



Submission to the Advisory Committee on the Framework Convention for the Protection of National Minorities concerning shortcomings in the implementation of the Convention in Slovakia

Sixth monitoring cycle

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

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Background

This is the submission of the Center for Civil and Human Rights (Poradňa pre občianske a ľudské práva “Poradna”) – Slovak non-governmental grass-root organization focusing on the protection of minority rights and protection from discrimination. From our establishment in 2002 we have actively promoted human rights of Roma ethnic minority in Slovakia by conducting human rights field monitoring, strategic litigation before domestic and international courts as well as advocacy activities towards Slovak government authorities and international human rights bodies. We closely link our legal and advocacy work with extensive cooperation with many Roma activists, community engagement with Roma women, and support to Roma communities in pursuing their rights.¹

This submission results particularly from our ongoing human rights field monitoring, strategic litigation and advocacy efforts of our NGO and outlines serious issues of concern regarding equal enjoyment of human rights of Roma minority in Slovakia as guaranteed by the Framework Convention for the Protection of National Minorities (Convention). We note that most of these issues have been raised by the Advisory Committee in its 5th Opinion on the Slovak republic of February 2022 and translated into recommendations that were subsequently recalled by the Committee of Ministers of the Council of Europe by its resolution.²

We are concerned that Slovak government authorities are fallen short of fulfilling a number of the respective recommendations. In addition, we point out other selected shortcomings concerning the protection of human rights of Roma minority in Slovakia that arguably require prompt and effective government response in order to meet the obligations arising from the Convention.

¹ <https://poradna-prava.sk/en/>

² Resolution CM/ResCMN(2022)8 on the implementation of the Framework Convention for the Protection of National Minorities by the Slovak Republic of 3 November 2022.

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

The Advisory Committee in its 5th Opinion on the Slovak republic urged the Slovak government authorities to investigate cases of forced sterilisation of Roma women and compensate without further delay women who have undergone forced sterilisation. Its recommendation in this matter called for immediate action.

In 2002 our NGO in cooperation with the Center for Reproductive Rights documented the practice of forced sterilisation of Roma women in Slovakia and former Czechoslovakia and spurred public and policy discussion about it.³ We provided legal aid to survivors in selected strategic cases before domestic courts and the ECtHR, which revealed serious barriers in access to justice in these cases in Slovakia.⁴ For more than two decades we intensively advocated towards the Slovak Government to take responsibility for this grave practice and provide effective justice for its survivors through introducing effective *ex gratia* compensation mechanism. In recent years the Slovak authorities including the Government made notable efforts in this regard.⁵ We appreciate that in November 2021 the Government formally apologized to the survivors of forced sterilizations and condemned this practice.⁶ Moreover, the responsible authorities in Slovakia essentially acknowledged that civil court proceedings are indeed ineffective for the survivors to achieve justice and the compensation mechanism must be established by the adoption of the particular law proposal.

We note that our NGO commented on the initial legislative intent of the planned compensation law proposal that the Ministry of Justice submitted to interdepartmental comment procedure in March 2023.⁷ We pointed out serious shortcomings of this intent, which could potentially prevent survivors from achieving financial compensation in practice.⁸ As well, key domestic human rights institutions - Slovak National Centre for Human Rights and Office of the Public Defender of Rights (Ombudsman) – commented on the intent to ensure that planned legislation effectively brings justice to all survivors.

In April 2023, the compensation law proposal was developed and submitted to the Slovak parliament by its member Mr. Peter Pollak and in May 2023 was subsequently adopted by the Slovak parliament in a first reading.⁹ The proposal was considerably inspired by the legislative intent of the Ministry of Justice and has not incorporated the major comments that our NGO and domestic human rights bodies already made within above mentioned interdepartmental comment procedure. We reiterated that the wording of the proposal adopted in the first reading had major deficiencies and would not effectively bring justice for the survivors once implemented in practice.¹⁰ We, among other issues, noted with

³ Center for Civil and Human Rights & Center for Reproductive Rights (2003). *Body and Soul: Forced Sterilization and Other Assaults on Roma Reproductive Freedom in Slovakia*. Available in English at <https://rb.gy/1gsk22>

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 The Government reported these efforts till 2023 in detail in its sixth report on the implementation of the Convention, paras. 63–70.

