

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.



CHALLENGING DISCRIMINATION PROMOTING EQUALITY

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Slovakia

CASE REVIEW: SLOVAKIA

This submission focuses on the situation of Roma in Slovakia and shortcomings in the transposition and implementation of the Race Equality Directive, which has particular impact on Roma. This review includes broader elements of the anti-discrimination framework in Slovakia, but does not purport to be comprehensive.

1 TRANSPOSITION OF THE RACE EQUALITY DIRECTIVE INTO NATIONAL LEGISLATION

1.1 THE GENERAL FRAMEWORK ON PROHIBITION OF DISCRIMINATION

The prohibition of discrimination of any kind in relation to fundamental human rights is guaranteed by the Constitution of the Slovak Republic.¹ The Slovak Constitution, together with the Act on Equal Treatment in Certain Areas, Protection against Discrimination and on Amending and Supplementing Certain Other Laws (Anti-discrimination Act or ADL),² form the general framework of the anti-discrimination law in Slovakia.

In 2004, the Slovak Parliament passed the Anti-discrimination Act, which outlaws discrimination on numerous grounds. The ADL also instructed the Slovak National Centre for Human Rights (SNCHR) of 1993 to serve as the specialised equality body promoting equal treatment, the monitoring and evaluation of the recognition of human rights and the observance of the equal treatment principle. The ADL itself as well as the role of SNCHR are discussed in sections II and III below.

Besides the Slovak Constitution, the ADL is the main law promoting and protecting the principle of equal treatment. The ADL came into force on 1 July 2004. To date, it has been amended eight times, the 2011 amendment³ being the last one.

1.2 THE SLOVAK ANTI-DISCRIMINATION LAW

According to the ADL: “Everyone is obliged to respect the principle of equal treatment in the fields of employment and similar legal relations, social security, health care, provision of goods and services and in education.”⁴ The prohibition of discrimination covers the following grounds: sex, religion or belief, race, affiliation with nationality or an ethnic group, disability, age, sexual orientation, marital status and family status, colour of skin, language, political or other opinion, national or social origin, property, gender or other status.⁵ Anyone claiming that his/her rights, legally protected interests or freedoms have been violated because of the breach of the principle of equal treatment has the right to defend his/her rights before court.⁶ The law also states that observance of the principle of equal treatment entails also an obligation to undertake positive action - the duty to adopt measures to prevent discrimination.⁷

In general most of Council Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (2000/43/EC) (Race Equality Directive or RED) is reasonably well transposed through the Slovak anti-discrimination legislation. Some provisions go even further beyond the protection offered by the EU Directives⁸ - the grounds on which any discrimination is prohibited; the below-mentioned *actio popularis*; or the existence of an explicit duty to adopt measures to prevent discrimination. However, several concerns still exist.

1 Act no. 460/1992 Coll., Article 12(2).

2 Act no. 365/2004 Coll.

3 Amended by the Act no. 388/2011 Coll.

4 Act no. 365/2004 Coll, Article 3(1).

5 Ibid., Article 2(1).

6 Ibid., Article 9(2).

7 Ibid., Article 2(3).

8 Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework of equal treatment in employment and occupation.

1.3 DEFICIENCIES OF THE ANTI-DISCRIMINATION LAW WITH THE RACE EQUALITY DIRECTIVE

A number of flaws in relation to the Slovak anti-discrimination law need to be underlined. Firstly, when, in 2008, the scope of the ADL was expanded to include the areas of social protection and access to goods and services, in a marked regression and misaligned with the RED, the wording according to the amendment left out housing and social benefits.

Secondly, the Slovak ADL states that the principle of equal treatment is applicable only to “rights of persons set forth by special laws”.⁹ Such special laws include for example Labour Code,¹⁰ Act on Social Help,¹¹ Act on Health Care¹², etc. What can be seen as problematic is the explicit reference to “laws” while not referring to other legally binding norms (governmental legislation, generally binding ordinances of municipalities etc.). The *status quo* may create a situation that the ruling political powers may circumvent the ADL by adopting other legally binding norms than laws.

A third marked deficiency of the ADL is that the shift in the burden of proof is applicable only within proceedings before courts. It does not apply in proceedings before administrative bodies, such as labour inspectorates.

