



THE CENTER FOR CIVIL AND HUMAN RIGHTS
BI-ANNUAL REPORT 2008 – 2009

Poradňa pre občianske a ľudské práva

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Mission

The Center for Civil and Human Rights (Poradňa pre občianske a ľudské práva, further “Poradňa”) is a nongovernmental, non-profit, human rights organization, based in Košice, Slovakia, founded in 2001. It focuses on the protection of human rights in Slovakia with particular emphasis on the protection of the rights of minorities and protection from discrimination.

Since its establishment, Poradňa has been paying attention to the problem of discrimination against the Roma communities in Slovakia in various areas, especially with regard to access public services, employment, housing, education and health care. Moreover, it has been working on issues related to the protection of reproductive rights, specifically, it has been trying to eliminate the practice of forced and coercive sterilization on Roma women in Slovakia.

Poradňa implements its goals via various activities, especially through monitoring and research. It also conducts domestic and international advocacy, proposes legislative changes and participates in the legislative processes. Further, it organizes educational activities on protection from discrimination for legal professionals, other nongovernmental organizations and disadvantaged communities. Poradňa also provides legal counseling in the area of discrimination and litigates strategic cases of discrimination in Slovak courts, including Slovak Constitutional Court and European Court of Human Rights in Strassbourg.

Foreword

During the period covered by this report, Poradňa usually had several law cases, where we were on the side of those who's rights were violated. Court proceedings are serious and long affairs, and the violation of human rights are no exception. We have had a number of positive results in the past few months, which we are pleased with.

We are especially happy with a verdict from The European Court of Human Rights in Strassbourg in april 2009, where we were legally suporting 8 Roma women. The Court ruled that The Slovak Republic violated their rights according to The European Convention on the protection of human rights, when they did not allow them to make photocopies of their medical records. Roma women wanted to have access to their medical records to find out if the cause of their infertility is due to sterilization, which could have been done without their knowledge during pregnancy. Hospitals, when found out, stopped women and their representatives having access to their medical records immediately. The ruling from The European Court was the first ruling on access to medical records by patients. We believe that this ruling will have an impact on other cases which violate the rights in this area, not only in Slovakia, but also other countries in this region. We continue working on cases of forced and coersed sterilization of Roma women. We are trying to force an independent investigation into the practice of forced sterilization in Slovakia will be correctly and independently verified.

Our court cases have moved forward, especially those which involved discrimination against the Roma minority in the area of accessing public services. In three of our court cases, our clients have received a well deserved apology and financial compensation for injury due to discrimination through an friendly out of court settlement. Implementing the antidiscrimination law is still not easy and its interpretation in courts is not perfect at all, but we believe, that often practical use of this law will make an effective instrument for protection against discrimination.

We have started to concentrate more intensively on discrimination in education. Enduring inequality for Roma children in education and their segregation needs special attention. We work especially hard to get a strategic case in this problematic area to the Slovak Court as soon as possible.

We would like to thank everybody who has helped and supported us. Passion for protecting the rights of the most fragile is always with us. We don't know what the new year will bring us, but we know, that every success and failure will be a good lesson.

Andrea Mitrová
Executive director
Center for Civil and Human Rights

Programs and Activities

During the years 2008 – 2009* we worked in two important project areas:

We continued to pay attention to the manifestation of unequal treatment of the Roma minority in Slovakia. Our **Equal Opportunities Program** contains practical use of legal means against discrimination policies and other anti-discrimination activities.

Our **Reproductive Rights Program** was working on coerced and forced sterilization of Roma women. We continued legally representing women, who were illegally sterilized in civil court proceedings, in criminal proceedings, Constitutional Courts and the European Court of Human Rights.

EQUAL OPPORTUNITIES PROGRAM

Our work in the area of protection from discrimination contained different interrelated activities, such as monitoring cases of discrimination, providing legal counseling, advocacy or activities to increase awareness of protection from discrimination. We also provided legal representation in strategic cases of discrimination for victims under the anti-discrimination law.

