after mentally-disabled Romani man forgotten in custody*, available at: <http://www.errc.org/article/slovak-investigation-bodies-disciplined-after-mentally-disabled-romani-man-forgotten-in-custody/4209>.

ACCESS TO WATER AND SANITATION – ARTICLE 24

All across Europe there are people living without access to clean water, many of who are of Roma origin. Significant numbers of Roma in Europe have no access to drinking water and sanitation in their homes. Their water sources are often far from home, with the burden to secure water falling disproportionately on women and children. These sources are often not tested to ensure their safety and are exposed to a wide range of contaminants, including dry toilets (pit latrines), insects, and wild animals. Roma families often cannot afford public water-service pipes and water charges, even if they are otherwise available. Many Roma communities in Slovakia only enjoy access to water owing to private donations.

The Atlas of Romani Communities (2013)⁴ is a comprehensive survey of Romani neighbourhoods and settlements in Slovakia commissioned by the Interior Ministry and conducted by UNDP and the University of Prešov. According to its results, there were more than 150 Roma neighbourhoods and settlements in Slovakia where not one house was connected to a public water supply, and more than 370 without sewerage systems in place. Apart from those totally segregated settlements that were not connected to any public utilities, there were 65 Roma neighbourhoods with no household connected to the municipality's water system, even though the non-Roma households in the area were fully connected. There is no public sewage system in 453 Roma neighbourhoods (56.41 per cent) and about 33 per cent of these neighbourhoods do not even have a private sewage facility and houses discharge the sewage (a mix of waste water and secretion) to nearby surroundings.

Since 2014 the ERRC has been conducting research⁵ on access to safe and affordable drinking water and sanitation in Romani neighbourhoods in seven countries: Albania, France, Hungary, Macedonia, Moldova, Montenegro, and Slovakia.⁶ We have focused on analysing problems with accessibility, affordability, and quality of drinking water resources, as well as with sanitation in Romani neighbourhoods and settlements. The research has also examined potential cases of ethnic discrimination in the distribution and availability of these public utilities. In Slovakia, the ERRC mapped relevant legal and policy frameworks and together with the researchers from the United Nations Development Programme (UNDP) and Slovak Academia of Science, we conducted field research in 21 Romani neighbourhoods and settlements.⁷

Only in two neighbourhoods did most of the Roma households have a water tap with drinking water available inside; more than 40 per cent Roma reported that they share their water supply with a high number of other people; and one third declared that they have to walk from 150 metres to several kilometres to the nearest water supply, and many reported that their walk to fetch water is full of obstacles like highways, railways, forests, fences, and trespassing private properties. Distant water resources result in a high risk to public health from insufficient sanitation.⁸ More than two thirds of Roma respondents declared that they would not be able to afford bringing public water pipes to their homes even if these would be available by municipalities; more than two thirds of Roma also reported experiencing seasonal water cuts with water pumps and wells freezing in winter and drying up in summer; two Roma neighbourhoods had public pumps with lock and credit system devices, which had to be pre-paid at the municipality office before the families could fetch water.

4 Ministry of Labour Social Affairs and Family, UNDP, *Atlas of Romani Communities*, 2013, available at: http://www.romadecade.org/cms/upload/file/9653_file2_atlas-romadecade.pdf.

5 Although we have employed objective and systematically organised criteria for the selection of our cases, the lack of country-wide representative data on the housing and public utility infrastructure in Romani neighbourhoods and settlements, as well as the incommensurability of available data from individual countries, limited our sampling methods and therefore the research results cannot be considered representative for the entire Roma population in any given country. Nonetheless, the ERRC research is objectively indicative of the current experience of many Roma in accessing safe and affordable drinking water and sanitation. The research was designed to compare the situation of water and sanitation services for Roma with that enjoyed by their non-Roma neighbours, in order to detect discrimination.

6 The research consultants interviewed at least seven people per a Roma neighbourhood and in total made more than 650 interviews.

7 See: ERRC, *Hudorovič and Others v. Slovenia*, third-party intervention, ECtHR, 9 October 2015, available at: <http://www.errc.org/cms/upload/file/third-party-intervention-slovenia-hudorovic-v-slovenia-&-novak-and-others-v-slovenia-9-october-2015.pdf>.