In 2008, Article 9a was inserted into the ADL bringing a new means of protection against discrimination – *actio popularis*. In combination with Article 10 of the ADL, it allows public interest complaints to be filed by NGOs. If the breach of the principle of the equal treatment would aggrieve rights and liberties of higher or uncertain number of persons, or such a breach would threaten a public interest, NGOs whose activities include protection against discrimination may demand protection of the right to equal treatment.¹³ In such cases, the NGO acting as a plaintiff may ask the court to determine that an infringement of the principle of equal treatment took place; to order cessation of actions infringing the principle of equal treatment to the person violating it; to remedy the illegal situation (if possible).¹⁴ However, NGOs litigating discrimination cases are disadvantaged in comparison to attorneys in terms of recovering costs of legal representation from defendants. This might be one of the causes why *actio popularis* have not been used very often so far.

To date, only a few *actio popularis* claims were filed to courts in Slovakia. In the first two years since the adoption of the provision enabling NGOs to file *actio popularis*, there was no such claim submitted to Slovak courts.¹⁵ One of the first cases litigated by using this means was the landmark case on segregation in education (*Poradňa pre občianske a ľudské práva v Základná škola s materskou školou Šarišské Michalany*),¹⁶ *Poradňa pre občianske a ľudské práva* (Centre for Civil and Human Rights).¹⁷

The possibility of taking *actio popularis* cases is valuable in many respects; but it may also serve to mask the structural impediments to Roma bring their own cases. For example, in the above-mentioned example, the Centre for Civil and Human Rights, which litigated the case, argued that one of the reasons for not pursuing an individual complaint is fear of victims or parents of the victims that the authorities (teachers) will somehow retaliate against them and their children.¹⁸ The ERRC has also encountered Roma who are reluctant to pursue anti-discrimination claims for fear of reprisals.

Other problems are related to the observance of the rule of law in respect of discrimination in Slovakia: distrust towards judicial institutions, low awareness about anti-discrimination legislation or perceived non-transparency of legal proceedings.¹⁹

⁹ Act no. 365/2004 Coll, Article 3(2).

¹⁰ Act no. 311/2001 Coll.

¹¹ Act no. 195/1998 Coll.

¹² Act no. 576/2004 Coll.

¹³ Act no. 365/2004 Coll , Article 10(1).

¹⁴ *Ibid.*, Article 9a.

¹⁵ Slovenské národné stredisko pre ľudské práva, *Zásada rovnakého zaobchádzania a jej ochrana – teória a prax vybraných európskych krajín a Slovenska*, 2010, p. 148.

¹⁶ Slovakia, District Court in Prešov, *Poradňa pre občianske a ľudské práva v Základná škola s materskou školou Šarišské Michalany* (25C 133/10-229), 05 December 2011, available at: http://www.sarisskemichalany.sk/dokumenty/skola/rozsudok_zs_okres.pdf.

¹⁷ www.poradna-prava.sk.

¹⁸ *Supra*, foot note 95.

¹⁹ J. Debrecéniová, Z. Dlužoňová: *REPORT ON MEASURES TO COMBAT DISCRIMINATION Directives 2000/43/EC and 2000/78/EC, Country report 2011 (Slovakia)*, p. 8.

2 THE SLOVAK EQUALITY BODY: SNSLP (SNHRC)

2.1 ESTABLISHMENT OF A STATE INSTITUTION IN THE FIELD OF HUMAN RIGHTS AND NON DISCRIMINATION

Slovenské národné stredisko pre ľudské práva (Slovak National Centre for Human Rights, SNHRC) is the equality body of the Slovak Republic. It is an independent legal entity in the field of human rights and fundamental freedoms, including the rights of the child.²⁰ The SNHRC was established in 1993 pursuant to an agreement with the United Nations.²¹ Following the adoption of Act no. 136/2003 Coll., amending and supplementing Act on the SNHRC and the ADL, the role of the SNHRC was extended and it is now the national equality body of the Slovak Republic. Its main tasks include human rights and equal treatment monitoring, data collection about racism and other forms of intolerance, research and awareness-raising activities, provision of legal aid to the victims of discrimination and issuing statements concerning discrimination.²² As of 1 April 2008, SNHRC was vested, among others, with the power to undertake independent investigation concerning discrimination.²³ It may also act as a legal representative in disputes concerning the ADL.²⁴

The seat of the SNHRC is in Bratislava.²⁵ The activities of the SNHRC are managed and supervised by the Executive Director, who is elected by the Administrative Board for the period of three years.²⁶ The Executive Director is the statutory body of the SNHRC: that is s/he acts on behalf of the SNHRC.²⁷ The Administrative Board of the SNHRC consists of nine members,²⁸ elected for the period of three years.²⁹ Its rights and duties include e.g. discussing the annual Report on Observance of Human Rights in Slovakia, adopting of the annual report on actions of the SNHRC, adopting of the annual budget of the SNHRC, etc.³⁰

