



NSKE A LUDSKÉ PRÁVA

bi - annual  
**report** / 2010  
2011

## **Citizen Assembly**

### **Poradňa pre občianske a ľudské práva (Center for Civil and Human Rights)**

Krivá 23

040 01 Košice

Slovenská republika

Tel.: +421 – 55 – 68 06 180

Fax: +421 – 55 – 68 06 180

Cell: +421 – 908 – 69 55 31

+421 – 949 – 33 83 96

E-mail: [poradna@poradna-prava.sk](mailto:poradna@poradna-prava.sk)

Web: [www.poradna-prava.sk](http://www.poradna-prava.sk)

Identification number (IČO): 37 86 72 70

Bank: OTP Banka Slovensko, a.s.

Account number: 55 19629/ 5200

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IBAN: SK98 5200 0000 0000 0551 9629

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## Who we are

*„Our vision is a society where minorities do not face discrimination, a society with respect for human rights of the vulnerable groups, a society where legal tools on protection of human rights are effectively implemented and human rights violations are sanctioned and compensated.“*

We are non-profit, non-governmental human rights organization founded in 2001 and based in Košice, Eastern Slovakia. Our activities are focused on protection of human rights in Slovakia with particular emphasis on the protection of the rights of minorities and protection from discrimination. We are paying a long-term attention to the problem of discrimination against Roma ethnic minority in various areas of public life. Moreover, we have been working on issues related to the protection of reproductive rights, specifically we are trying to eradicate the practice of forced and coerced sterilization of Roma women. We are also dealing with the issue of police violence and combating racial segregation in our society. Within our work related to the protection of human rights we are:

- conducting monitoring and research activities;
- providing free legal counseling;
- providing free legal representation in court and administrative proceedings in selected strategic cases;
- organizing educational activities and publishing;
- participating in drafting and commenting legislative measures;
- advocating for systemic changes on political level;
- providing information to the international institutions on implementation of international conventions on human rights.

## What characterizes ourselves

- our work is based on providing help to the individual - the individual is behind our work and he/she always takes first place;
- we advocate equality for everybody in enjoyment of human rights and dignity, we promote equality between minority and majority;
- we promote equal opportunities for everybody;
- we promote inclusion and participation of every person in a society;
- while working with cases of human rights violations, we respect the principles of impartiality, confidentiality, accuracy of documented information, gender-sensitivity and security of all the individuals;
- we advocate for effective implementation of the international human rights treaties on human rights that Slovakia has ratified;
- we promote effective implementation of legal means for protection of human rights, effective investigation of cases of human rights violations and adequate compensation for victims of human rights violations;
- our work is impartial and independent.

## Ten years of Poradňa...

In 2011 Center for Civil and Human Rights (Poradňa) swung into its second decade of activities. Today Poradňa can be considered an established and important Slovak NGO for protection of human rights. But we did not think much about the anniversary celebration. We feel that "life of Poradňa" is not measured by the number of years, but it is being framed by the strategic human rights court proceedings that we are able to take to a successful conclusion. And some of them seemed almost infinitely long... However, in November 2011 the best reason for celebration has finally come. The European Court of Human Rights in one of our cases on the sterilization of a Roma woman without informed consent decided that there had been a serious breach of her human rights. It is the first ever Strasbourg Court decision on violation of reproductive rights of Roma women in Europe which brought valuable links towards the human rights protection in health care as well. We have other cases on illegal sterilization of Roma women awaiting the decision of the courts and we hope for justice. We ultimately hope for time to wake up for responsible state authorities who will not overlook their obligations under the international human rights conventions anymore and that all harmed women will get apology and satisfaction in a systemic and comprehensive manner.

At courts of all levels, we have cases on racial discrimination in access to public services or employment where Roma stand up for their human rights. Prešov District Court made quite a stir when in December 2011 decided against the primary school near Prešov for the segregation of Roma pupils who were educated in separate classrooms. Even though the decision is not final yet, it is the first ever favourable court decision on racial segregation in education in Slovakia. We hope that by this we will contribute towards an effort to solve this serious problem in our society.

