

WRITTEN COMMENTS

BY THE EUROPEAN ROMA RIGHTS CENTRE CONCERNING SLOVAKIA

for the Consideration of the United Nations Committee Against Torture at the Pre-sessional Working Group of the 62nd Session (6 November to 6 December 2017)



CHALLENGING DISCRIMINATION PROMOTING EQUALITY

TABLE OF CONTENTS

| | |
|---|----------|
| Introduction | 3 |
| Police ill-Treatment and Harassment Against Roma - Article 2 | 3 |
| Ineffective investigation of Allegations of Police ill-Treatment and Harassment – Article 12 | 5 |

INTRODUCTION

The European Roma Rights Centre (hereinafter also referred to as the “ERRC”)¹ hereby submits this report to the United Nations Committee against Torture (hereinafter also referred to as “Committee”) for the consideration for the List of Issues prior to reporting. The report focuses on the issues of police ill-treatment and harassment of Roma in Slovakia and the related ineffective investigation of allegations of police ill-treatment and harassment.

In its 2015 Concluding observations (CAT/C/SVK/CO/3)², the Committee addressed the above-mentioned issues. The Committee expressed concerns about excessive use of force by law enforcement officials particularly against Roma and about the lack of independence of investigations into allegations of ill-treatment by police officers. It recommended that the State party, amongst others, carries out prompt, impartial, thorough and effective investigations into all allegations of excessive use of force, including torture and ill-treatment, by law enforcement officials and establish an independent monitoring and oversight mechanism that complies with the requirements of institutional independence in order to avoid conflict of interest in the investigation of complaints by peers.

The ERRC believes that the Slovak government has taken no significant steps to address the above-mentioned issues. Therefore, the situation remains largely unchanged and the problems persist.

POLICE ILL-TREATMENT AND HARASSMENT AGAINST ROMA - ARTICLE 2

For years, the ERRC has been monitoring incidents of violence against Roma perpetrated by both State and non-State actors. The ERRC has also secured legal representation for Romani victims of police harassment. In 2017, the ERRC has also filed an *actio popularis* claim against the Ministry of Interior, challenging harassment of Roma by police.

Updates on major cases

In the autumn of 2012, four Romani neighbourhoods located in the Kežmarok District were raided by the police, **Stráne pod Tatrami, Huncovce, Podhorany, and Rakúsy**. Allegedly, no arrest warrants or search warrants were presented. Despite this, the police entered houses situated in Romani neighbourhoods and searched them. Some people were physically and verbally abused, including children. The investigation was terminated in October 2015 as the Control and Inspection Service Section of the Ministry of Interior of the Slovak Republic (hereinafter referred to as the “Police Inspectorate”) stated that the actions of the police did not amount to a criminal offence. The subsequent constitutional complaint was dismissed in 2016.

On 19 June 2013, more than 60 police officers entered a Romani neighbourhood located in **Moldava nad Bodvou** 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 Inspection of the Ministry of Interior did not find the police action to be unlawful. Upon the involvement of the prosecution, criminal proceedings were eventually initiated. However, in November 2015 and March 2016, the Police Inspectorate discontinued the proceedings. The controversial decisions contain a lot of stereotypes related to Roma. Amongst others, the decision refers to the notion of “Roma mentality (*mentalita romica*)” when assessing the testimonies of the victims while relating this notion with personal attributes such as lack of self-discipline, aggression, asociality or inability to comply with social norms.³ In August 2017, the Slovak Constitutional Court dismissed one of the constitutional complaints in the matter.

Recently, the victims of the raid were turned into perpetrators by investigating authorities.⁴ In 2017, an investigation against some of the victims was initiated by the prosecutor on the basis of input from the Police Inspectorate

1 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.

2 Committee against Torture, 1330th and 1333rd meetings, *Concluding observations on the third periodic report of Slovakia, 08 September 2015*.

3 The case of Moldava: Raid and “mentalita romica”, available at: <https://www.tyzden.sk/reportaze/40301/razia-a-mentalita-romical>.