2.2 CRITICISM TOWARDS THE WORK OF THE EQUALITY BODY AND THE LACK OF INDEPENDENCE

The SNHRC has been widely criticised for not operating properly and not fulfilling its role as the equality body. It fails to undertake its duties set forth by the law and for operating under undue political influence, including through its financing. Lack of transparency, representativeness and expertise was criticised even by the UN Committee on Social, Economic and Cultural Rights which among others expressed its concerns over limits on the scope and independence of the SNHRC and over “insufficiency of the financial and human resources placed at the Centre’s disposal”.³¹ Thomas Hammarberg, the then Commissioner for Human Rights of the Council of Europe stressed the need to strengthen the effectiveness of the institution.³² In 2011, an audit carried out by the Supreme Control Office indicated non-transparency and irregularities in the operation of the SNHRC, for example in circumventing of the law on public procurement.³³ The fact that SNHRC had not been fulfilling its mandate was acknowledged also by the previous administration of Iveta Radičová.³⁴

20 Slovenské národné centrum pre ľudské práva, Postavenie, pôsobnosť a právomoci, available at: <http://www.snslp.sk/#menu=101>.

21 The international agreement between the Slovak Republic and the United Nations was published in the Statute, No. 29/1995 Coll. The National Centre for Human Rights was founded by the Act No. 308/1993 entering into force on 1 January 1994.

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

23 *Ibid.*

24 *Ibid.*, Article 1(3)

25 *Ibid.*, Article 1(1)

26 *Ibid.*, Article 3b(1)

27 *Ibid.*, Article 3b(2)

28 *Ibid.*, Article 3a(1)

29 *Ibid.*, Article 3a(3)

30 *Ibid.*, Article 3a(7)

31 For example the transcript of the 7th meeting of the Council for Human Rights and National Minorities of 17 October 2012, available at: http://www.radavladyp.gov.sk/data/att/10161_subor.pdf.

32 Council of Europe, Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Slovakia, from 26 to 27 September 2011, available at: <https://wcd.coe.int/ViewDoc.jsp?id=1885987>.

33 Committee on Social, Economic and Cultural Rights, ‘Concluding Observations: Consideration of reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (Slovakia), 8 June 2012, p. 2.

34 Government Resolution No. 347/2011 of 1 June 2011 on Analytical Report on Activities and Status of the National Centre for Human Rights in the context of institutional protection of human rights in the Slovak Republic.

In 2011, the Former Deputy Prime Minister for Human Rights, National Minorities and Gender Equality (DPHR) prepared a report on the SNHRC pointing out several major flaws in its operation.³⁵ The report suggested that SNHRC (1) lacked competency required to oversee observance of human rights and non-discrimination legislation, (2) was not sufficiently independent because of undue political influence, (3) its activities retained low visibility and limited impact in the area of human rights and anti-discrimination, (4) did not have sufficient personnel and expertise capacity to undertake its objectives which related to irregular use of public funds, (5) the management and supervisory boards had failed to address the above deficiencies. The office of the DPHR's office began discussions of modifications of the equality body. However, the discussions came to no conclusion due to early parliamentary elections in March 2012.

As mentioned above, fundamental problems preventing the SNHRC from effective operation include lack of competencies and qualified personnel and undue political influence. Some members of the Administrative Board are appointed by the President, the Chairman of the Parliament, the Minister of Labour, Social and Family Issues and by the Prime Minister.³⁶ Another question mark over the independence of the SNHRC is the way it is financed. The SNHRC is financed from subsidies from the state budget,³⁷ which is proposed by the Government and adopted by Parliament.

2.3 LACK OF AWARENESS ON THE USE OF ANTI-DISCRIMINATION ENFORCEMENT MECHANISMS

The effective absence of a functional equality body in Slovakia significantly limits the implementation of ADL. Although there do exist other avenues to implement the law, they are limited and there is a marked lack of information on how to seek legal redress in cases of alleged discrimination. Poradňa pre občianske a ľudské práva (Centre for Civil and Human Rights) recently carried out a study which showed that the lack of information about anti-discrimination law and the opportunities to seek legal redress pose serious barriers for people living in Marginalised Romani Communities in seeking legal remedies to discrimination. As many as 26% of interviewed individuals who had been discriminated against did not seek a solution due to the lack of information on where to access aid.³⁸ Another 25% did not trust the courts, police or other state institutions. Only 33.3% of the interviewed individuals who had experience of discrimination were aware of anti-discrimination legislation and 18% were aware of the availability of free legal aid.³⁹ The ERRRC has followed several clear cases of discrimination against Roma in Slovakia, in which the victims of discrimination sought advice and decided not to pursue legal actions for fear or reprisals and in one case in 2010 withdrew a claim following pressure from state employees.

