



NGO submission to the Committee against Torture concerning shortcomings in the implementation of the Convention in Slovakia

Center for Civil and Human Rights (Poradňa pre občianske a ľudské práva), Slovakia

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Background

The Center for Civil and Human Rights (Poradňa) – Slovak independent NGO focusing on the protection of human rights of Roma minority and protection from discrimination¹ - presents this submission to the Committee against Torture (Committee) for its consideration in the context of its examination of Slovakia's fourth periodic report on compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention) at the upcoming 76th session.

The submission results particularly from ongoing human rights field monitoring, strategic litigation and advocacy efforts of our NGO and outlines the selected issues of concern regarding the protection from torture in Slovakia guaranteed by the Convention:

- Shortcomings in ensuring full access to justice including financial compensation for Roma women survivors of forced sterilizations,
- Excessive use of force by law enforcement officials, including racially motivated violence against Roma.

Both these issues have been raised by the Committee in its previous concluding observations concerning Slovakia. We are concerned that Slovak government authorities have fallen short of addressing them effectively over recent years and that progress in implementing the Convention in this regard is insufficient.

Notably, this submission provides immediate update to information that our NGO provided to the Committee in 2017 in its submission on the list of issues prior to reporting in the context of the examination of the of Slovakia's fourth periodic report.²

¹ The Center for Civil and Human Rights (Poradňa pre občianske a ľudské práva, "Poradňa") from 2002 has addressed discrimination against Roma minority in Slovakia in various areas of public life. It has also been active in the protection of reproductive rights of Roma women and protection from police ill-treatment. Poradňa pursues its mission by human rights monitoring, strategic litigation as well advocacy activities. It closely links its work with extensive cooperation with many local Roma activists, community engagement with Roma women, and support to Roma communities in pursuing their rights. For more information please visit us at <https://www.poradna-prava.sk/en/>

² Center for Civil and Human Rights (Poradňa). 4th periodic report of Slovakia (Due August 2019): Submission to Committee against Torture on the list of issues prior to reporting. The submission is published within the documentation from CSOs in respect to the examination of Slovakia at the upcoming 76th session. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2627&Lang=en

a.) Shortcomings in ensuring full access to justice including financial compensation for Roma women survivors of forced sterilizations

The widespread practice of forced sterilization was reported in Slovakia in the past, suggesting that significant proportions of predominantly women of Roma minority in Slovakia had been subject to forced sterilization.³ Since then this practice has been repeatedly condemned by international human rights mechanisms including the Committee itself and judgements of the European Court of Human Rights.⁴ The Slovak Government has been repeatedly called upon to provide effective remedies, including reparation, for the human rights violations involved. Most recently, in September 2022, the Committee on the Elimination of Racial Discrimination in its concluding observations reiterated to the Slovak Government to ensure that Roma women who were victims of sterilization without their informed consent have access to effective remedies and adequate compensation.⁵

In close collaboration with a group of Roma women activist, our NGO for more than two decades intensively advocated towards the Slovak Government to take responsibility for this practice and provide effective justice for its survivors. We appreciate that in recent years the Slovak state authorities including the Government made notable efforts to address this issue in line with its international human rights obligations. In particular, the Slovak Parliamentary Committee for Human Rights in July 2021 discussed this issue in presence of representatives of our NGO and two affected Roma women and recommended to take decisive measures that would ensure justice for survivors. Following its recommendations, in November 2021 the Slovak Government adopted a resolution in which it apologized to Roma women for forced sterilizations and condemned the practice.⁶

Afterwards, the Ministry of Justice assessed possible solutions to financially compensate the affected women and developed legislative intent, which contains basic principles of the planned law, based on which the forcibly sterilised women could be finally compensated. In February 2023 the Ministry of Justice made this legislative intent available for comments within government interdepartmental comments procedure - thus available for comments from other government resorts, domestic human rights bodies, NGOs or public.⁷ Our NGO and also domestic human rights institutions - Slovak National Centre for Human Rights and Office of the Public Defender of Rights (Ombudsman) submitted their comments, so that this piece of legislation indeed effectively brings about justice to all survivors of forced sterilizations in practice, not only formally or illusory.⁸

