



**Impact of the Section 3(4b) of the Act No. 383/2013 Coll. of Laws on
Birth Allowance and Multiple Children Birth Allowance in Slovak
republic on rights of marginalised Roma women and children**

Field research report

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Information about NGO submitting this research report:

The Center for Civil and Human Rights (Poradňa pre občianske a ľudské práva, "Poradňa") is an independent non-governmental grass-root NGO based in Košice, Slovakia. From 2002 we have addressed discrimination against Roma minority in Slovakia in various areas of public life. We have also been active in the protection of reproductive rights of Roma women and protection from police ill-treatment. We pursue our mission by human rights monitoring, strategic litigation as well as domestic and international advocacy activities. We closely link our 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/>

Key findings

- The cases of marginalised Roma women that leave a health care facility after the childbirth in a manner contrary to the provision of a special regulation on the discharge of a person from inpatient health care - continue to be present in Slovakia.
- The fundamental reason behind the decision of the marginalised Roma women to leave a health care facility after the childbirth in a manner contrary to the provisions of a special regulation on the discharge of a person from inpatient health care – is the necessity to take care of their other children at home. In some cases, this reason can also be accompanied by segregation and ill-treatment that marginalised Roma women continue to experience in some maternity wards in Slovakia.
- Roma women use the state birth allowance for covering basic necessities for their newborn. If the allowance is not granted to them – they are unable to make use of the allowance for buying these necessities. It creates additional significant financial burden on them and has adverse impact on socioeconomic situation of their children and whole their families.

The results of the research support our legal standpoint that the provision of the Section 3(4b) of the Act No. 383/2013 Coll. of Laws on Birth Allowance and Multiple Children Birth Allowance has discriminatory impact on marginalised Roma women and their children.

Introduction

Roma ethnic minority is one of the most marginalized groups in Slovakia, facing manifold and complex inequalities in many aspects of life. Manifestations of discrimination that Roma individuals experience in Slovakia have been widely monitored and documented.¹ However, the Slovak Government's authorities have been insufficient to take effective measures that would effectively ensure equal enjoyment of their human rights. Ongoing lack of Slovak Government's effort in this area has been repeatedly recognized by a range of international human rights institutions including UN Treaty monitoring bodies.² Committee on Economic, Social and Cultural rights in its recent concluding observations raised a wide range of shortcomings concerning the protection of human rights of marginalised Roma, including their overall serious material deprivation, insufficient access to adequate housing, discrimination of Roma children in education and discrimination of Roma women in reproductive health care.³ It should be emphasized that Roma women in Slovakia are in a particularly vulnerable position experiencing severe multiple, and intersecting, forms of gender and racial discrimination.⁴

The Center for Civil and Human Rights (Poradňa) - Slovak grass root NGO - for more than two decades has been monitoring discrimination and other human rights violations against Roma in Slovakia. On this basis, we argue that the Slovak republic as a State Party of all major international human rights treaties not only violates its positive legal obligation to implement measures that would effectively eliminate and prevent discrimination of Roma minority. It also introduced to the Slovak legislation a number of provisions particularly in the area of social security that arguably have disproportionate impact on Roma women and children living in marginalized communities, exacerbate their dire social situation and ultimately constitute their discrimination.⁵ Their discriminatory impact has been recognized by the Committee on the Rights of the Child that in its recent concluding observations on the combined third to fifth periodic report on Slovakia expressed particular concern over discriminatory legal provisions which have made the payment of child benefit, parental care allowance and childbirth allowance conditional on compliance with preventive measures aimed at reducing child criminality, securing compulsory school attendance and supporting responsible parenthood have been largely ineffective. The Committee stressed their negative impact on marginalised Roma families

¹ E.g. European Union Agency for Fundamental Rights (2022), Roma in 10 European countries – Main Results. Available at: <https://fra.europa.eu/en/publication/2022/roma-survey-findings>. 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://bit.ly/3Gku9oR>, Center for Civil and Human Rights, Minority Rights Group Europe, EPEKA Slovenia. Equality in accessing justice – Removing barriers for Roma in pursuing their rights in discrimination cases, March 2024, pp. 8–9. Available at <https://rb.gy/voyu53>

² E.g. Press release following the monitoring visit of the Commissioner for Human Rights of the Council of Europe. Slovak Republic: urgent need to address human rights of Roma and adopt an intergenerational approach. Available at <https://rb.gy/jo52f1>. Committee on the Elimination of Racial Discrimination, Concluding observations on the thirteenth periodic report of Slovakia, CERD/C/SVK/CO/13, September 2022.