These activities have been pursued in two bigger projects. In April 2008 we started the two year anti-discrimination project entitled „**Another Strike Against Discrimination**“ supported by OSI, Budapest. In April 2009 we started an 18 month long project entitled „**The Implementation of Slovak Anti-discrimination Act at Courts – Practice and Perspective**“, which is financed by Financial mechanism EHP, Financial mechanism Norway and from state budget of Slovak Republic. Its mediator was the Open Society Foundation, Bratislava.

Monitoring and increasing legal awareness of discrimination

During the period covered by this report we visited Roma communities in the areas of Eastern Slovakia and the aim was to identify cases of discriminatory treatment with the possibility of further solutions.

During the period January – March 2009 we have done field monitoring focused specifically on statements of social segregation of the Roma minority by village councils. We discussed the identified problems with mayors in the chosen villages during meetings. The aim was to increase sensitivity of village communities towards the problem of Roma discrimination.

During the period April – September 2009 we have done field monitoring focused specifically on identifying cases of discrimination and segregation in education to initiate strategic court cases in this area.

Visits to communities were tied in with increasing awareness of discrimination and possibilities for the protection of the target group as well as with providing legal counseling. The source of information about discrimination cases were also the media, which we monitored regularly.

* Annual report covers the period from 1.7.2008 – to 31.12.2009

Provision of Legal and Social Counseling

During the period covered in this report, we have continuously provided legal counseling in discrimination cases. This was done via several means: directly in the field, by phone, by e-mail or in consultation meetings at the Poradna office. We have been also regularly approached with requests for advice in other areas. In cases not concerning discrimination, we provided contacts to other organizations and institutions that are specialized in the particular topics and may provide assistance.

Testing experiments

We conducted testing experiments (insitu tests) in selected cases of possible discriminatory practices. The essence of these testings was to create comparable situations in the place where discriminatory treatment happened with the main goal of gathering evidence for future court proceedings. We did tests in especially chosen cases of discrimination in access to public services (pubs, restaurants, swimming pools). We also cooperated on some test controls of Slovak Trade Inspections, which had been made based on our initiative. In 2009 we started to develop the possibilities of using this method in education and we have done first three tests regarding not accepting Roma children in nurseries.

Strategic litigation in cases of Protection from Discrimination

Strategic litigation of Protection from Discrimination

During the period covered by this report we continued to mediate legal representation of our clients in court proceedings, in chosen discriminatory strategic cases on a basis of ethnicity. We see discriminatory litigation as way of gaining adequate compensation for victims who have been caused injury and an important form of preventive measures against further violations in society. Through the initiation of legal proceedings we want to contribute to a better implementation of antidiscrimination law in Slovak courts.

Overall, we provided legal representation for 21 clients. The proceedings occurred at first instance courts and at appeal courts. In two cases, appeal courts ruled against our clients, so we used alternative means such as appeal to the Supreme Court of the Slovak Republic and/or Constitutional Complain to the Constitutional Court of Slovak Republic

Some of our cases are still pending with the appeal courts.

In one court proceeding, we argued the illegality of specific provisions in the law of child birth allowance, when the allowance was taken from the mother after childbirth when she left hospital without the consent of the doctor. In this case we are opposing indirect discrimination against Roma women. The court ruled in favour of Roma women and the Office of Work, Social Affairs and Family subsequently paid the childbirth allowance to the Roma women. At the same time, paradoxically, the court did not interpret the case in the light of indirect discrimination which we consider to be inadequate.