The Ministry of Justice suggests that once its legislative intent is adopted by the Slovak Government, the Minister of Justice shall be tasked to submit the full legislative proposal till 30 June 2023, which should later be approved by the Slovak Parliament. However, the next parliamentary elections in Slovakia are scheduled for September 2023. Given that we are seriously concerned that the

³ See Center for Civil and Human Rights (Poradňa) & Center for Reproductive Rights, *Body and Soul: Forced Sterilization and Other Assaults on Roma Reproductive Freedom in Slovakia* (2003), at <https://www.poradna-prava.sk/en/documents/body-and-soul-forced-sterilization-and-other-assaults-on-roma-reproductive-freedom-in-slovakia/>

⁴ V.C. v. Slovakia, no. 18968/07. ECtHR (2011); N.B. v. Slovakia, no. 29518/10. ECtHR (2012); I.G. and Others v. Slovakia, no. 15966/04. ECtHR (2013).

⁵ Concluding observations of the Committee on the Elimination of Racial Discrimination (CERD) on the thirteenth periodic report of Slovakia. CERD/C/SVK/CO/13, para. 30-31.

⁶ Resolution no. 674/2021 to the apology of the Government of the Slovak republic for sterilizations in conflict with law. Adopted on 22 November 2021. Available at <https://rokovania.gov.sk/RVL/Material/26642/1> See also our press release in English in this regard <https://bit.ly/3cduQ79>

⁷ The legislative intent and the related documentation is published by the Ministry of Justice in the state legal and information portal Slov-lex: <https://www.slov-lex.sk/legislativne-procesy/-/SK/dokumenty/LP-2023-64>

⁸ Comments of our NGO to the given legislative intent are available in Slovak at: <https://bit.ly/42d3P9e>

compensation law may not be adopted by the current Slovak Government soon enough, so that the current Slovak Parliament subsequently still has enough time to negotiate it and adopt it. It is critical that the Slovak Government takes immediate action now since we are concerned that development after the parliamentary elections may eventually result in slowdown or even discontinuation of the current legislative process initiated under the current gestion of the Ministry of Justice.

We urge the Committee to raise this particular issue with the Slovak government representatives during the examination and emphasize the absolute necessity to immediately – without delay adopt and propose to the Slovak Parliament the compensation law which will ensure financial reparations for survivors through an *ex-gratia* compensation procedure that would be effective and accessible for the survivors.⁹ We find it crucial that the government authorities will propose such law without delay and the Slovak parliament will subsequently adopt it, so that the process of *ex-gratia* compensation starts as soon as possible.

Proposed recommendation for the State Party:

- Adopt without delay the legislation that will effectively provide financial reparations for survivors of forced sterilisations through an effective and accessible *ex-gratia* compensation procedure.

b.) Excessive use of force by law enforcement officials, including racially motivated violence against Roma

Based on our long and ongoing experience of monitoring racially motivated police violence and representing Roma ill-treated by the police in criminal proceedings – we argue that the Slovak Government has been insufficient to effectively address these practices and secure access to justice in this regard. In addition, it has fallen short of taking other effective policies and measures to prevent these practices in a complex manner.

We would like to bring to the attention of the Committee a relevant submission from January 2023¹⁰ that our NGO elaborated in cooperation with the partner NGOs and submitted to the Committee of Ministers of the Council of Europe and that particularly concerns the execution of the judgment of the European Court of Human Rights (ECtHR) in a case *R.R. and R.D. v Slovakia* from September 2020.¹¹ The submission provides up-to-date and comprehensible overview of 1./ ongoing documented occurrence of police violence against Roma based on human rights monitoring 2./ as well as ongoing shortcomings in investigation of these cases by the responsible inspection body (Office of the Inspection Service) based on first-hand experience of providing legal aid to Roma individuals who claimed police violence. This submission also highlights several judgments of the ECtHR from recent years against Slovakia concerning police violence against Roma. They not only confirm fundamental failures in investigation of these cases in Slovakia, but as such also indicate systemic nature of these failures having been repeated over years.

Notably, the judgment of the ECtHR in the case *R.R. and R.D. v Slovakia* concerns two Roma claimants ill-treated during widely reported police raid from June 2013 on the Roma settlement of Moldava nad

⁹ In line with the recommendation of the Human Rights Committee, Concluding Observations: Slovakia, para. 27, CCPR/C/SVK/CO/4 (2016).