⁶ Resolution no. 674/2021 to the apology of the Government of the Slovak republic for sterilisations 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 set out basic principles of the planned compensation law. 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 Our NGO submitted the comments in March 2023 and are available in Slovak language at <https://rb.gy/u6qn9q>

⁹ Proposal for issuing an Act on one-off financial compensation for persons sterilised in violation of the law and on supplementing Act No. 71/1992 Coll. of the National Council of the Slovak Republic on court fees and the fee for an extract from the criminal record, as amended from 13 April 2023. The proposal and details on voting are available at [Dokumenty : Parlamentné tlač : Parlamentná tlač 1593 - Národná rada Slovenskej republiky \(nrsr.sk\)](https://dokumenty.parlamentne.tlac:Parlamentna_tlac_1593-Narodna_rada_Slovenskej_republiky(nrsr.sk))

¹⁰ See the comments of our NGO to the proposal of the compensation law submitted to the Slovak parliament addressing its deficiencies. Available at <https://rb.gy/86i119>

concern that the competence to decide on compensation was given to the Ministry of Health, which posed serious risk that this agenda would be dealt as purely medical issue not as an issue of human rights violation. That is why we proposed to give this competence to the Ministry of Justice. Importantly, the proposal placed disproportionate burden on the survivors to prove their forced sterilisation, which would indeed effectively prevent many of them from achieving the compensation. In June 2023, the then Council of Europe Commissioner for Human Rights Dunja Mijatović addressed the Slovak Parliament a letter welcoming its efforts to deliver justice to forcibly sterilised women by adoption of a law proposal. But she also raised a number of points for its improvement, which were consistent with the reported comments of our NGO and the Slovak equality body.¹¹ The negotiations on the law proposal in the Slovak parliament were ultimately discontinued in June 2023 due to the adjournment of the parliamentary session and shortening of the previous electoral term, which consequently led to the early parliamentary elections in September 2023.

We welcomed that in November 2023 the proposal of the compensation law was re-submitted to the newly formed Slovak Parliament by a group of MPs and even incorporated some of the minor comments that our NGO previously raised. However, its key shortcomings were not removed. Responding to this development, we called on the new Minister of Justice, so that he and the Government support the approval of the re-submitted law proposal.¹² However, we have not monitored any active engagement of the Minister or the Government in this regard. On 27 February 2024 the Slovak parliament rejected the re-submitted proposal in the first reading. Practically all MPs from the coalition – government parties abstained from voting, while almost all opposition MPs supported the proposal. It clearly indicated that the current executive and legislative powers in Slovakia might not be willing to support the compensation law that would finally bring the survivors of forced sterilisation long-awaited justice.

Nevertheless, the justice for the survivors of forced sterilisation was one of the discussed topics at the recent meeting of the Council of Europe Commissioner for Human Rights Michael O’Flaherty with the State Secretary of the Ministry of Justice on 21 July 2024. After the meeting, the Ministry of Justice publicly reported about its intention to set up a working group to develop the compensation law proposal.¹³ While we consider it to be a positive signal – we find the establishment of the working group to be a redundant initiative that will arguably only further unnecessarily prolong the process of providing justice to the survivors. In this regard, we particularly note that in June 2023 the Ministry of Justice, from its own initiative, submitted the compensation law proposal developed by the MP Peter Pollak to interdepartmental comment procedure where was already available for wide commenting. This legislative process reportedly is still ongoing and now is formally at the stage of “evaluation of the interdepartmental comment procedure”.¹⁴

We argue that Government authorities should - without any further delay - draw on its previous legislative initiative, recognise serious shortcomings of the law proposals from previous time and take decisive action that will lead to the adoption of the really effective compensation law proposal. We consider to be absolutely necessary to ensure that the survivors will not be required to propose any extensive evidence including relevant medical documentation. But the state will have fundamental

¹¹ The letter of the Commissioner Mijatović is available at [Slovak Parliament has a historic opportunity to deliver justice to victims of forced sterilisation - Commissioner for Human Rights \(coe.int\)](#)