4 Dennik N, From victims to perpetrators, the witnesses of police raid in Moldava charged with false accusation, available at: <https://dennikn.sk/872764/z-obeti-robia-pachatelov-svedkov-policajnej-razie-v-moldave-obvinili-z-krivej-vypovede/>.

who investigated the raid. The police brought charges against six of the victims of the raid for alleged false accusations. We consider this to be a particularly worrying development not only in terms of the blatant discriminatory injustice manifest in this case, but that the decision to prosecute the victims for false accusation, i.e. turning victims into perpetrators, may also serve as a deterrent to other Romani victims of police brutality and stop from coming forward to report the abuses they have suffered.

In the morning of 2 April 2015, a large number of policemen entered the village of **Vrbnica** in Eastern Slovakia, allegedly to find people evading arrest warrants. A police house-to-house search reportedly resulted in injuries to at least 19 Roma individuals who – according to the media and the mayor – did not resist or obstruct the police.⁵ Amongst the injured were reported to be young children and women.⁶ So far, the only person against whom charges were brought, is the officer who was in charge of the action.⁷

In May 2017, the ERRC drew the attention of the public towards the incident which took place in Romani neighbourhood in **Zborov**, on 16 April 2017. After the police began indiscriminately beating Roma, including children and elderly people, three people required medical assistance: a 5-year-old boy, a man in his 40's with a heart condition, and an elderly lady with disabilities. The ERRC has learned that an ambulance was temporarily blocked from entering the neighbourhood by the police after it was called to treat injured members of the community. Witnesses who filmed the violence were visited by police officers later that evening and told to delete any footage they had of the events.⁸ The investigation by the Police Inspectorate has not been completed yet.

Code-Action 100

The police actions mentioned above (with the exception of Zborov) were reportedly carried out as part of a coordinated series of police interventions under the so-called Code-Action 100 (Pátracia akcia 100) which is a search-focused activity of the police. All of the cases mentioned had similar patterns – police entered homes of Roma living in the respective neighbourhoods and used excessive force against them claiming that they were searching for persons and objects.

According to the Slovak Ombudsperson's report from her investigation, on the day of the police action in Vrbnica, all the police actions under the Code-Action 100 in Michalovce District (where Vrbnica is situated), were carried out solely in Romani neighbourhoods, namely: Kapušianske Kľačany, Iňačovce, Ruská a Vrbnica.

The data gathered by the Ombudsperson also shows that, in 2013-14 and in the first quarter of 2015, the highest number of the search-focused police actions (259) were carried out in the Prešov region which is the region with highest rate of un-integrated Roma population in Slovakia. In comparison, in Bratislava region, there was not any Code-Action 100 carried out at all.⁹

List of “problematic areas”

In December 2016, on the SMER-SD party conference, the Prime Minister Robert Fico said: *“We have to start making order in the Romani settlements! ... Personally, I will stand behind police forces, I'll fight with Mrs Dubovcová¹⁰ and international organizations, but we have to make order in Romani settlements ... There is a new generation that does not want to work.”* At the same conference, the Minister of the Interior, Robert Kaliňák added that his department and the police will implement a special program to improve security in municipalities with socially excluded communities and Romani settlements that are considered problematic.¹¹

5 GypsyTV, 'Roma injured after the police action', available at: <https://www.youtube.com/watch?v=goEDlyRylrg#t=37>.

6 Romea, 'Romani mayor and Romani residents say police brutalized them, police deny it' available at: <http://www.romea.cz/en/news/world/slovakia-mayor-and-romani-residents-say-police-brutalized-them-police-deny-it>.

7 Sme, Inspectorate brought charges against the commander of the action against Roma in Vrbnica, available at: <https://domov.sme.sk/c/20414101/inspekcia-obvinila-velitela-zasahu-proti-romom-vo-vrbnici.html>.

8 ERRC, Police Attack Roma Community in Slovakia: Children and Elderly Injured, available at: <http://www.errc.org/article/police-attack-roma-community-in-slovakia-children-and-elderly-injured/4579>.

9 Ombudsperson, Press conference on the action in Vrbnica, available at: <http://www.vop.gov.sk/tlacova-konferencia-k-zasahu-vo-vrbnici>.