Despite the vulnerability of the Romani community in Slovakia, the work of the SNHRC does not include many activities aimed specifically at Roma. In 2010, the SNHRC gave its legal opinion criticising an anti-Roma wall that had been built in Ostrovany, Eastern Slovakia⁴⁰ and has publicly condemned several of the walls built across Slovakia, the situation regarding the resettlement of local Roma in the village of Plavecký Štvrtok, forced evictions as well as the problems with illegal Roma settlements.⁴¹ In 2011, it cooperated with other institutions on a national project called: "Exercising the terrain social work in marginalised communities."⁴² The aim of the project was to promote involvement of community workers and their assistants of Roma origin, whose role is to assist in using of social benefits more efficiently, to check the attendance of children in schools and to improve housing standards and hygiene. However, all in all, there is nothing to even suggest that Roma as a vulnerable group are one of the priorities of the work of the SNHRC. This view is confirmed by other reports too.⁴³

35 Government Office, Department of Human Rights and Equal Treatment, *Analytical Report on Activities and Status of Slovak National Centre for Human Rights in the Context of Institutional protection of Human Rights in Slovakia*, 2011.

36 According to Act No. 308/1993 Coll, Article 3a (1).

37 *Ibid.*, Article 2(2).

38 The study surveyed 95 respondents in Roma settlements in eastern Slovakia. The sample was not representative of the overall Romani population as it focused on people living in MRCs. *Hľadanie bariér v prístupe k účinnej právnej ochrane pred diskrimináciou* [Searching for Barriers in Accessing Effective Legal Protection from Discrimination] (Košice: Poradňa pre občianske a ľudské práva [Centre for Civil and Human Rights], 2012) at 31.

39 *Ibid.*

40 <http://www.snslp.sk/SnslpWeb.html#page=1334>.

41 UN ICESCR 2011 Alternative Report, available at: http://www2.ohchr.org/english/bodies/cescr/docs/ngos/SNCHR_Slovakia_CESCR48.pdf, at p. 126ff.

42 http://www.fsr.gov.sk/external/37/vykon-tsp-v-mrk_finalna-sprava.pdf.

43 J. Debrecéniová, Z. Dlugošová: *REPORT ON MEASURES TO COMBAT DISCRIMINATION Directives 2000/43/EC and 2000/78/EC, Country report 2011 (Slovakia)*, p. 8.

3 GENERAL OVERVIEW OF ROMA POLICIES AND LEGISLATIVE FRAMEWORK

3.1 ROMA RELATED POLICIES AND ADVISORY BODIES

Slovakia has one of the largest Romani communities in Europe, in terms of percentage of the total population. The 2011 census indicated that 105,738 Roma live in Slovakia, making up 2.0% of the population,⁴⁴ an increase from the 2001 census, which recorded 89,920 Roma (1.7% of the population).⁴⁵ However, the number of Roma living in Slovakia is likely much higher, with estimates of between 320,000 and 480,000 Roma currently living in Slovakia.⁴⁶

After the fall of the Communist regime, the Roma were acknowledged as one of Slovakia's national minorities. Roma have (at least *de jure*) all rights and protections guaranteed by the Slovak Constitution.⁴⁷ The Romani language is officially recognised by the Slovak Republic as a regional or minority language under the European Charter of Regional or Minority Languages.⁴⁸

The Slovak government established the Plenipotentiary for Roma Communities (OPGRC)⁴⁹ in 1999, as an advisory body to the government.⁵⁰ The OPGRC reports to the Deputy Prime Minister for Knowledge-Based Society, European Affairs, Human Rights and Minorities, but lacks the power to coordinate and control ministries or other public bodies that are involved in the creation and enforcement of Roma inclusion policies. In 2003 the OPGRC established five regional offices in areas with highest concentration of marginalised Roma communities.⁵¹ In 2007 a new department was established within the OPGRC to coordinate the implementation of EU structural funds aimed at marginalised Roma communities in Slovakia.⁵²