¹⁰ Center for Civil and Human Rights (Poradňa), European Roma Rights Centre (ERRC) and Forum for Human Rights: Rule 9 submission with regard to the execution of R.R. and R.D. v Slovakia judgment of the ECtHR of 1 September 2020. Submitted on 30 January 2023. Available at:

https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680aa1982

¹¹ R.R. and R.D. v Slovakia, judgment of the ECtHR of 1 September 2020, no. 20649/18.

Bodvou, which reportedly resulted in ill-treatment of over 30 persons including children by the police. This incident was specifically raised by the Committee as a matter of concern in its previous concluding observations (CAT/C/SVK/CO/3, para 11d). Our NGO provided the claimants the legal representation within our strategic litigation program in criminal proceedings and also before the ECtHR. We achieved the ECtHR's ruling that the Slovak authorities violated both their right to protection from police violence and their right to an effective investigation of police violence, including an investigation into a possible racial motive as for preparing a police action. Following this judgment, the Slovak Government in June 2021 made a formal apology "*for the injustice and suffering inflicted on the victims and their families*". The Government emphasised that the apology is "*not only a human gesture in relation to the victims, but also means a commitment for the State to avoid similar failures in the future.*"¹² We argue that the Slovak Government still fails to translate this apology into effective policies and measures to ensure the systemic changes.

In our referred submission to the Committee of Ministers of the Council of Europe concerning the given judgment we particularly emphasize that the criminal investigation of almost all cases concerning alleged police ill-treatment against Roma that we litigated within our strategic litigation program in the previous years has been halted at a certain stage of the proceedings, before reaching the court. Based on our field monitoring, we also point out that many cases in this area may not be reported at all, as the affected Roma may be afraid of victimization and do not trust the institutions responsible for investigation and justice.¹³ Despite of the recent series of judgments of the ECtHR we achieved against Slovakia, we still document cases of alleged police ill-treatment against Roma living in marginalized communities and we have been encountering serious shortcomings in the investigation of such cases which does not sufficiently meet criteria for effective investigation laid down by the international law. This also includes the ongoing lack of independence.¹⁴ Possible racial motive is generally downplayed and falls short of effective investigation as well.

For two illustrations of above statements from recent time:

- In February 2022, the Office of the Inspection Service after almost two years discontinued the criminal investigation into another widely reported case of the alleged police violence against several Roma children in the town Krompachy occurred in April 2020 during the Covid-19 pandemic, where the whole local Roma community was under area quarantine.¹⁵ While directly representing the aggrieved children in this criminal proceeding and thus knowing its development in detail - we consider it insufficient and as such ineffective.
- In February 2023 a Roma activist from one of the villages in eastern Slovakia informed us of police ill-treatment of several Roma youngsters (aged 17-18), who were detained by police patrol and were reportedly subjected to clearly excessive use of force at the place of detention (kicking while lying on the ground) as well as later at the police station (beating with hands,

¹² Resolution no. 367/2021 to the apology of the Government of the Slovak Republic for the way the state armed forces intervened in Moldava nad Bodvou in 2013. Adopted on 23 June 2021. For details in English see: The Slovak Spectator: Cabinet apologised for the police raid in Roma settlement in 2013. Available at:

<https://spectator.sme.sk/c/22688383/cabinet-apologised-for-the-police-raid-in-roma-settlement-in-2013.html>

¹³ See also Center for Civil and Human Rights, Minority Rights Group Europe, EPEKA Slovenia. Equality and justice on the sidelines: Comparative report on discrimination against Roma and their access to justice in Slovakia and Slovenia, November 2022, available at: <https://poradna-prava.sk/en/publications/equality-and-justice-on-the-sidelines-comparative-report-on-discrimination-against-roma-and-their-access-to-justice-in-slovakia-and-slovenia/>

¹⁴ The previous inspection body was partly reformed in 2019 and although now the head of the current inspection body (Office of Inspection Service) answers directly to the Government, the inspection body itself is institutionally still a part/special branch of the Slovak Police Forces and lacks full independence.