³ Committee on Economic, Social and Cultural Rights, Concluding observations on the third periodic report of Slovakia, E/C.12/SVK/CO/3, November 2019.

⁴ See Joint Slovak NGO submission to the Committee on the Elimination of Discrimination against Women concerning shortcomings in the implementation of the Convention in Slovakia, April 2023, p. 10-13. Available at <https://rb.gy/kxhj9y>

⁵ We raised and analysed these provisions in the report published in 2015 titled „Monitoring of selected legislation and analysis of its non-compliance with anti-discrimination law.” Available only in Slovak language at <https://rb.gy/hqhr1k>

and their children.⁶ These provisions are still in force and the Slovak Government rejects to recognize their discrepancy with the domestic and international anti-discrimination legislation.

Out of these provisions, our NGO made a long and substantial legal and advocacy efforts to achieve particularly the amendment of the Section 3(4b) of the Act No. 383/2013 Coll. of Laws on Birth Allowance and Multiple Children Birth Allowance. This regulation generally sets the conditions for providing birth allowance and multiple children birth allowance in Slovakia, including conditions under which these allowances are provided to eligible persons. Until 30 June 2014 the disputed provision specifically stipulated that eligible persons were not entitled to receive birth allowance when leaving health facility after giving birth without the consent of the health care provider. As a result of the legislative amendment, its current wording (from 1 July 2014 onwards) specifically stipulates that eligible persons are not entitled to receive birth allowance if they leave a health care facility after the childbirth in a manner contrary to the provision of a special regulation on the discharge of a person from inpatient health care.⁷ The referred provision of a special regulation is particularly enacted in the Section 9(6) of the Act No. 576/2004 Z. z. Coll. of Laws on health care, services related to the provision of health care and on amendment and supplementation of certain acts. It particularly sets out that the health provider is obliged to discharge the person from inpatient health care if the grounds for taking the person into inpatient care cease or at the person's own request or at the request of his or her legal representative, if, despite having been duly instructed, rejects inpatient care. The amount of the birth allowance in Slovakia in 2024 is 829,86 EUR for a child born from the first birth to the fourth birth and 151,37 EUR for a child born from the fifth and higher birth. We hold a legal opinion that the change of the wording of the disputed provision in 2014 has not removed its disproportionate impact on Roma women and children living in marginalized communities and consequently its discriminatory nature.

Our initial field research in marginalised in communities in 2006⁸ as well as survey among the Slovak hospitals in 2007⁹ showed that this provision affected almost exclusively Roma women from marginalised communities, who increasingly leaved hospitals after the childbirth without a prior consent of a health care provider. As a result, the birth allowance was not granted to them. Given the period when this research was conducted, it referred to the previous wording of the disputed provision.

The results of the conducted field research and follow-up fact-findings from previous period led to the legal action of our NGO against the State Party. In December 2010 we filed an *actio popularis* lawsuit under the domestic Anti-Discrimination Act with the District court Bratislava I against the Slovak republic represented by the National Council of the Slovak republic, claiming discrepancy of the disputed Section 3(4b) with the domestic Anti-discrimination Act. We continued to claim its discrepancy the domestic Anti-discrimination Act also after the change of its wording in 2014.

⁶ Committee on the Rights of the Child, Concluding observations on the combined third to fifth periodic reports of Slovakia, CRC/C/SVK/CO/3-5, July 2016, para. 42-43.

⁷ Further in the research report we alternatively use the shortened formulation "contrary to the disputed provision."