In 1999, the Slovak government established an advisory body, the Slovak Government Council for National Minorities and Ethnic Groups. That body was succeeded by the Government Council for Human Rights, National Minorities and Gender Equality.⁵³ The Council consists of several committees, one of them being the Committee for National Minorities and Ethnic Groups – a consultative body which aims to strengthen the status of national and ethnic minorities and supervises Slovakia's compliance with international treaties on protection of minorities.⁵⁴

3.2 THE SLOVAK STRATEGY FOR THE INTEGRATION OF ROMA

In January 2012, in response to the European Commission Framework for National Roma Integration Strategies,⁵⁵ the Government adopted the “Strategy of the Slovak Republic for the integration of Roma until 2020”.⁵⁶

44 Statistical Office of the Slovak Republic, *Table 11 Population by Nationality*, available at: <http://portal.statistics.sk/showdoc.do?docid=44184>.

45 The census in Slovakia makes the distinction between a respondent's citizenship (štátne občianstvo) and nationality (národnosť), which refers to the respondent's self-declared ethnicity. *Štatistický úrad Slovenskej republiky* [Statistical Office of the Slovak Republic]: *Bývajúce obyvateľstvo podľa národnosti – 2001* [Residents According to the Nationality–2001], 1991, http://portal.statistics.sk/files/Sekcie/sek_600/Demografia/SODB/Tabulky/tab11.pdf.

46 T. Loran, “Marginalizovaní Rómovia ako špecifický potenciál ľudského kapitálu” [“The Marginalised Roma as the Specific Potential of the Human Capital”], *Romano Nevo L'il*, 16 February 2009, available at: <http://www.rnl.sk/modules.php?name=News&file=article&sid=15403>.

47 Supra, note 1, Articles 12, 33 and 34 particularly protect equality, non-discrimination and minority rights.

48 Announcement of the Ministry of Foreign Affairs of the Slovak Republic, available at: [http://www.mzv.sk/App/wcm/media.nsf/vw_ByID/ID_6F7787469128F42CC125764800442B7A_SK/\\$File/text_charty_z_Zz.pdf](http://www.mzv.sk/App/wcm/media.nsf/vw_ByID/ID_6F7787469128F42CC125764800442B7A_SK/$File/text_charty_z_Zz.pdf).

49 <http://romovia.vlada.gov.sk/>.

50 Slovakia, *Uznesenie vlády Slovenskej republiky č. 127/1999 k návrhu na vymenovanie splnomocnenca vlády Slovak Republic na riešenie problémov rómskej menšiny*, 10 February 1999.

51 Slovakia, *Uznesenie vlády Slovenskej republiky č. 1196/2003 k návrhu na nové inštitucionálne zabezpečenie riešenia záležitostí rómskych komunít a zmenu štatútu splnomocnenca vlády Slovak Republic pre rómske komunity*, 17 December 2003.

52 Slovakia, *Uznesenie vlády Slovenskej republiky č. 507/2007 k správe o stave pripravenosti Slovenskej republiky na čerpanie štrukturálnych fondov a Kohézneho fondu v programovom období 2007 až 2013 (stav k 15. máju 2007)*, 6 June 2007.

53 <http://www.radavladyp.gov.sk/>.

54 <http://www.narodnostnemensiny.gov.sk/vybor-pre-narodnostne-mensiny-a-etnicke-skupiny/>.

55 The European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - An EU Framework for National Roma Integration Strategies up to 2020, 05 April 2011*, available at: http://ec.europa.eu/justice/policies/discrimination/docs/com_2011_173_en.pdf.

56 Slovakia, The Office of the Government, “*Strategy of the Slovak Republic for the integration of Roma until 2020*”, December 2011, available at: <http://www.ksuza.sk/doc/metodika/bozp/20012012.pdf>.

The Slovak Roma Integration strategy was developed in consultation with the World Bank, the UNDP and Slovak civil society. However, the ERRRC notes that the new Slovak Government, elected in April 2012 and headed by Prime Minister Robert Fico, has decided not to implement the existing strategy (which is broadly in line with the EC Framework). Instead it has prepared a new strategy called “Roma Reform” which consists of 100 measures. From the new reform, only a few measures have been introduced so far. The “Roma Reform” does not refer to the strategy developed by the previous Government. Furthermore, a recent statement by the Prime Minister that: “The Roma problem in Slovakia cannot be effectively solved without enforcing some limitations on human rights measures to which Slovakia, as a member of the European Union, previously agreed to comply,”⁵⁷ raises further grave concerns about the Government’s commitment to take positive steps to eliminate discrimination and social exclusion of Roma in Slovakia.