8 According to the World Health Organization (WHO), when the water source requires a walk of between 100 metres and 1,000 metres from home or five to 30 minutes total collection time, the quantities of water collected are unlikely to exceed 20 litres per person daily and hygiene practice may be compromised, resulting in a high risk to public health from poor hygiene. When the water source is more than one kilometre away from the home or requires more than 30 minutes collection time, the likely volumes of water collected are very low, typically less than five litres per person per day; basic consumption and hygiene practice are compromised to an extent that the risk to public health from poor hygiene is very high. World Health Organization, *Guidelines for Drinking Water Quality*, 3rd ed., incorporating first and second addenda (Geneva: WHO, 2008), p. 91; Amnesty International *Slovenia Parallel Lives: Roma denied rights to housing and water in Slovenia*, 2011, p. 44, available at: <https://www.amnesty.org/en/documents/EUR68/005/2011/en/>.

Only three Roma neighbourhoods had sewage systems with indoor flush toilets; the majority of Roma had no option apart from using self-made dry toilets (pit latrines), or defecating in the open.

Finally, the ERRC research identified 16 potential cases of race discrimination in the distribution and availability of these public utilities.

In the light of the human right to water and sanitation, recognised by the UN General Assembly Resolution A/Res/64/292,⁹ has been systematically violated in the Roma neighbourhoods and settlements in Slovakia, we urge the Committee to communicate to the Slovak Government following recommendations:

- Adopt law explicitly recognising the human right to water and sanitation and ensure that all people in Slovakia enjoy the access to safe drinking water and sanitation
- Make sure that conditions of housing informality do not prevent people from enjoying the right to safe drinking water and sanitation
- Adopt policies and allocate budgets for connecting Roma settlements to public drinking water and sewage systems
- Ensure that adequate number of safe drinking water and sanitation facilities is available in Roma neighbourhoods and settlements
- Make sure that quality of all alternative water resources, which serve as a drinking water supply, is periodically checked and the quality of water is guaranteed

DISCRIMINATION OF ROMANI CHILDREN IN EDUCATION - ARTICLE 2, ARTICLE 28 AND ARTICLE 29

In our written comments to the 72nd Pre-sessional Working Group from July 2015 we informed the Committee about persisting violations of Romani children's right to education in Slovakia. We reaffirm that thousands of Romani children in the country remain segregated in special schools and classes for children with "mild mental disabilities", or segregated in separate classrooms and schools within mainstream education. Recently a report of OECD from February 2016 reviewing school resources in Slovakia highlighted "significant concerns for equity in Slovak school system."¹⁰ It concludes that the impact of children's socio-economic background on school performance in the country is among the highest, and stresses that integration of Romani children in mainstream education is limited.¹¹

In reaction to the ongoing infringement proceedings of the European Commission against Slovakia for violating the EU Race Equality Directive in this area, in June 2015 the Slovak Parliament adopted an amendment to the Schools Act containing several provisions that were presented by the Slovak Government as aiming to eliminate segregation of Roma children in education. We consider the legislative changes to be highly insufficient, arguing that they alone cannot secure equal access of Roma children to education if not accompanied by any concrete and sustainable de-segregation policies and measures.

In particular, five legal provisions were amended. The first two provisions state that children whose special educational needs stem exclusively from socially disadvantaged backgrounds (notion often used as an euphemism for Roma) cannot be placed into special schools or special classes,¹² and are to be placed into classes "together with other children or pupils"¹³. We note that a previous wording of the School Act already contained

9 The UN General Assembly, Resolution A/Res/64/292, July 2010, available at: http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/64/292.

10 OECD Reviews of School Resources: Slovak Republic 2015, at 58, available at: http://www.oecd-ilibrary.org/education/oecd-reviews-of-school-resources-slovak-republic-2015_9789264247567-en.

11 *Ibid.* at 15.

12 Section 107(2) of the Act No. 245/2008 Coll. on Education (Schools Act) and on Changing and Supplementing Certain Laws, amendment of 30 June 2015.

13 Section 107(3) of the Schools Act.

provisions prohibiting racial discrimination in education, including segregation.¹⁴ Such treatment is also clearly prohibited by the domestic Antidiscrimination Act¹⁵ and binding international laws. Given that these two provisions only reaffirm the existing prohibition of discrimination of Roma children in education, they do not have potential to secure equal access of Roma children to quality education in everyday school practice.