¹² Call of the Center for Civil and Humna Rights (Poradna) on the Minister of Justice to ensure justice for women who have been sterilized in the past in violation of the law of December 2023. Available in Slovak at <https://rb.gy/t0caks>

¹³ The press release is available in Slovak language at the website of the Ministry of Justice. Available in Slovak at <https://rb.gy/1elij3>

¹⁴ The overview of this legislative process including information on its current status, all respective documentation and comments proposed within interdepartmental comment procedure, including from our NGO - are available in the state legal and information portal tracking legislative procedures in Slovakia <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2023/388>

responsibility to investigate the legality or illegality of performed sterilisation interventions in particular cases, while also bearing its responsibility in those cases where medical documentation could be already shredded due to the time gap.

In view of this development, we encourage the Advisory Committee to reiterate the Slovak Government the necessity to take immediate action that will ensure the survivors of forced sterilisation effective access to financial compensation.

b.) Racially motivated police violence and lack of effective investigation in this area

From 2009 we have been continuously monitoring racially motivated police brutality in marginalised Roma communities and representing Roma ill-treated by the police in criminal proceedings in Slovakia and before the ECtHR. Relying on this extensive experience, we claim that the Slovak Government failed to address the particular recommendation of the Advisory Committee raised in its 5th Opinion on the Slovak republic concerning this issue. We note with concern that lack of adequate investigation into police brutality and lack of independence of investigation mechanism identified by the Advisory Committee in the previous monitoring cycle - widely persist.

We would like to bring to the attention of the Advisory Committee a submission to the Committee of Ministers of the Council of Europe from July 2024 that our NGO presented in cooperation with the European Roma Rights Centre and particularly discusses the execution of the three judgments of the ECtHR concerning police brutality against Roma and its ineffective investigation in Slovakia.¹⁵ The submission provides comprehensible and up-to-date overview of the ongoing shortcomings in investigation of these cases and barriers in overall access to justice based on our direct legal engagement in this area. As well, it assesses efforts of the Government authorities in addressing the existing shortcomings. Our key findings and conclusions are as follows:

- In February 2024, we approached the Minister of Interior with an open call to strengthen the quality and independence of investigations of ill-treatment by police officers - in direct response to the series of judgments of the ECtHR from previous several years concerning police brutality against Roma individuals and its ineffective investigation.¹⁶ However, we have not received any written response, nor recorded any particular action indicating that the proposed measures were considered by the Government authorities
- The responsible state bodies keep failing to avoid major shortcomings in the investigation procedures, even including cases being supervised by the Committee of Ministers and cases which are under strong public and media scrutiny. These shortcomings continue to have deep, symptomatic character. The Office of the Inspection Service has not fundamentally changed its overall approach to investigations of police brutality and prosecution authorities that supervise criminal investigations also continue to largely ignore ongoing shortcomings in this area.

¹⁵ Center for Civil and d Human Rights (Poradna), European Roma Rights Centre. Rule 9.2. submission with regard to the execution of R.R. AND R.D. GROUP v. SLOVAK REPUBLIC. 10 July 2024. Available at <https://rb.gy/tb3hne>

¹⁶ Open call of the Center for Civil and Human Rights (Poradňa), European Roma Rights Centre (ERRC) and Amnesty International Slovakia to the Minister of Interior of the Slovak republic to strengthen the quality and independence of investigations of ill-treatment by police officers following the judgments of the ECtHR against Slovakia of 13 February 2024. Available in Slovak language at <https://rb.gy/9jify8>

- Racial motivation is commonly not being investigated by the Office of the Inspection Service even in cases when the victims of Roma ethnicity state that they were verbally abused with racially motivated slurs.
- The Government gives no attention to obstacles in accessing justice for individuals facing police brutality beyond investigation procedures – in courts. Even though the cases police brutality so far only rarely reached the courts due to ineffective investigation.
- The Government falls short in its effort to introduce effective measures that would tangibly enhance effective investigation of police ill-treatment and its prevention. Even though the Government made initial steps to introduce wearing body cameras by police officers as being one of the impactful preventive measure – it has still not been fully implemented.
- As a result, Slovak Government continues to fall short of taking effective measures to fully comply with the supervised group of judgments of the ECtHR and the Committee of Ministers should continue in their execution and recommend the Government the importance of effectively implementing a range of measures that we propose.