¹⁵ For details about this case in English see media article: <https://bit.ly/3nTFbrx>

slaps). One of the injured youngsters has later sought medical treatment. While we offered him a legal aid, he decided not to file criminal complaint against the police officers due to being afraid of possible reprisals from them.¹⁶

We note that our recent advocacy efforts in this area has not resulted in sufficient action on the government level. In February 2022 - in response to the referred series of judgments we achieved before the ECtHR against Slovakia - we addressed the Slovak Government a letter calling on the immediate adoption of effective measures to ensure independent and effective investigation of the alleged police violence including the investigation of the possible racial motive and systemic measures for the prevention of police violence as such. The Government ministries forwarded the letter to the Presidium of the Police Forces, which further forwarded it to the Office of the Inspection Service itself being responsible for investigation, which replied. It responded that in order to ensure the better independence and effectiveness of this body the Security Council of the Slovak Republic established a working group analysing the measures in this area and the process of reforming the Office of the Inspection Service is still in progress.¹⁷ The very fact that the written call was responded directly by to the current inspection body indicates that the Government might only consider making internal changes in functioning of the current inspection body, rather than fundamentally transform it into the new fully independent institution. Moreover, we found it concerning that the Government did not give the written call a direct attention and did not provide comprehensible information about adopted or planned measures to ensure effective investigation of police violence including possible racial motive as well as effectively prevent such cases.

In a rare case of police violence against Roma reaching the court in Slovakia – in December 2020 the Regional Court in Košice dismissed the Prosecutor’s appeal against the acquittal judgment of the District Court Košice II in a widely reported high profile case of ill-treatment against six Roma boys at a police station in Košice from 2009. This incident was also specifically raised by the Committee as a matter of concern in its previous concluding observations (CAT/C/SVK/CO/3, para 11e). The criminal proceedings lasted for almost 12 years. Given we have been providing the aggrieved Roma boys with free legal representation over these years - we argued that Slovak courts have been unable to decide fairly, without delay and within reasonable time and were unable to provide victims with effective access to justice.¹⁸ In February 2023, this assertion was ultimately recognized by the ECtHR, which ruled that the Slovak authorities failed to ensure effective access to justice for injured claimants. It confirmed that Slovak courts heard the case for an unreasonably long time. Moreover, they did not sufficiently examine the alleged humiliating treatment by the police, nor did they sufficiently deal with the racial motive alleged by the prosecution.¹⁹ This case clearly shows how complex and structural are obstacles in access to justice in cases of racially motivated police violence in Slovakia, which includes not only investigation by the police inspection body, but also decision making of courts, including Constitutional court.

We are convinced that shortcomings in this area have deep systemic character and require resolute steps from the government authorities.

¹⁶ Location and details of the case were documented within our monitoring and were not fully disclosed here given the circumstances.

¹⁷ Written replies of the Office of the Inspection Service from 24 February 2022 and 25 May 2022 in response to the written call of Poradňa for the adoption of effective measures to strengthen independence and quality of investigation of the police officers, following the recent judgments of the ECtHR, 13 February 2022 (on file with Poradňa).

¹⁸ For additional details in English see our press release informing about the acquittal of the accused police officers from December 2020: <https://bit.ly/3c8dwQY>

¹⁹ M.B. and Others v. Slovakia (No. 2), judgment of the ECtHR of 7 February 2023, no.63962/19. The decision is not final yet.

Proposed recommendations for the State Party:

- Establish a fully independent autonomous institution, outside of the structures of the Ministry of Interior and Police Forces that will be responsible for investigation of complaints of alleged ill-treatment by the police officers as well as all complaints alleging possible racial motive;
- Introduce a mechanism for the external evaluation of the effectiveness of investigations of police ill-treatment with an aim to identify systemic deficiencies in the investigation process of such cases in Slovakia and promptly remove these deficiencies;
- Secure continuous education of all persons investigating cases of police ill-treatment as well as state prosecutors and judges on standards of effective investigation of torture, cruel and inhuman treatment laid down by the jurisprudence of the European court of Human Rights and the UN Istanbul protocol;
- Introduce systemic measures for the prevention of all forms of ill-treatment by the Police that will effectively lead to eradication of these practices.

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