4 DISCRIMINATION AGAINST ROMA

Roma in Slovakia are probably the most vulnerable group of the population facing discrimination in everyday life. However, structural inadequacies and lack of knowledge of available remedies and practical difficulties in accessing legal services mean that Roma in Slovakia fail to enforce their right to equal treatment in all fields of social relations. According to the SNHRC, clients of Roma origin complained particularly about communication problems with the authorities (registers, building authorities, labour authorities, mayors, schools, police, etc.). They also pointed out the problems with access to employment.

The cases mentioned below do not purport to be comprehensive, rather to be illustrative of the discrimination suffered by Roma. The ERRRC works particularly on the issues of education and housing, hence in large part the great focus on those areas of concern set out in the RED.

4.1 HOUSING

Approximately 40% of the Romani population is affected by the problem of social exclusion.⁵⁸ A considerable number of Roma live in marginalised Roma-only communities that are isolated from the rest of society and lack or offer only very basic technical infrastructure. The social isolation of this inadequate housing is often accompanied by poor sanitary conditions and a lack of potable water, which affects the health conditions of the Romani population. In marginalised communities 9% of the population have no electricity, 81% have no sewerage, 59% have no gas, 37% have no access to water, 20% have no asphalt road.⁵⁹

In Slovakia, many Romani families face the threat of forced eviction. This is due to changes in land ownership and very weak legal protection against forced evictions. Many Roma built their houses on land which was owned by the State. However, due to the processes of land privatisation and decentralisation which occurred during the transition to a democratic political system and market-oriented economy (and from which Roma rarely benefitted), these lands are now owned by private persons or municipalities. The existing domestic legal framework offering protection against forced eviction is low. The Slovak Building Act (Act no. 50/1976 Coll.) allows the municipality to order the demolition of houses that were built without a building permit. That is often the case with houses located in Roma settlements. Even though the law gives the owners of such houses the possibility to legalise them, they face several administrative difficulties, as they need to obtain many permits, including from the municipality. Roma do not usually possess sufficient financial means to afford the additional legalisation.

A worrying new trend related to the practice of forced evictions has emerged in Slovakia. This is in the context of the movement *Zobudme sa!* (Let’s wake up!), which was set up in 2011 and has collected the signatures of 402 mayors of Slovak towns and villages and aspires to provide coordination the demolition of Romani settlements in their municipalities commonly defined as waste dumps.⁶⁰ A number of municipalities carried out forced evictions and demolitions of settlements considering them to be dumping grounds.

57 SITA, *Fico chce ústupky v ľudských právach pre rómsky problém*, 1 April 2012, available at: <http://www.webnoviny.sk/volby-2012-sdku-ds/fico-chce-ustupky-v-ludskych-pravach/484171-clanok.html>.

58 Atlas of Roma Communities: *Sociographic Mapping of Roma Settlements in Slovakia*, 2004.

59 Strednodobá koncepcia rozvoja rómskej národnostnej menšiny v Slovenskej republike, *SOLIDARITA-INTEGRITA-INKLÚZIA 2008-2013*, available at: <http://www.romainstitute.sk/data/files/100.pdf>.

60 See: <http://www.zobudmesa.sk/o-nas/>.

On 29 November 2011, a Romani settlement in the town of Ziar nad Hronom was demolished, with houses belonging to Roma defined as communal waste. When asked about the coming winter, the Mayor, Ivan Cernaj, said: “It does not matter when it is being done; they had enough time to eliminate the dumps. We have held intensive talks with the landowner and agreed on this course of action. We have agreed to do this now as they would have gone on making excuses forever”.⁶¹ The national police assisted in carrying out the demolition. The Mayor of Ziar nad Hronom is the head of the movement *Zobudme sa!* (Let’s wake up!).