We encourage the Advisory Committee to highlight above described shortcomings in its Opinion. We are convinced that in order to make a tangible improvements in this area - a resolute action from the Government authorities in this area is necessary.

c.) Discrimination of Roma women in reproductive and maternal health care

The Advisory Committee in its 5th Opinion on the Slovak republic specifically referred to monitoring findings of our NGO, warning that Roma women in our country experience multiple, and intersecting, forms of gender and racial discrimination, which is especially widespread in the area of reproductive and maternal health care. Its documented manifestations include practices of segregation in maternity wards, racial harassment and humiliation, neglect, physical restraint and abuse during childbirth and failures related to informed consent and decision making with regard to medical treatment.

We drew public attention to these practices in Slovak society in 2017 in cooperation with the Center for Reproductive Rights by releasing our joint research report titled *Vakeras Zorales – Speaking Out: Roma Women’s Experiences in Reproductive Health Care in Slovakia*. The report was based on in-depth interviews with 38 Roma women from marginalized communities and documented a wide range of human rights violations that Roma women experience in reproductive health care in Slovakia. We note with great concern that the human right violations documented in this report - even after several years from its publication – continue to widely exist in many Slovak hospitals. We continue to commonly document them through our ongoing field monitoring in marginalised Roma communities and interviews with Roma women.¹⁷ We claim that no systemic policies and measures that would effectively prevent the given violations have been taken till now.

Moreover, all efforts to address violations of Roma women`s rights in reproductive and maternal health care by legal means remain largely ineffective due to ongoing shortcomings in the implementation of anti-discrimination legislation as well as in decision making of courts and responsible state administrative bodies (*see chapter e./ below*). Our NGO from 2013 litigates strategic

¹⁷ This conclusion also results from our recent research report released with partners NGOs Minority Rights Group Europe and EPEKA, Slovenia in November 2022: Equality and justice on the sidelines: Comparative report on discrimination against Roma and their access to justice in Slovakia and Slovenia. Available at <https://rb.gy/c175ca>

actio popularis lawsuit based on the domestic Anti-discrimination Act targeting segregation of Roma women in a maternity ward of a state-run hospital in a town Prešov. Notably, a discriminatory nature of the practice, we brought forward, also confirmed the Slovak equality body by its expert opinion. Court proceeding has been pending before the first instance court for more than eight years. In July 2022, the lawsuit was rejected, while the court completely disregarded the testimonies of Roma women on the practices in the sued hospitals. The first instance court ultimately have not found the claimed segregation to be discriminatory practice and the proceeding is now for almost two years pending before the Court of the Appeal.¹⁸

Importantly, the very existence of segregated “Roma rooms” was not questioned by the sued hospital in the court proceeding and is obvious. In this respect, we find it particularly alarming that the Ministry of Health as another defendant in this court proceeding opposes the lawsuit for years, instead of recognizing Government's positive obligation to prevent racial discrimination and making necessary effort to change the existing practice. In February 2024 we approached the Minister of Health with a letter, calling for the elimination of the segregation of Roma women at the sued state-run hospital and its effective prevention. We pointed out that such action would subsequently lead to the settlement of the ongoing lawsuit and its withdrawal by our NGO.¹⁹ However, the Ministry of Health in its written response completely ignored this proposal, without commenting on it.²⁰

In our letter to the Minister of Health, we also called for the adoption of broader systemic measures to eliminate and prevent multiple discrimination against Roma women in the area of reproductive health care in Slovak hospitals. The Ministry generally informed us about current policy plans and strategies related to the protection to reproductive rights and protection of women from intersectional discrimination. It highlighted the established project *Healthy Regions* primarily supporting work of the health mediators that help facilitating contacts of disadvantaged Roma with medical personnel and raise their awareness of health issues. It also reported about the national five years project funded by the European Union, starting in the first part of 2024, that includes a particular goal to verify non-discriminatory access to childbearing women e.g. Roma, refugee or women with disabilities in reproductive health care facilities.²¹ However, we are convinced that these efforts are at all not sufficient to effectively eliminate deep-rooted institutional discrimination against Roma women in the area of reproductive and maternal health care. We find it necessary to ensure that effective system of controlling and sanctioning discriminatory practices in Slovak hospitals is promptly put in place. The existing anti-discrimination provisions guaranteeing Roma women the protection from discrimination must be effectively enforced in this area.