10 The former Ombudsperson.

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

In January 2017, the Ministry of Interior published on its websites its priorities for 2017 which include “*Strengthening police in problematic areas*”. According to the website, “*The Ministry of Interior will further focus on places and areas where troublesome socially excluded groups live and where are frequent law violations such as thefts from houses and cottages.*”¹²

In January 2017, the Ministry of Interior published a list of problematic municipalities with an alleged problematic security situation, where the police presence should be strengthened. The Ministry did not comment on the methodology used for drawing up the list. Most of the “*problematic areas*” are located in Košice, Prešov and Banská Bystrica regions, which are known to have the highest number of Romani neighbourhoods.¹³ Later another list was drawn up but was not published. The mayors of several municipalities that appear on the list do not share the view that they would be problematic. On the contrary, they claim that there has been a recent decline in criminal activities even without the increased activity of the police.

RECOMMENDATIONS:

1. The ERRC encourages the Committee to recommend the following to the Slovak Government:
2. Stop targeting socially excluded Romani communities with higher policing.
3. Collect and retrospectively publish data on municipalities where police have intervened on the basis of the Code-Action 100 (Pátracia akcia 100).
4. Introduce measures in relation to police actions involving large numbers of policemen to prevent violent incidents and to facilitate effective investigations of allegations of police ill-treatment.

INEFFECTIVE INVESTIGATION OF ALLEGATIONS OF POLICE ILL-TREATMENT AND HARASSMENT – ARTICLE 12

The alleged acts of police brutality and unlawful actions of the police are investigated by the Police Inspectorate which falls under the Ministry of Interior.¹⁴ The ERRC notes that there are serious concerns in relation to the independence and impartiality of the supervising body as both the police forces and the Inspectorate fall within the same branch of government and under the same Ministry.

The flaws made during the investigations of the above-mentioned police raids show that doubts over independence of the Inspectorate are reasonable. Proper investigation in some of the cases started with significant delay, people alleging to be victims of the actions were not heard during the first stages of investigation and the testimonies of the injured Roma were not given the same weight as those of police officers. Moreover, Minister of Interior, Robert Kaliňák said on comparing the testimonies of Roma vis-à-vis the police officers that “*if you place them on the same level, you are insulting me*”.¹⁵

According to the publicly available information (Report on criminal activities of police officers), in 2016, only about 5% of criminal cases registered by the Inspectorate were proposed for indictment, while in only around 5.8% of the cases charged were brought. For comparison, in 2015, 5.4% of the criminal cases were proposed for indictment and the charges brought in 6.6% of cases.¹⁶ Moreover, the Inspectorate does not publish records of the number and nature of cases of possible racial motivation or of the outcome of the criminal proceedings.

12 Ministry of Interior, Priorities for 2017, available at: <https://minv.sk/?tlacove-spravy&sprava=priority-ministerstva-vnutra-v-roku-2017>.

13 SME, Kaliňák showed municipalities in which he wants to fight criminal activities, available at: <https://domov.sme.sk/c/20429071/kalinak-ukazal-obce-v-ktorych-chce-bojovat-s-romskou-kriminalitou.html>.

14 Ministry of Interior, *Competences of Inspectorate*, available at: <http://www.minv.sk/?posobnost-inspeknej-sluzby-na-useku-inspeknej-sluzby>.

15 SME, Kaliňák: Do not place police officers and Roma on the same level, it insults me, available at: <https://tv.sme.sk/v/28963/kalinak-policajtov-a-romov-z-moldavy-nedavajte-na-jednu-uroven-uraza-ma-to.html>.

16 Statistics available at: <https://www.minv.sk/?ministerstvo-vnutra>.

RECCOMENDATIONS:

The ERRC encourages the Committee to recommend the following to the Slovak Government:

1. Establish a fully independent autonomous institution, outside of the structures of the Ministry of Interior that will be responsible for the investigation of complaints of alleged ill-treatment treatment by police officers as well as all complaints with a possible racial motive;
2. 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 ill-treatment laid down by the jurisprudence of the ECtHR and the UN Istanbul protocol;
3. 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 familiarity with the UN Istanbul protocol and;
4. Gather and disseminate data disaggregated by ethnicity to identify the extent of racially motivated police violence against Roma and the outcomes of these investigations.
5. Take measures to eradicate all forms of harassment by police during investigations to prevent further victimization of victims.