We offer legal aid to victims of police violence as well and strive to encourage the responsible official bodies to investigate those cases effectively. Unfortunately, there is still a need to do a lot of work in this area.

Poradňa's activities are not only about lawsuits or court trials at all. Our education activities in last two years had rather high quality and brought to the participated schools something new. We unconditionally believe in inclusive education and will diversely support it in the future. Its development in Slovak school system is absolutely vital for our society... We spend lots of time directly in the field – on our immediate contact with victims of human rights violations is based our further work. We are also used to provide information about situation on protection of human rights in Slovakia to international institutions. Lately we communicated in this regard with the UN Committee on the Elimination of Racial Discrimination and the UN Human Rights Committee.

The truth is, that in the past two years in Slovakia, in the area of protection of human rights no amazing miracle happened. It takes ages for courts to decide and achieving justice for those who are discriminated against, requires patience and nerves of steel. A respect for human rights of minorities in Slovakia is really not valued but our enthusiasm to promote these universal principles stays. All of us in Poradňa have a clear idea about what society we want to live in and we do not intend to give this idea up. We would like to thank you to all who in any way supported us, contributed to our work and pulled with us in the same direction. We know, miracles will not happen in the next two years either, but we believe that we will take at least a couple of steps forward...

### **Štefan Ivanco**

Programme Coordinator

Center for Civil and Human Rights

## The protection against discrimination

*„Although the Slovak anti-discrimination act from 2004 can be considered a good legal regulation, it is still barely implemented in practice. The court decisions in this field are still lacking the quality and persons who face discrimination simply cannot rely upon the courts. This should be changed. The effective legal protection from discrimination will be an important deterrent to the discrimination prevalent in our society..“*

Štefan Ivanco

For several years we have been providing legal aid in cases of discrimination in various fields of public life, especially in access to services, employment, education and health care, with emphasis on the racial discrimination of Roma ethnic minority. In 2010-2011 we achieved several positive first and appeal court decisions in cases of discrimination for our clients.

**During this period we provided legal representation in more than ten cases of racial discrimination in access to services, employment and social security for more than thirty persons in total.** We also provided the legal counseling for another people.

Apart from the individual claims, we submitted to the courts also **two so-called 'actio popularis' claims** in accordance with the specific provisions of the anti-discrimination act. The actio popularis claims were submitted on behalf of our NGO in selected cases of discrimination where we indicated a serious human rights violations against larger non-specified group of individuals.

In the first case we claimed **the racial segregation of Roma children** in the primary school in Šarišské Michalany, a village in a Prešov region. We argued that the primary school violated the rights of Roma children by teaching them in separate classes. In December 2011 the District court in Prešov ruled fully in our favor. It was for the first time a domestic court in Slovakia has addressed the widespread and unlawful practice of segregation of Roma children in education. Even though the decision of the District court is not final yet, it has potential to contribute to combating segregation in education in Slovakia. In the second actio popularis claim we address the exposure of **indirect discrimination** arguing that the specific provision of the law on maternity benefits has an unreasonable, inappropriate negative impact of Roma women and thus is illegal.

We achieved the final court decision in a case of racial discrimination of the three Roma activists who were denied access to a Cafe due to their Roma ethnic origin. The court ruled that the Roma were discriminated against on a ground of their ethnic origin. It is one of the very **first final court decisions, in which the Slovak courts ruled in favor of discriminated Roma in a case of racial discrimination under the Slovak anti-discrimination act.**

In two other cases of discrimination of Roma customers in access to services we succeeded to achieve **positive friendly settlement** - in both cases Roma customers were given apology and financial compensation from the subject who discriminated against them.

We submitted **the individual complaint to the UN Committee on the Elimination of Racial Discrimination (CERD)** challenging the decision of the regional court which refused to award the financial compensation to our Roma clients, even though it clearly concluded they were discriminated against on a ground of their ethnic origin. The court reasoning in this case violates provisions of the International Convention on the Elimination of the All Forms of Racial Discrimination.

In order to gather more evidences for possible court proceedings, in selected cases **we also conducted the situational testing experiments** in access to services, employment and pre-school education.