We encourage the Advisory Committee to stress the utmost importance to address the given issues by the Slovak Government in its Opinion and specifically recommend to establish effective programs, procedures, and mechanisms to assess, monitor, eliminate, prevent, and sanction the segregation, disrespectful treatment, and abuses of Roma women in maternity health care facilities.

¹⁸ See our press release in English on this court decision including the reference to the judgment itself:

<https://bit.ly/3Ki5KkY>

¹⁹ Call of the Center for Civil and Human Rights (Poradňa) to the Ministers of Health of the Slovak Republic for effective measures to eliminate and prevent multiple discrimination Roma women in the field of reproductive health care. Available in Slovak at <https://rb.gy/sn0v8w>

²⁰ The response of the State Secretary of the Ministry of Health to our call is available in Slovak at <https://rb.gy/1bxf8k>

²¹ Details about this national project are available in Slovak at <https://eurofondy.gov.sk/program-slovensko/monitorovaci-vybor/komisia-pri-monitorovacom-vybore-pre-ciel-4/>

d.) Discrimination of Roma children in primary education

In previous years our NGO continued with intensive monitoring of segregation and other forms of discrimination of Roma children in primary education with particular focus on the region of eastern Slovakia. We advocated for necessary desegregation measures and conducted strategic litigation in this area.

On the basis of our monitoring findings, we argue that segregation of Roma children still remains widespread in Slovakia and continue to manifest itself in various forms. Roma children remain overrepresented in special schools for children with “mild intellectual disabilities” or special classes established within mainstream primary schools. Many Roma children remain to be segregated in mainstream classes within schools or in ethnically homogenous Roma-only schools often established close to residentially segregated Roma communities or which have gradually arisen due to *white flight* of non-Roma children to distant schools outside local neighbourhoods and other social factors. We also continue to document that education of Roma children in segregated primary schools and classes is commonly linked with lower quality of provided education in comparison to primary schools and classes attended by children from the majority.

The European Commission in April 2023 reported on advancing to the Court of Justice of the European Union infringement proceedings against Slovakia for failing to effectively address the issue of discrimination of Roma children in education and violating the EU Racial Directive.²² This development ultimately confirms that the Slovak Government has been unable to ensure Roma children equal access to education without segregation and as such, effectively fulfil the respective recommendation of the Advisory Committee in this regard from the previous monitoring cycle.

We note that ongoing criticism of the international human rights bodies, advocacy efforts of NGOs, tangible pressure of domestic courts resulting from successful litigation of our NGO as well as the infringement proceedings of the European Commission - arguably contributed to the increased efforts of the Government authorities in most recent years. The Government authorities generally acknowledge deeply embedded discrimination of Roma children in education, including widespread segregation and declares the importance of their elimination. Their commitment to address this issue is encompassed in the current national Strategy for equality, inclusion and participation of Roma till 2030 as well as its action plan till 2023-2024.²³ Moreover, The Recovery and Resilience plan of the Slovak republic contains particular goals and measures specifically addressing this issue. However, we claim that this declared commitment is still not sufficiently translated into introducing tangible measures, which would indeed be sufficiently funded and have a real potential to bring visible changes in practice.²⁴

From our perspective, the Government authorities remain reluctant to implement systemic and sustainable policies and measures supporting desegregation and inclusion of Roma children. Such measures require considerably higher investments from public sources when considering the current

²² Press release of the European Commission on this action is available at https://ec.europa.eu/commission/presscorner/detail/en/ip_23_2249

²³ Resolution of the Slovak Government No. 373/2002 on the first action plan for the implementation of the Strategy for an inclusive approach in upbringing and education for 2022-2024. Adopted on 1 June 2022. Available at: <https://rokovania.gov.sk/RVL/Resolution/20161/1>