The third provision deals with the so-called “specialised classes”, which can be established as a compensation measure for those pupils who are deemed incapable of mastering the regular curriculum.¹⁶ The amended provision now states that children can be placed in such a class for up to one year, on the proposal of the class teacher and an educational counsellor and with the consent of the parent (or legal guardian). We believe that the amended provision essentially continues to allow for segregated catch-up classes for socially disadvantaged children, which is contrary to the principles of inclusive education firmly embedded in the right to education. Instead, the Slovak government should eliminate “specialised classes” altogether and focus on supporting schools in effectively meeting individual educational needs of every child in non-segregated setting.

The fourth provision offers financial incentives to schools that educate children from socially disadvantaged backgrounds in mainstream classes, which we generally perceive as a positive step.¹⁷ However, given that the amount of the subsidy is very low (106 EUR per one pupil in the year 2015)¹⁸ and that primary schools remain severely underfinanced in general, we assume that this provision alone – especially if the amount of the subsidy is not substantially increased – will not achieve the desired outcome in practice.

The fifth provision also broadened the responsibilities of the State School Inspectorate, especially in the area of monitoring the compliance of educational counselling centres and the overall diagnostics process with the Act on State Administration in the School System and on School Self-Governance.¹⁹ Yet prior to the amendment, the State School Inspectorate was obliged to assess the compliance of schools with the principle of non-discrimination and non-segregation and sanction a violation of law in this area.²⁰ It fell short of doing so due to incompetent administration as well as lack of expertise in this area. While the Inspectorate can play a vital role in combating discrimination and promoting equal access of Roma children to education, its expertise and capacities must be strengthened to be able to effectively engage in monitoring of compliance of schools and counselling centers with the law.

In October 2015 the Slovak NGO Centre for the Research of Ethnicity and Culture (CVEK) published a research paper that drew attention to the overlooked practice of building state-supported so-called annexed (“*elokované*”) secondary vocational schools (school facilities distant from the main school building) near marginalised Roma communities. The research concludes that these annexed school facilities reinforce segregation and deepens the social exclusion of disadvantaged Romani children. Instead of developing and approving support for annexed school facilities, the state authorities should take all the necessary measures to secure equal access of Romani children from socially disadvantaged environment to mainstream secondary schools, educating children in inclusive settings.²¹

We would also like to inform the Committee about four pending public interest court cases against the state, addressing segregation of Romani children in selected localities in Slovakia. These are *actio popularis* claims brought by Poradňa in recent months under domestic antidiscrimination legislation. Two of these court proceedings address segregation of Romani children in mainstream schools, which are attended solely by socially disadvantaged Romani children. Another case specifically addresses segregation of Romani children in special classes for intellectually-disabled pupils, placed separately near a segregated local Roma settlement, attended by 90 percent of

14 Section 3 of the previous wording of the School Act, on “*Teaching and education principles*”, provided that: “*Under this Act, teaching and education are based on the principles of: [...] (d) the prohibiting of all forms of discrimination and especially segregation*”. Furthermore, the section 107(1) defined “*Teaching and education for children and students from a socially disadvantaged environment is provided in [mainstream] schools in accordance with this Act, using specific methods and forms.*”

15 Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and Protection against Discrimination, amending and supplementing certain laws (Anti-discrimination Act).

16 Section 29(11) of the Schools Act.

17 Section 107(4) of the Schools Act.

18 See <http://www.minedu.sk/prispevok-na-rok-2015/>.

19 Section 13 (15 - 17) of the Act No. 596/2003 Coll. on State Administration in the School System and on School Self-Governance and on Changing and Supplementing Certain Laws, as amended.

20 See section 13 of the previous wording of the Act No 596/2003 Coll.

21 See: *Elocated Branches Of Secondary Trade Schools Situated Near Marginalised Romani Communities: A Path toward Inclusion or Exclusion of Romani Youth?* Centre for the Research of Ethnicity and Culture (CVEK). 2015. English resume, at 52 - 71. Available online at: <http://cvek.sk/publikacie/>.

all school-age Romani children living in this settlement. The last case challenges the decision of a regional school office that has set a local school district in a way that concentrates Romani children in one school, instead of supporting their integration in other local schools. All these court proceedings are currently in their early stages. One of the given cases against segregation of Romani children in segregated school in the town Stara Lubovna was already heard by the District court in Bratislava in November 2015.²² Poradňa finds it regrettable that the Ministry of Education in this particular case objects discriminatory nature of the documented segregation and does not to fully recognise the positive obligation of the Government to prevent discrimination.