We achieved **positive administrative decisions of the Slovak Trade Inspection in Prešov** which imposed sanctions on the subjects who discriminated Roma customers in access to services (restaurant).

We organized **two – day training for judges** with a particular focus on the anti-discrimination law. The training was lectured by experts from Slovakia and other EU countries.

We issued an **updated version of our anti-discrimination manual „Let´s say no discrimination“** on how to combat discrimination by the legal means of protection. This manual is for non-governmental organizations working with disadvantage groups as well as for wide public.

We issued **the volume of court decisions in cases of right for equal treatment**. The volume contents the court decisions of the court and other court bodies from Slovakia, Czech republic, United Kingdom and European Court of Justice in the field of discrimination. The volume is especially for legal professionals and it contents the CD with completed version of published decisions.

## ***Public claim in a case of segregation in education***

In June 2010 Poradňa submitted actio popularis claim to the District Court in Prešov in accordance with the provisions of the Slovak anti-discrimination act. We claimed the elementary school in Šarišské Michalany for years has organized separate mainstream classes on a different floor of the building attended exclusively by children of Roma ethnic origin. In the school year 2008/2009 other Roma children who attended the classes with children from majority population, were placed in the separate Roma only classes as well. According to our opinion providing education to the Roma children in segregated Roma only classes constitutes discrimination on the ground of their ethnic origin. The elementary school claim the separate classes are for Roma children for socially disadvantaged environment. The school had argued that the separate classes were set up to allow teachers to adopt a more individualized approach when teaching those children. However, the school failed to provide any evidence of the benefits for Roma children of being taught in separate classes and that the measures were only temporary rather than long term.

The Court, agreeing with our argument, issued its decision where it concluded that the elementary school violated the principle of equal treatment set by the Slovak anti-discrimination act and discriminated against Roma children based on their ethnic origin by providing them education in segregated classes. The court further stated that using specific forms and methods of educating children from socially disadvantaged environment cannot be contrary to the domestic and international legislation on protection of human rights. The Court disagreed with the argument of the school that only education of Roma children from socially disadvantaged environment can secure equal education for every child. In this regard the Court stated that the school resigned its role in the process of education when it (the school), preferred unlawful segregated education rather than inclusive education. The Court in accordance with our claim ordered the elementary school to remedy the unlawful situation and also to publish the full version of the decision in the Teachers Newspaper in order to inform the other schools about the decision thus having preventative impact. The school appealed the decision and the case is now pending before the Regional court.

## **The protection of reproductive rights**

*"The unlawful sterilizations of Roma women is considered one of the most serious form of multiple discrimination and violation of human rights. This problem should be faced by our society. We honor all Roma women who stood up for their rights and despite everything, they keep going in their efforts. We believe that together we shall succeed to prevent further cases of forced sterilization and the victims of this practice will be adequately compensated."*

Vanda Durbáková

Poradňa has been dealing with the issue of forced and coerced sterilizations since its establishment in 2001. In recent time we finally achieved a break thought in those cases at Slovak courts. We achieved a first landmark decision of the European court in Strasbourg in this field thus this unsolved issues became more relevant at the governmental level.

In 2011 we achieved **a first decision of the European Court of Human Rights in a case of forcibly sterilized Roma woman V.C. against Slovakia** where the court concluded the violation of the guaranteed rights and awarded the applicant with financial compensation.

We also achieved the first positive decision in favor of our Roma clients **before Slovak courts.**

Among others the Slovak Constitutional Court squashed the decision of the Appeal Court which rejected the claim of forcibly sterilized Roma woman and order the Court to deal with the case again. The Constitutional Court awarded our client also with financial compensation for violations of her rights.

After exhaustion of domestic remedies, we submitted other complains to the European Court of Human Rights in Strasbourg. During 2010-2011 we provided the legal representation to six Roma women in four proceedings before the European Court.

We continuously provided to the Roma women not only legal but also other support and organized empowerment meetings for them.