²⁴ For comprehensible overview of the Government efforts in this area we particularly bring to the attention of the Advisory Committee the recent *Country report on Non-Discrimination 2024* published by the European Commission that was specifically developed by a lawyer working in our NGO. It contains critical analysis of the situation in this that fully translates opinion of our NGO in this area. Available at <https://www.equalitylaw.eu/country/slovakia>

magnitude of this problem in Slovak society and factual necessity to reform the whole primary educational system into more inclusive. They rather tend to focus on measures that have marginal or no impact on improving the situation, which demonstrates the introduction of the definition of school segregation into the Slovak school legislation by its amendment in May 2023.²⁵ We find it to be redundant and non-conceptual legislative step that does not have any significant potential to contribute to the elimination and prevention of school segregation. The segregation in education as a form of discrimination has been already defined by international law and recognised and interpreted by international and domestic courts.

Furthermore, the Government authorities are widely insufficient in supporting development and implementation of comprehensible desegregation plans, that would directly target the existing school segregation of Roma children at local levels, while coordinating and sufficiently funding such initiatives. In July 2024 the Ministry of Education launched the call for national project specifically aiming at development and implementation of local desegregation initiatives. It is meant to verify the solutions in this area and provide basis for the creation of a systemic and sustainable desegregation process.²⁶ While we consider this project to be a positive initiative - it clearly reveals the lack of sufficient commitment and engagement of the Government authorities in tackling school segregation. The project is financed from EU funds, without impacting the state budget. It should address the situation only in 10-15 localities and its overall financial structure and coverage arguably does not give a realistic chance to remove the existing school segregation. In fact, the project apparently focuses only on testing desegregation solutions, even without having clear goal to achieve school desegregation in selected localities.

We find it alarming that instead of significantly intensifying its desegregation efforts, the Government authorities recently supported solution, which addressed double-school operations in some of the Roma-only primary schools close to the marginalised communities – by expanding their capacities or built-up of new school buildings in these communities. In cooperation with the Slovak equality body we communicated to Ministry of Education and the European Commission that this approach will maintain the existing segregation and is contrary to antidiscrimination law and the EU law.²⁷ Our subsequent monitoring indicated that the Ministry of Education reconsidered the support for the expansion of segregated Roma-only schools in selected localities, which is positive. But in some other localities the allocation of EU funds for such expansion was arguably not stopped.²⁸ We also particularly noted that such initiative goes opposite to the landmark judgments of the Slovak Supreme Court that in recent two years confirmed ongoing failures of the Government authorities to tackle school segregation. The Supreme Court particularly found the Slovak Ministry of Education accountable for segregation of Roma children in an ethnically homogeneous schools in the vicinity of two disadvantaged Roma communities, while emphasizing that the Government authorities are responsible also for segregation that arose spontaneously and not with the purposeful intention of

²⁵ Act No. 182/2023 Coll. amending Act No. 245/2008 Coll. on Upbringing and Education (Schools Act) and on amendments and additions to certain laws as subsequently amended and amending and supplementing certain laws.

²⁶ Press report of the Ministry of Education on this pilot project is available in Slovak at its website <https://rb.gy/joi5ij>

²⁷ Our joint letter to the European Commission of December 2023 in this matter is available at: <https://rb.gy/9n6zk8>

²⁸ For additional details see Lists of the applicants that fulfilled the requirements of the Call for the elimination of double-shift operation of primary schools and the approved recipients from this call. Available in Slovak on the website of the Ministry of Education <https://rb.gy/6hhyc> Lists of the applicants that fulfilled the requirements of the Call for project support for the elimination of double-shift operation of primary schools the approved recipients from this call. Available on the website of the Ministry of Education <https://rb.gy/c7rdoi>

separating Roma children from majority children.²⁹ Moreover, the Regional Court in Prešov in February 2023 confirmed the illegal education of Roma children in special classes for intellectually disabled children at a primary school in Hermanovce and also found the State, represented by the Ministry of Education, responsible for their discrimination.³⁰ It should be emphasized that the state authorities did not fully acknowledge these final judgements so far and did not translate them into prompt and effective desegregation measures. We consider the position of the Ministry in these court proceedings inconsistent with the declared Governments' commitments, which is highly concerning.