The Slovak media reported the forced eviction and demolition of houses in a Romani settlement in the area of Nizné Kapustníky (Kosice) on 30 October 2012.⁶² Reports indicate that the eviction and demolition were ordered by the Kosice municipality and that 156 people, including 63 minors, were evicted. As a result of the eviction, they became homeless. The municipality provided evictees with buses that should have taken them to the place of their supposed residence. A group of 17 people were transported to the village of Rakusy did not have a place to stay and hence, they occupied an abandoned house in the centre of the village. In reaction to this, the Mayor of Rakusy sent them back to Kosice. To date the case has not been resolved.⁶³ The media reported that the eviction was based on environmental law and that the homes in question were treated as a communal waste.⁶⁴ The information provided by the media was confirmed by the municipality of Kosice in their response to the ERRC’s request for information. The ERRC is concerned that neither Slovak nor international law seems to have been respected in the cases mentioned above.

The situation of Roma in relation to their right to adequate housing is especially critical in Kosice. In May 2011, the municipality demolished a Romani settlement in the Demeter neighborhood. About 80 people lost their homes.⁶⁵ The eviction and demolition in Demeter were, similarly to Nizné Kapustníky, based on environmental law.⁶⁶ In October 2012, about 300 Roma were evicted when a block of flats was demolished in the Lunik IX segregated Roma neighbourhood.⁶⁷

4.2 EDUCATION

One of the reasons for the high unemployment rate of Roma in Slovakia is their low level of education. The situation in education of Romani children is alarming: about 60% of the total number of pupils enrolled in special education (designed for children with learning disabilities) are of Romani origin.⁶⁸ From pupils attending special classes within mainstream elementary schools, Roma account for 86%.⁶⁹ According to the UNDP, elementary school is the highest level of education completed for 15% of the Roma aged 15-64 in Slovakia. The corresponding figure for the non-Roma population of the same age is only 1%.⁷⁰ The largest proportion of Roma (62%) complete only lower-secondary education, with the corresponding number for non-Roma being 16%.⁷¹ The Slovak government has failed to adopt and implement policies or legal frameworks to address

61 SITA, “*Ziar nad Hronom razes illegal settlement with police assistance*”, Slovak Spectator, 30 November 2011, available at: http://spectator.sme.sk/articles/view/44682/10/ziar_nad_hronom_razes_illegal_settlement_with_police_assistance.html.

62 Miroslav Sambor, “*Košice zlikvidovali nelegálnu osadu pri teplárni*”, Košický korzár, 30 October 2012, available at: <http://kosice.korzar.sme.sk/c/6587108/kosice-zlikvidovali-nelegalnu-osadu-pri-teplarni.html>.

63 Adéla Gálová, “*Starosta Rakús: v prípade košických Romů se měří dvojmí metrem*”, romea.cz, 27 November 2012, available at: <http://www.romea.cz/cz/zpravodajstvi/zahranicni/starosta-rakus-v-pripadu-kosickykh-romu-se-meri-dvojmí-metrem>.

64 Jaroslav Vrábel, “*Košice chcú „rozbiť“ osady*”, Košický korzár, 17 February 2012, available at: <http://kosice.korzar.sme.sk/c/6263077/kosice-chcu-rozbit-osady.html>.

65 Miroslav Sambor, “*Košickú osadu Demeter mesto zrovnalo so zemou*”, Košický korzár, 16 May 2011, available at: <http://kosice.korzar.sme.sk/c/5895723/kosicku-osadu-demeter-mesto-zrovnalo-so-zemou.html>.

66 Boris Macko, Daniela Balážová, Pravda, “*Rómsku osadu dal Hagyarí zrucať pod rúškom tmy*”, 25 October 2012, available at: http://spravy.pravda.sk/romsku-osadu-dal-hagyari-zrucat-pod-ruskom-tmy-fl4-jsk_domace.asp?c=A121025_110213_sk_domace_p77#ixzz2FUQ40Bus.

67 SITA, “*Video: Na Luniku IX zbúrali panelák, ďalšie budú chatrče*”, 8 October 2012, available at: <http://www.webnoviny.sk/slovensko/video-na-luniku-ix-zburali-panelak/554297-clanok.html>.

68 Eben Friedman and Mihai Surdu (coordinators), Eben Friedman, Elena Gallová Krígerová, Martina Kubánová, and Martin Slosiarik (authors), *School as Ghetto: Systemic Overrepresentation of Roma in Special Education in Slovakia* (Budapest: Roma Education Fund, 2009).

69 *Ibid.*

70 United Nations Development Programme & European Union Fundamental Rights Agency, *Data on vulnerability of Roma*, available at: <http://europeandcis.undp.org/data/show/D69F01FE-F203-1EE9-B45121B12A557E1B>.

71 *Ibid.*

and combat the clearly disproportionate numbers of Romani children in special and segregated education and the low attainment of Roma in terms of educational level.