In April 2014, the ERRC has filed a civil claim against the elementary school in Plavecký Štvrtok and the Ministry of Education challenging overrepresentation of Romani children in special education system. However, in two years since the claim has been filed, only one hearing took place while no other has been scheduled yet.

In light of that school segregation of Romani children persists as an everyday practice in Slovakia, we urge the Committee to communicate to the Slovak Government the necessity of developing and implementing systematic de-segregation policies designed to secure equal access of Roma children to education. We find it particularly key that the Government should:

- set a clear commitment to commence a long-term systematic process of inclusion for all children currently in special schools and classes for children with disabilities into mainstream education, and translate it into concrete policies and measures;
- mandate school de-segregation as part of the implementation of a fully inclusive educational system;
- condition the distribution of national, regional, and local funds for education on the development of de-segregation plans; develop and implement policies to challenge the phenomenon of „white flight“ from primary schools and thoroughly promote ethnic and social diversity in primary schools;
- significantly increase financial subsidies for primary schools to enable them to employ sufficient teaching (including support) staff and to effectively integrate children from various social backgrounds, and meet their individual educational needs so they can realise their learning potential;
- provide primary schools with sufficient guidance on how to include all children into mainstream educational system and on how to better involve Roma parents in the collaboration with the schools, so children's individual educational needs and learning potential can be fulfilled;
- provide access to quality, integrated pre-school education for children from disadvantaged backgrounds;
- address segregation of Roma in education, accounting for its close relationship with housing segregation and discrimination of Roma in other areas.
- abolish secondary vocational schools near marginalised Roma communities and secure equal access and inclusion of Romani children from socially disadvantaged environments into secondary schools attended by children from the majority.

SEGREGATION OF ROMANI PATIENTS, INCLUDING CHILDREN, IN HOSPITALS - ARTICLE 2 AND ARTICLE 24

In our written comments we provided to the Committee for its consideration at the 72nd Pre-Sessional Working Group we also highlighted the practice of segregation of Romani women and girls at Gynaecological and Obstetrics departments and Romani children in Paediatric departments. Poradňa is still documenting such cases of segregation in Slovakia. In recent months Poradňa conducted field monitoring in a number of marginalised Roma communities in eastern region of Slovakia to document the current practice. Respondents in Roma communities reported concrete instances of discriminatory treatment by medical personnel against Romani patients including children. In particular, there is documented evidence that Romani women and girls are still being placed in segregated rooms in maternity wards in hospitals in Prešov, Spišská Nová Ves and Košice - Šaca.

²² Poradňa widely informed about the initiated lawsuit against segregation of Romani children in Stara Lubovna after the first court hearing on 10 November 2015. The press release with further information about the proceeding in English is available at: <http://www.poradna-prava.sk/en/documents/press-release-poradna-is-suing-the-state-and-the-city-for-segregation-of-roma-children-at-the-primary-school-in-stara-lubovna/>.

In all those hospitals Romani women and girls are reportedly also prevented from using the same bathrooms and toilets as non-Roma women and girls. Field monitoring also indicated that Romani women and girls in many instances experienced violent treatment (e.g. slaps) and verbal abuse with racial connotations from medical personnel in a number of hospitals within the monitored region of eastern Slovakia. In addition, respondents in local Roma communities also specifically reported the existence of separate rooms for Romani children in the Paediatric department of the hospital in the town Spišská Nová Ves.

Since 2013 Poradňa has been litigating a public interest court cases initiated as an *actio popularis* claim against the state for the widely documented practice of segregation of Romani women and girls in the hospital's Gynaecological and Obstetrics Departments. The court proceeding has been pending before District court Bratislava III for almost three years now and Poradňa finds it regrettable that despite the fact that the hospital in Prešov is facing a lawsuit, it clearly persists in this practice of segregating Romani women and girls, which reports confirm is widespread.

Although the state authorities and hospitals admit that such a practice exists, they often argue it is not illegal as they separate their patients based on "their own request or for hygienic and health isolation reasons". We are convinced that such practices are clearly at the expense of human dignity of Romani women and girls and Romani children, and as such they violate the law.