We are particularly concerned by recently reported pilot project of the Ministry of Education aiming to tackle the segregation of Roma children from marginalized Roma community in a village Rakúsy - not by removing segregated school setting, but by reestablishing it into an ethnic school, reportedly providing education in the native - Romani language.³¹ This effort can be eventually interpreted as lawful and having foundation in the international human rights law. But we are deeply concerned that in the overall context of the long structural exclusion in education that Roma children experience in Slovakia – it will ultimately perpetuate existing inequalities. The details of this project are yet not available. However, it is obvious that the project will not lead to Roma children attending mainstream primary schools alongside majority children. We claim that there is a great risk that such transformation of the current form of segregated primary school into some form of ethnic school will further entrench the social exclusion of Roma children and will not provide them with a quality education, equal educational opportunities and will not be in their best interest. There is a great risk that such transformation will not support their horizontal and vertical mobility and will further keep them in a cycle of intergenerational poverty and marginalisation. We are of the opinion that this solution does not only perpetuates discrimination, but does not promote a spirit of tolerance and intercultural dialogue, mutual respect and understanding and cooperation between all persons living in our country, irrespective of their ethnic, cultural, linguistic or religious identity population – in line with Article 6 of the Convention. We claim that the Government shall alternatively focus on supporting incorporation of Romani language in mainstream schools in line with the recommendation of the Advisory Committee from the previous monitoring cycle.

We also observe the overall lack of Government efforts to address segregation of Roma children in the context of its close relationship with residential segregation of marginalised communities and, ongoing lack of access to basic infrastructure such as drinking water. For successful school inclusion of marginalised Roma children such holistic approach addressing inequalities of marginalised Roma in a complex manner is absolutely necessary. While the current Strategy for equality, inclusion and participation till 2023 recognises such approach, we argue that its implementation in practice remain insufficient. Importantly, the Government authorities must necessarily ensure the implementation of the Strategy also in those localities, where local municipalities do not cooperate and largely ignore social exclusion and inequalities faced by marginalized Roma community.

²⁹ These judgments resulted from strategic litigation of our NGO. Judgement of the Supreme court of the Slovak republic of 15 December 2022. Ref. no: 5Cdo/102/2020, Judgement of the Supreme court of the Slovak republic of 12 July 2023. Ref. No: 5Cdo/220/2022. Both judgments are available at <https://poradna-prava.sk/en/strategic-litigation/>

³⁰ The judgment resulted from strategic litigation of our NGO. Judgement of the Regional Court in Prešov of 28 February 2023. Ref. no: 20Co/21/2022-680. Available at <https://rb.gy/dk59km>

³¹ Press report of the Ministry of Education on this pilot project, including the memorandum providing additional details is available in Slovak at its website <https://rb.gy/7dawtr>

We encourage the Advisory Committee to raise in its Opinion the necessity to distribute national, regional and local funds for education on the development and realisation of complex desegregation projects and address segregation of Roma children in education, accounting for its close relationship with housing segregation and discrimination of Roma in other areas.

We also request the Advisory Committee to give particular attention to the reported pilot project of the ethnic school in a village Rakúsy announced by the Ministry of Education and to provide its statement on its compliance with the Convention.

e./ Lack of effective access to justice in cases of racial discrimination

From the adoption of the domestic Anti-discrimination Act in 2004, our NGO has been actively engaged in representing Roma experiencing discrimination before courts. On the basis on this extensive experience, we claim that the Slovak Government fell short of addressing shortcomings in the implementation of the available anti-discrimination legislation, which the Advisory Committee raised in its previous Opinion.

Our monitoring and legal engagement in this area confirms that discriminated Roma rarely defend themselves by legal means. The research report that our NGO published in cooperation with partners in November 2022 shows that reasons for that are manifold, ranging from lack of information about legal remedies and possibilities of legal aid, fear of victimisation, lack of trust in justice system to overall social deprivation and poverty forcing them to focus on other daily issues.³² Ongoing shortcomings in the implementation of anti-discrimination legislation are also among the factors, discouraging them from taking legal action. Even after two decades there is still minimum positive stories of Roma, who effectively achieved adequate redress before court for discrimination, which would encourage other Roma to pursue their equality rights.