⁸ Field survey on the impact of Section 3(4) of the Act No. 471/2005 Coll. amending Act No. 235/1998 Coll. on the contribution to on the childbirth allowance for parents with three children born at the same time or more children, or who have repeated births within a period of two years twins and amending other acts, as amended and amending certain Acts. 2006. Available in Slovak at <https://rb.gy/gg7dy6>

⁹ A survey aimed at assessing the ethnicity of women parents who left the hospital after the childbirth without the prior consent of the attending physician in the area of eastern Slovakia. 2007. Available in Slovak at <https://rb.gy/r5yibs>

In lengthy proceedings general courts dismissed our lawsuit and in April 2024 the Constitutional Court of the Slovak republic dismissed our related constitutional complain.¹⁰ Following the exhaustion of all domestic legal remedies - we decided to submit individual communication to one the UN Treaty Monitoring Bodies.

This development prompted the need to conduct field research that would provide the Committee the comprehensible insight into current impact of the disputed provision on marginalised Roma women and their children in Slovakia. The results of the research are made public and can also be used for broader advocacy activities concerning the given human rights issue.

Research aim and methodology

This report is a result of the field research conducted by the Centre for Civil and Human Rights (Poradňa) in a period July – September 2024. The fundamental aims of the research were to explore:

- a.) the current incidence of the cases when Roma women are not granted the birth allowance due to leaving a health care facility contrary to the disputed provision,
- b.) current reasons behind decisions of affected Roma, who left a health care facility after the childbirth contrary to the disputed provision,
- c.) current impact of not granting the birth allowance on the affected Roma women, particularly on their socioeconomic well-being related to the realisation of their social and economic rights.

The qualitative research consisted of 24 semi-structured interviews with Roma women living in marginalized Roma communities, who in the last three years gave birth and left. The interviews were conducted by human rights monitors – Roma women activists working in the Center for Civil and Human Rights in 9 marginalized Roma communities in Eastern Slovakia that fall under catchment areas of 6 different health care providers – hospitals.

Overview of the included hospitals and their founders:

- University Hospital with Polyclinic J. A. Reimana Hospital in Prešov – founded by the Ministry of Health of the Slovak Republic (state-run hospital)
- University Hospital of the L. Pasteura Košice - founded by the Ministry of Health of the Slovak Republic (state-run hospital)
- AGEL Hospital in Košice – Šaca – founded by AGEL group (private non-state hospital)
- AGEL Hospital in Krompachy - founded by AGEL group (private non-state hospital)
- Ľubovňa Hospital in Stará Ľubovňa – founded by Prešov Self-Governing County and the city of Stará Ľubovňa (municipality non-state hospital)
- Hospital with Polyclinic St. Jacob in Bardejov – founded on the basis of the decision of the Prešov Self-Governing County. Co-funders are by the Ministry of Health of the Slovak republic and the non-profit organisation HUMANITA (municipality non-state hospital)

¹⁰ For overview of the court proceedings and the reasoning of the Constitutional Court see flash report of the European Commission developed by a legal representative of our NGO in this legal case. Available at: <https://www.equalitylaw.eu/downloads/6117-slovakia-indirect-discrimination>

The research team actively searched and identified the targeted Roma women for the interviews - prior field visits as well as in the field.

The research covered different Roma communities falling under the catchment area of different hospitals in order to ensure larger geographic diversity and consequently a greater testimonial value of the results.

The fact that the interviews were conducted by Roma women activists contributed to gaining trust of interviewed Roma women in marginalised Roma communities and their willingness to share their experience. Additionally, it enabled to conduct interviews in Romanes – native language of the Roma women, if they preferred it.

The research documented exposures of particular human rights violations and in this context, it respected principles of impartiality, confidentiality, accuracy of documented information, gender-sensitivity and security of all the individuals.

For retaining full confidentiality of the interviewed women, their first name used in relation to quotations were changed. The linked localities to the quotations are real, based on the consent provided by the interviewed women.

Research results

Current Incidence

The researchers identified and interviewed 24 Roma women who left a hospital after the childbirth contrary to the disputed provision in the last three years. Out of all interviews, 11 interviewed Roma women left the hospital in the current year 2024 and 9 of them in the previous year 2023.¹¹ It confirmed that the monitored incidents continue to exist in Slovakia and concern Roma women from marginalised communities.