Therefore, we ask the Committee to urge the State Party to:

- introduce systemic measures to effectively monitor, sanction and stop discriminatory treatment in Slovak hospitals in all its forms including segregation, and conduct awareness raising programmes in Roma communities on basic rights and complaint mechanisms in cases of violations.

THE PRACTICE OF STERILISATION OF ROMANI GIRLS WITHOUT PARENTAL AND INFORMED CONSENT - ARTICLE 2, ARTICLE 24 AND ARTICLE 37

In our written comments for Pre-sessional Working Group from July 2015, we provided the Committee with detailed information on the state authorities' resistance to acknowledge the unlawful practice of forced sterilisation of Romani women and girls and to conduct an effective independent investigation.

As we mentioned, Poradňa is litigating such cases since 2003 in front of domestic and international courts including the European Court of Human Rights.

Apart from information provided to the Committee within our written comments last year, we would like to draw Committee's attention to a recent domestic-court judgment. On 19 February 2016 the District Court Košice II decided in favour of a Romani woman who was illegally sterilised in 1999 in the hospital in Košice and awarded her a compensation in full requested amount of 16,596.96 EUR (originally 500,000 SKK). This is the first time ever that the domestic court awarded compensation in accordance with the case law of the European Court of Human Rights in Strasbourg on the amount of adequate compensation for such a grave violation of human rights.²³ However, it has taken over 10 years for the victim to secure this decision, which is not yet final.

A significant number of cases of Romani women and girls illegally sterilised have been documented, and individual cases litigated at civil courts by human rights NGOs provide only a glimpse into these practices.²⁴ Furthermore, the courts by their very nature cannot recognise the overall extent of this practice as they deal with individual cases and decide on the basis of the guaranteed rights of individual claimants. Slovakia constantly

23 We provided information about key court decisions in our written comments submitted for the Committee's pre-sessional working group in July 2015 including the decisions on unlawful sterilisations performed on underage Romani girls. Available also at: <http://www.poradna-prava.sk/en/documents/written-comments-for-the-un-committee-on-the-rights-of-the-child/>.

The additional information on this issue have also been described in our recent parallel submission to the UN CEDAW from October 2015. Available online at: <http://www.poradna-prava.sk/en/documents/written-comments-for-the-un-committee-on-the-elimination-of-discrimination-against-women/>.

24 See: *Body and Soul: Forced Sterilization and Other Assaults on Roma Reproductive Freedom in Slovakia*, issued by Poradňa and the Center for Reproductive Rights on 28 January 2003. Available online at: <http://www.poradna-prava.sk/en/documents/body-and-soul-forced-sterilization-and-other-assaults-on-roma-reproductive-freedom-in-slovakia/>.

ignores a number of recommendations of the international human rights bodies to properly investigate this practice and compensate all the affected Romani women and girls.

We ask the Committee to expressly urge the Government of the Slovak Republic to take all necessary steps to investigate the full extent of this practice in Slovakia and introduce a comprehensive compensation mechanism for forcibly sterilised Roma women and girls. We assert that it is particularly necessary to establish an independent commission to investigate the full extent of the practice of coerced and forced sterilisation in the communist and post-communist period in Slovakia, to propose institutional and administrative measures to prevent the recurrence of the practice and to recommend financial and other reparations for affected women and girls.

In addition, the Government should undertake the following:

- Introduce a bespoke compensation scheme for victims of forced sterilisation that does not require them to go to court.
- Establish clear procedural guidelines for following up on complaints of rights violations and strengthen administrative accountability mechanisms at hospitals;
- Introduce clear guidelines for medical staff and provide long term and systematic training of healthcare personnel on how to ensure informed consent for any medical intervention including sterilisations. The training should focus on the practical aspects of communication between the healthcare providers and patients when obtaining informed consent and also on overcoming the prejudice of healthcare providers against Roma and other marginalised groups. The State party should also monitor the implementation of the current legislation by healthcare providers and introduce effective sanctions if violations occur.
- Adopt comprehensive policies that address the situation of Romani women and girls in general and in terms of access to health care, education, and other services;
- Allocate budgets specifically to improve the situation of Romani women and girls in access to health care and other services.