## ***The decision of the European Court in a case of forced sterilization***

In November 2011 the European Court of Human Rights in Strasbourg announced its decision in the case of V.C. against Slovakia. The case originated in an application of a forcibly sterilized Roma woman who claimed compensation for unlawful sterilization performed on her in Presov hospital. The Court unanimously concluded that performance of forced sterilization interfered to the right for protection from inhuman and degrading treatment and the right to personal and family life.

The Applicant, a Roma woman, was forcibly sterilized in the Prešov hospital, on 23 August 2000, during the delivery of her second child. As attested by her medical records, shortly before delivery was terminated by a cesarean section, while the Applicant was in labour and had contractions every three minutes, the medical personnel pressured her to sign one sentence in her medical file as “a request for sterilization”. The Applicant was told that unless she gave her signatures, she or her baby would have died. The Applicant did not understand what sterilization meant, but she signed the medical record nonetheless, as she was in fear for her life. Since 2004, the Applicant has been seeking damages from the Prešov Hospital at the Slovak courts, including Constitutional Court. All her petitions were rejected in Slovakia. In 2007 she filed a complaint against Slovakia with the European Court in which she complained of the violation of her rights under the European Convention.

This decision of the European court is the first in the series of cases brought by forcibly sterilized Roma women, the European Court ruled in favor of the Applicant and rejected the claims that sterilization was “medically necessary” since sterilization is not a life saving surgery and the applicant’s informed consent was prerequisite for the intervention. In the Court’s view, the approach of the medical personnel of the Prešov Hospital was not compatible with the principles of respect for human dignity and human freedom embodied in the Convention as it did not permit the applicant to make a decision of her own free will, after the consideration of all relevant issues. The Court apart of declaring a violation of the Articles 3 and 8 of the Convention, awarded the Applicant with the financial compensation in amount of 31 000€ as well as the reimbursement of legal costs.

## The police and the rights of the victims of police violence

*„The cases of police brutality are still not uncommon in our society. Moreover those towards Roma often indicate racial motive of acting. The responsible state authorities often do not conduct effective investigation in accordance with binding international criteria. This only deepen the untrust of the citizen towards police...“*

Stanislava Liptáková

Since 2010 we have been providing, apart from legal aid in cases of discrimination, also **legal aid in cases of police violence**. We specifically focus on the cases where the racial motive from the police can be indicated. We monitored and documented the prevalence of those cases in the field. Although only a small number of victims finally decide to resist police violence by using the legal means of protection – **we provided legal representation to twenty victims in six proceedings in total**. We provided legal counseling to more other people.

Since 2009 we have been providing **the legal representation in a publicly watched case of police torture of six Roma boys at the Košice police station.** The police officers were accused of committing the crime of a public officers racially motivated misconduct. The case is now pending before the District court in Košice.

Taking into account the fact that police investigations into these types of cases has systemic failures in Slovakia, by the end of 2011 **we had been working on analysis which describes the criteria of effective investigation** in compatibility with jurisprudence of the European Court of Human Rights and legally binding international treaties on human rights. The aim of this analysis is to draw attention of the responsible state representatives on the governmental and legislative level to the existing failures in this field and encourage them to adopt the necessary measures.

In our effort to increase the awareness raising regarding protection from police violence, we issued the **informative leaflet on rights and duties in contact with the police.** The leaflet was distributed mainly to the socially disadvantaged communities.

### ***The case of torture of Roma boys at the police station in Košice***

In April 2009 the case of torture of six Roma boys from the Roma ghetto Lunik 9 at the police station in Košice came out in the media. The Roma boys were arrested under suspicion of committing a crime and taken to the police station. Some of the boys were thrown to the floor before barking dogs without mouthguards. The dogs bit three of the boys. Afterwards the boys were beaten up and kicked. They were forced to slap each other around and to kiss each other. The police officers laughed at them and insulted them with regard to their ethnic origin. The boys were forced to go downstairs and to undress themselves. Later one of the boys was forced to hang from a railing while one of the policemen beat his hands. Another policeman pointed a gun at the head of one the boys and asked him if he wants to be shot.