The research also confirmed the incidence is not linked to only particular marginalised Roma community and/or hospital. They occur in various marginalized Roma communities and in the context of various nearby hospitals (9 marginalized Roma communities under 6 hospitals).

Additionally, the researchers visited also marginalised Roma communities where the Roma women did not report the loss of the given birth allowance. Roma women living there particularly explained that even though they might have reasons to leave hospitals after the childbirth – attending physician in their catching hospitals have understanding for them and do not report it as “escape” to the authorities who decide on the allowance. As a result, they were not deprived of receiving the child allowance.

Given its qualitative character, the research did not have a potential to provide wider statistic information of the prevalence of the monitored incidence in Slovakia.

Reasons behind leaving hospital

¹¹ In one case the interviewed woman left the hospital in the last three years, but the exact year was not specified.

The research showed that the widely dominant reason of why the interviewed Roma women left hospitals after the childbirth– is the necessity to take care of their other children at home.

“My children were sick, I have 4 children. I had one child who was sick, it had a concussion. Four years ago I also left because of my children.”

Jana, Moldava and Bodvou

“I have small children at home. One child does not walk. She has weak legs. She is 2 years old and just drags herself on the ground. My husband works part-time to earn at least something...”

Viera, Krompachy

“Because I had kids at home and no one to take care of them. There was no one to cook for them. There was no one to get them ready for school. My husband goes to work.”

Klára, Jasov

The research also showed that the interviewed Roma women widely knew that when they leave hospital contrary to the disputed provision, they will not receive birth allowance. They knew it mostly from the same previous experience of leaving hospital after their previous childbirths, from the other women from their community and in a few cases also from the medical personnel. It indicates that the necessity to take care of their children at home is a matter of great urgency given the fact they make conscious decision to give up the birth allowance, which is substantial amount of money for them. As we already reported above, the amount of the birth allowance in Slovakia in 2024 is 829,86 EUR for a child born from the first birth to the fourth birth and 151,37 EUR for a child born from the fifth and higher birth. The significance of this amount for marginalised Roma women and their children can be demonstrated through the scope of amounts of the other state social benefits in Slovakia. The basic material need state allowance for eligible persons in 2024 is 84.90 EUR per month for an individual, 161,40 per month if an individual with a child or up to four children. Additionally, the basic state allowance for one child is 60 EUR per month. Notably, the amount of the birth allowance exceeds the minimal monthly salary in Slovakia, which in 2024 is 750 EUR in Slovakia.

The given dominant reason of leaving the hospital after the childbirth reported by the interviewed Roma women is strongly exacerbated by the fact that there is widespread ongoing common practice in Slovakia to keep women after the childbirth in hospitals 4-5 days.

Notably, two of the interviewed Roma women reported that they left a hospital reportedly after communication with the medical personnel, because they already knew that they would not be eligible for birth allowance whatsoever, due to acting contrary to related provision of the Section 4(a) of the Act No. 383/2013 Coll. of Laws on Birth Allowance and Multiple Children Birth Allowance. It particularly conditioned the eligibility for the birth allowance by attending monthly preventive check-ups with a doctor specialising in gynaecology from the fourth month of pregnancy until the childbirth.

“The doctors knew I was going home. The doctors said it was up to me whether I went home or not. My husband worked. My son was home alone at 3 years old. The doctors told me that if I left I wouldn't get money, but I had to because of my son.”

Mária, Boliarov

The field researchers also specifically asked the interviewed Roma women about their experience of how the medical personnel treated them during their hospitalisation and whether they were placed at the segregated “Roma only” room. The question was included in the research interview due to the fact that ill-treatment and segregation of Roma women at maternity wards have been long documented by human rights monitoring of our NGO. We reasonably assumed it could be among the reasons behind leaving hospital by Roma women.

Research showed that most of the interviewed Roma women were not satisfied how the medical personal treated them. In addition, practically all of them were placed in segregated “Roma-only” room. An exception was one woman, who was placed alone in a single room, because “Roma-only” rooms were full at the time of her stay in the hospital. However, only 1 of the interviewed Roma women raised the experienced ill-treatment as dominant reason behind leaving hospital by her and 1 Roma woman raised it as co-reason. It indicates that despite Roma women experience ill-treatment - necessity to provide care for their other children at home is a fundamental reason of them leaving hospital earlier after the childbirth.