We continue to keep observing the following barriers in access to justice, which have been symptomatic over years:

- Shortcomings in the interpretation of the provisions of the Anti-Discrimination Act and in the overall legal assessment of the claimed discrimination,
- Widespread reluctance of courts to determine racial discrimination and if this is the case, the application of reversed burden of proof continues to fall short of a legal consistency;
- The courts tend to downplay the seriousness of racial discrimination, overlooking or not understanding its *prima facie* impact on human dignity. In some instances there remains a certain bias or preoccupation since they deal with cases of discrimination against Roma minority;
- Excessive length of the judicial proceedings.

On the positive side, in recent years we observed that Slovak courts generally tend to increasingly award financial compensation to discriminated persons for non-pecuniary damages so that it is adequate. Furthermore, we generally observed the increased engagement of the Slovak equality body - The Slovak National Centre for Human Rights – in addressing discrimination of Roma. However, we argue that it remains passive as for representing discriminated persons, including Roma, in courts proceedings and does not sufficiently use its precious legal competence in this regard, including the

³² See 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, p. 12-15. Available at: <https://bit.ly/3Gku9oR>

use of the legal institute of *actio popularis*, enabling to address structural discrimination without having an individual claimant.³³

We encourage the Advisory Committee to recommend the Slovak Government the necessity to significantly intensify its effort in removing barriers for people facing racial discrimination and make sure that the Anti-discrimination Act is fully implemented in practice.

f./ Discrimination of marginalised members of Roma minority in access to digital technologies

Within ongoing field monitoring of our NGO in marginalised Roma communities we widely document a widespread problem of unequal access of Roma to digital technologies – specifically the Internet, computers and smartphones. Limited access to these technologies or lack of skills in using them put them at an increasing disadvantage in various areas of life. The existing disadvantages in this area came to the foreground during the pandemic of Covid-19 in Slovakia, particularly in connection with unequal access of disadvantaged Roma children to distant education via the Internet or barriers for disadvantaged Roma to register for vaccination against Covid-19 via the Internet.

In November 2023 a domestic court decided in favour of Roma girl from a marginalized community in Jarovnice who sued the Slovak Ministry of Education - with legal support of our NGO - for failing to provide her with equal access to online distance learning during the Covid-19 pandemic. This judgment highlighted wider systemic disadvantages in access to digital technologies and the internet faced by marginalized Roma communities as well as some groups in Slovak society such as older people in Slovakia.³⁴ For another instance, in recent months we documented measure of national railway company that introduced new system for ticket purchases that affected several marginalized communities located close to a particular railway track. People could no longer buy the train ticket at the station at the ticket machine or from the conductor on the train, but they had to purchase it via SMS or online through one of the railway apps.³⁵ Following our written motion, the Slovak equality body in May 2024 concluded that this measure might constitute indirect discrimination against disadvantaged groups.

In 2023, the Parliamentary Assembly of the Council of Europe in its resolution on the digital divide recommended the Member States “to move from fully paperless to fully accessible public services, including by maintaining non-digital access to public services wherever necessary to ensure equal access to public services, their continuity and their adaptation to users”.³⁶ We do not document any Government's effort that would reflect this resolution. We are concerned that digitalisation in the Slovak society keeps rising and increasingly affects vulnerable groups including marginalised Roma communities, which gives rise to their discrimination.

³³ For additional analysis concerning the engagement of the Slovak equality body see 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. See also detailed chapter on the Slovak equality body in the *Country report on Non-Discrimination 2024* published by the European Commission that was specifically developed by a lawyer working in our NGO. <https://www.equalitylaw.eu/country/slovakia>

³⁴ For details see press release of our NGO on this court judgment. Available in English at <https://rb.gy/ka163s>

³⁵ See 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, p. 12-15. Available at <https://bit.ly/3Gku9oR>

³⁶ Parliamentary Assembly of the Council of Europe, 2023. Resolution 2510: *Closing the digital divide: promoting equal access to digital technologies*.

We encourage the Advisory Committee to recommend the Slovak Government to recognise digital inequalities faced by marginalised Roma communities and other vulnerable groups in the Slovak society and effectively challenge them.

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