The policemen were accused of committing a crime of public office misconduct and four of them also of the crime of intimidation. The case is pending before the district court for more than a year.

## **Inclusive education support**

*„Slovak primary schools still perceive social and individual differences between children like something detrimental, which inevitably has a negative impact on the quality of education in classrooms. This way of thinking has to be changed. Every child is different and special. The schools have to perceive diversity of children in the classroom as a valuable component in the educational process which teaches children social skills, tolerance and consideration...“*

Denisa Barry

During 2010 – 2011 our activities on inclusive education were developing intensively and today we see them as a very important area of our work to which we devote much time and effort.

We especially rely on experience gained from British environment where inclusive education has a long tradition. For us are very valuable contacts and cooperation with some British primary and secondary schools and education professionals which we try to use to promote good practice and raise awareness on inclusive education in primary schools in Slovakia as best as we can.

In cooperation with the Czech NGO League of Human Rights, we organised **a discussion seminar for head teachers of primary schools which was devoted to implementation of the principles of inclusive education in a Slovak school environment.** After this event we continued with a one day workshop for school teachers and other pedagogic employees which was devoted to practical aspects of inclusive education in everyday teaching. Our workshop was attended by two lecturers from Great Britain. Both events had a positive response.

We especially value our friendly contacts which we managed to establish with few primary schools and head teachers who are interested in inclusive education ideas and try to implement them in their school environment. We organised four day **study trip to the UK** for two head teachers of Slovak elementary schools, where they had a chance to witness inclusive methods of education in multicultural primary and secondary schools. We are very happy that both schools are interested to continue to cooperate with us and go on the inclusive way of education.

## International advocacy

During 2010–2011 in partnership **we issued alternative reports** to the UN Committee on the Elimination of Racial Discrimination (CERD) and UN Human Rights Committee (HRC) documenting the failures in a field of respecting human rights in Slovakia. We reported specifically on the cases of discrimination of Roma children in access to education, the violations of reproductive rights of Roma women and cases of police violence against Roma. We personally participated at the session of the UN CERD Committee in Geneva. We informed the members of the Committee about failures in the area of human rights protection in Slovakia. Also one of our clients- forcibly sterilized Roma woman was present during the dialogue with Committee members. Concluding observations of both Committees reflected the information we provided in our alternative reports.

In partnership with other NGOs **we submitted our concerns regarding boarding schools** for Roma children to the Advisory Committee on the Framework Convention for the Protection of National Minorities. The Advisory Committee reviewed Slovakia as a state party of the Convention and in its third opinion (report) about Slovakia the Committee pointed out that establishing those type of boarding schools may violate Framework Convention.

We provided relevant information in the field of respecting human rights also to **the Commissioner for Human Rights Mr Thomas Hammarberg** during his monitoring visit in Slovakia in September 2011 and in respect to his subsequent report on human rights in our country that was released.

## Cooperation

Within our activities we cooperated with many local and regional partners, like NGO New Way from Michalovce, Romano Asaben from Prešov and with some community centers (like those in Rankovce, Petrovany) and with many Roma activists.

We also intensively cooperated with Amnesty international (London office as well as Slovak branch) specifically on the issue of segregation of Roma children in education.

While organizing the educational activities on inclusive education we closely cooperated with Czech human rights NGO League for Human Rights.

In partnership with Slovak based NGO People in Need Slovak republic we issued alternative reports to the UN Committee on the Elimination of All Forms of Racial Discrimination and UN Human Rights Committee on respecting relevant international human rights treaties by Slovakia. Together we participated also on the session of the UN Committee on the Elimination of All Forms of Racial Discrimination in Geneva where we provided the relevant information on protection of the rights of minorities to the members of the Committee.

Within informal coalition „For Equality in Education“ together with Amnesty International, Milan Šimečka Foundation, People in Need, Slovakia and other partners we had been trying to advocate for measures replacing segregation by the principles of inclusive education in Slovak school system.

Together with Hungarian based NGO Chance for Children Foundation we cooperated in a field of conducting strategic litigation in cases of segregation of Roma children in education.