“They weren't good to me... when the pain came on, they were mean to me and yelled at me. So they acted like I was a dog... I had to leave the hospital because they called me a gypsy and why do we have so many children.”

Oľga, Jarovnice

The research results showed no indication that the reported amendment of the disputed provision in 2013 has influenced and altered the behaviour of the medical personnel and the Roma women, who decide to leave hospital in a manner contrary to the disputed provision. The interviewed Roma women did not report that they had been informed or offered the possibility to leave the hospital earlier upon the signature of the informed consent after being duly instructed. It can arguably indicate ongoing shortcomings in providing information by the medical personnel to marginalised Roma women and overall failures related to ensuring informed consent. It should be noted that structural failures in ensuring informed consent with medical interventions in Slovak hospitals have been widely documented over years.¹²

Impact on socioeconomic well-being

All the interviewed women stated that that they would use the birth allowance for buying basic necessities for their newborns and widely implied that not receiving the birth allowance negatively

¹² See E.g. Center for Civil and human rights (Poradňa) and Centre for Reproductive Rights (2017). Vakeras Zorales – Speaking Out: Roma Women’s Experiences in Reproductive Health Care in Slovakia, p. 20. Available at <https://rb.gy/kezhvn>

affected their financial situation. Some of the women implied that they had to secure these basic necessities from their other financial sources. These findings should be seen through the scope of their overall adverse financial situation of their families. Roma living in marginalised communities face cross-generational poverty and discrimination in employment and in other public areas.

A few of the interviewed women stated that they managed to secure basic necessities for their newborn from the low salaries of partners/husbands, provided they have any low qualified job. A few of them stated that they had to cover the necessities for the newborn from regular child benefits belonging to the other children. From these statements it is obvious that not receiving birth allowance created additional significant financial burden on marginalised Roma families.

In addition, the interviewed Roma women generally have more children and need sufficient finances take care of them as well. The research essentially showed that none of the interviewed Roma women left hospitals earlier after the childbirth contrary to the disputed provision of her very first child. They all had at least one child at home in a low age who have to be cared for, while more than half of the interviewed Roma women already had three or more children at home during they stay in hospital.

The above described findings clearly suggest that not receiving birth allowance for the newborns of the interviewed women had widely negative impact on socioeconomic well-being of the newborns themselves as well as their other children.

"They could have everything they need [twins]. They are two, so they need infant food, diapers all 2 times and I have other kids who need them too. I also go to health checks so I have to pay for the car too. The money I need it is not for me but for the kids and they need everything 2 times. My husband's whole paycheck 600€ went to the kids when I brought them home. Because I have these kids after 10 years. So I had nothing for them like after the previous kids. I go with them all the time to the doctors as one child has a heart murmur and the other has an enlarged kidney. So they would need that money."

L'uba, Bardejov

"So I had to buy with my regular child benefits what I got for those 2 kids. If I'd gotten the maternity allowance, I'd have bought a stroller, clothes, diapers."

Marta, Jarovnice

"I'm sorry that I won't get the money because I left the little one [in hospital]. If I got it I could buy him everything he would need – diapers, milk, a stroller and especially a crib."

Anna, Jarovnice

"He [son] didn't have a stroller first and I only bought it lately... He didn't have clothes."

Petra, Moldava and Bodvou

Conclusion

The conducted research showed that the cases of marginalised Roma women who leave hospitals after the childbirth in a manner that results to withdrawal of the child allowance for their newborn children – continue to exist in Slovakia. The fundamental reason behind the decision Roma women to leave hospitals after the childbirth in the given manner is necessity to take care of their other children at home. The Slovak Government introduced the disputed legal provision in order to achieve a specific and allegedly legitimate aim. However, the results of this research showed that the means in achieving this aim have disproportionate impact on well-being and right to social security of marginalized Roma families and their children. We believe that the results of this research provided the respective UN Committee a comprehensive insight into the current impact of the disputed provision on marginalised Roma communities and enjoyment of their rights.