One of the very few court judgments based on Slovakia's ADL concerns the segregation of Romani children in education. On 5 December 2011, the District Court in Presov issued a strong judgment in which it ordered the desegregation of Romani pupils in the Mainstream Elementary School in Sarisske Michalany.⁷² The school segregated Romani pupils not only within classes but also by putting the Roma-only classrooms in a different part of the building. According to the District Court, the measures adopted by the school, i.e. separate classes with special standards for "children from socially disadvantaged environments", are discriminatory. The Court held that specific forms of educational means may be used for pupils from "socially disadvantaged environments". However, they must not violate human rights guaranteed by national and international law. Recently, the decision of the District Court was upheld by the Regional Court in Presov.⁷³ According to its judgment, the school discriminated against Romani pupils on the basis of ethnicity by creating Roma-only classes.

4.3 HEALTHCARE AND EMPLOYMENT

The marginalisation of Roma in society and poverty has been shown to have negative effect on health, too. A study financed by Partners for Democratic Change Slovakia found out that there is a low awareness among Roma of their own health conditions, many cases of undiagnosed diseases and lack of trust in healthcare institutions.⁷⁴ The worst situation is in segregated settlements where some inhabitants do not even know they have right to be provided with healthcare, others are discouraged by the fact that they need to pay money for transportation to the hospital and/or for medicaments.⁷⁵ As a result of all the negative factors, people of Roma origin in Slovakia die on average 12 to 15 years younger than the majority population.⁷⁶

The difference in the field of employment between the Roma population and the non-Roma population in the Slovak Republic is obvious. According to the data published by the United Nations Development Programme (UNDP) in 2011,⁷⁷ the rate of unemployment among Roma aged 15-64 in Slovakia was 70% (by comparison, the unemployment rate of non-Roma in the same age group was 33% at the time of the study). The survey further found that 38% of Roma population aged 15-64 has had no previous employment experience (while overall in Slovakia, the rate was 21%).⁷⁸

4.4 ACCESS TO AND SUPPLY OF GOODS AND SERVICES WHICH ARE AVAILABLE TO THE PUBLIC

Slovak courts have already dealt with several cases on the issue of discrimination of Roma in the field of access to goods and services. Even if courts establish that discrimination took place, they are usually reluctant to award compensation to victims of discrimination.

In the town of Michalovce, in the Eastern Slovakia, customers of Roma origin were not able to enter a pub, allegedly because they were not "club members". When activists of non-Roma origin tried to enter the pub, they had no problems with it and no club cards were required. The District Court in Michalovce did not award any compensation to the applicants. It only ordered the owner of the pub to issue an apology in written form. It did not express the opinion that discrimination on the basis of applicants' ethnicity had been committed.⁷⁹ The Regional Court

72 Slovakia, District Court in Prešov, *Poradňa pre občianske a ľudské práva v Základná škola s materskou školou Šarišské Michalany (25C 133/10-229)*, 05 December 2011, available at: http://www.sarisskemichalany.sk/dokumenty/skola/rozsudok_zs_okres.pdf.

73 *Poradňa pre občianske a ľudské práva*, "Krajský súd potvrdil segregáciu rómskych detí na základnej škole v Šarišských Michalovciach", press release, 02 November 2012, available at: <http://poradna-prava.sk/?p=579>.

74 M. Popper et al., "Rómska populácia a zdravie" Analýza situácie na Slovensku", 2009, p. 32.

75 *Ibid.*

76 M. Husáková, S. Ošková, "Social Characteristics of Roma Population in the Slovak Republic", available at: aosp.upce.cz/article/download/137/.

77 United Nations Development Programme & European Union Fundamental Rights Agency, *Data on vulnerability of Roma*, available at: <http://europeandcis.undp.org/data/show/D69F01FE-F203-1EE9-B45121B12A557E1B>.

78 *Ibid.*

79 District Court Michalovce, 12C/139/2005.

in Košice subsequently quashed the decision of the District Court and held that there had been discrimination on the basis of applicants' ethnicity.⁸⁰ However, no compensation was awarded.

In the town of Kežmarok, two Romani children were refused to be served in a sweet shop. The District Court in Kežmarok found that applicants had been discriminated against on the basis of their ethnicity. However, it has not awarded them any compensation.⁸¹

⁸⁰ Regional Court in Košice, 2Co/430/2006.

⁸¹ District Court Kežmarok, 3C 157/05.