We participated as co–authors in a publication issued by Open Society Foundation, Bratislava entitled: Answers to Questions on Segregation of Roma Students in Slovak Education System. This publication was issued within the informal cooperation of various NGOs. Our contribution focused on racial discrimination in a context of international human rights treaties.

We contributed to the volume entitled „Those who are right...“, published by Open Society Foundation, Bratislava. This volume was the outcome of the conference on far-right extremism organized by the Foundation. Our contribution focused on implementation of anti-discrimination act at Slovak courts.

We also participated as trainers on the educational activities organized by other NGOs, like Citizen, Democracy and Accountability.

We would like to thank all organizations, institutions and individuals who are not mentioned in this report and who we cooperated with during 2010 -2011.

## Poradňa's team

### *Board (2010-2011):*

Barbora Bukovská – Lawyer

Ruben Pellar - Translator and Roma rights activist

Ingrid Giňová - Roma women activist

David Zábranský – Writer

Michal Čermák – Lawyer

Ján Polák - Roma activist

### *Committee of Treasures:*

Viera Čápová

Andrea Grúberová

Lucia Kvočeková

### *Staff:*

Andrea Mitrová - Executive Director

Vanda Durbáková - Cooperating Attorney

Stanislava Liptáková – Lawyer

Štefan Ivanco - Equal Opportunities Programme Coordinator

Denisa Barry – Field worker, Inclusive Education Support

Katarína Šišňanská – Field worker

Mirka Danková – Field worker

Igor Dužda - Field worker

Lenka Kresňaková - Office Manager and Grants Accountant

Zdeněk Nový - Webmaster

Martin Ľudvík – IT

Zuzana Gimerová – Volunteer (2010)

## Donors

We would like to thank all those who financially and/ or personally supported our work in 2010 - 2011.

For a financial support of our activities in 2010 – 2011 we would like to thank especially:

- » Open Society Institute, Budapest
- » Open Society Foundation, Bratislava
- » Financial mechanism of EEA, Norwegian financial mechanism and state budget of the Slovak Republic
- » Government office of the Slovak Republic
- » European Commission within the programme of the European Union for employment and social solidarity PROGRESS (2007 – 2013).
- » MamaCash Foundation, Amsterdam
- » Fillia Women's Foundation, Hamburg
- » Slovak - Czech Women's Fund
- » Oak Philantropy, London
- » Amnesty International
- » Ruben Pellar
- » Anonymous individual donors

## Financial report of Poradňa

### *Income and Expenses of Poradňa 2010*

<i>Revenues</i>	<i>in EUR</i>
Grants	84 572
Other incomes (e.g. 2% tax assignment, exchange rate income)	587
<b>Total</b>	<b>85 159</b>

<i>Costs</i>	<i>in EUR</i>
Office overheads and equipment	1 984
Telephone, Fax, Internet	1 722
Office rent	3 148
Salaries	34 572
Legal services	14 389
Accounting	8 473
Travel expenses	10 324
Court fees and other fees	275
Educational activities (seminars, meetings, supervision)	5 670
Publications	4 722
Other financial expenses	145
<b>Total</b>	<b>85 424</b>

### ***Income and Expenses of Poradňa in 2011***

<b><i>Revenues</i></b>	<b><i>in EUR</i></b>
Grants	45 592
Other incomes (e.g. 2% tax assignment, exchange rate income)	540
<b>Total</b>	<b>46 132</b>

<b><i>Costs</i></b>	<b><i>in EUR</i></b>
Office overheads and equipment	577
Telephone, Fax, Internet	1 260
Office rent	3 134
Salaries	12 634
Legal services	13 671
Accounting	2 014
Travel expenses	6 411
Court fees and other fees	268
Educational activities (seminars, meetings, supervision)	3 052
Publications	0
Other financial expenses	2 418
<b>Total</b>	<b>45 439</b>



Poradňa pre občianske a ľudské práva, Krivá 23, 04001 Košice  
tel. 055/ 68 06 180, mob. 0908 695 531, email: [poradna@poradna-prava.sk](mailto:poradna@poradna-prava.sk)