Examples of court proceedings in cases of Discrimination

The case of the Medzev pub

In March 2009 the proceedings against a pub owner of ethnic discrimination were brought to a halt by a friendly out of court settlement. A Roma customer took the pub to court, when in the end of the year 2005 he was not served in a local pub. He was told by a waitress that „those like him“ would not be served, as the owner told her not to do so. In March 2007, the District Court in Košice ruled in favour of the Roma customer and ordered the owner both to apologize to our client and also to pay him financial compensation for the discriminatory treatment. The owner of the pub appealed against this decision and court proceedings continued at the Regional Court in Kosice. In the end both sides agreed on an out of court settlement, part of which was an apology by owner of the pub and financial compensation. The initiation for the friendly out of court settlement came from discriminated against Roma customer as a goodwill gesture to improve relations between the Roma minority and the majority of the town in future. He decided to give his financial compensation to charity.

Case of the pub in Lucenec

In October 2009 court proceedings against a pub owner in a case of ethnic discrimination were brought to a halt by a friendly out of court settlement in the town of Lucenec. The incident occurred in July 2008 in a pub in Lucenec, when a Roma consumer visited it with his granddaughter. When they entered the pub, where he used to come regularly before, they refused to serve him with explanation, that the owner forbids waiters to serve Roma customers. The Roma customer took the owner of the pub to the court for discrimination. During the proceedings the owner of the pub apologized for the incident. He offered the Roma customer an official apology and financial compensation of 200 euro. Roma customer agreed to an out of court settlement.

The case of maternity benefits

According to Poradňa's analysis, Article 3 para 4 of the Law on Maternity Benefits (the Law No. 235/1998 of the Coll., as amended by the Law No. 471/2005) violates the provisions of the anti-discrimination legislation prohibiting indirect discrimination. According to this analysis, when a new mother after childbirth leaves the hospital without prior consent from the doctor, she loses her entitlement to maternity benefit. The provision is targeting Roma women who are leaving the maternity wards after childbirth (for various reasons, e.g. due to the need to provide care for their other children or due to the racially hostile environment in hospital) and although they later come back to collect their children and take care of them, they forfeit the right to maternity benefits. We believe that such requirements are not objectively justified and have a negative final effect on newborn children, whose needs are to be covered by this benefit. Although the aim of this law might be legitimate (e.g. to reduce the health risks for a mother), the measures in achieving this aim are disproportionate and unnecessary. In the context of existing practice, we represented Roma clients, who had not been paid maternity benefits and we disagreed with the unjust proceedings of the administration. The courts ruled in favour of our clients and agreed that the administrative decision was illegal. In November 2009 the Slovak Supreme Court upheld the case of one of our clients, which declared that the practice of the Office of Work, Social Affairs and Family had not been in accordance with law. In light of this ruling, our client was paid her maternity benefit. However, the courts did not deal with indirect discrimination, so in this case we considered other legal options.

Legal representation in criminal proceedings

We provided legal representation and services to selected clients in criminal proceedings regarding ethnic discrimination. In most of these proceedings, an investigation was initiated to ascertain whether there had been discrimination against the Roma minority, committing crimes such as defamation or incitement to racial or ethnic hatred. In one case, in June 2009 in Vranov nad Toplou, the District Court deliberated from accusation the mayor of Vysny Kazimir, who was charged with the offense of incitement of national, racial and ethnic hatred. The case concerned the non-admission of the Roma population to a local natural swimming pool in 2007. Prosecutors appealed against the District court's decision and the case is now pending before the Regional court.

Administrative proceedings

In the respective period, we initiated several administrative proceedings with various administrative bodies. We addressed the Slovak Trade and Labour Inspectorates (SOL) and informed them of discrimination against Roma customers in access to goods and services in specific locations. Some of them were shown to be justified on the basis of the checks that SOL made on those sites. For example, in October 2009 in Presov, the Inspectorate decided implement the Consumer Protection Act in the case of the Roma in the town of Lipany. During the inspection of one local restaurant, staff offered drink to Roma customers only in plastic cups and consequently refused to serve them. SOL gave the owner a fine, but the owner appealed against the decision.

Cases of police violence

In the time covered by this report we were working on a few cases where the police grossly exceeded their powers against the Roma minority. Most of these cases, we identified during the implementation of monitoring cases of discrimination. We commissioned legal representation for injured victims in criminal and administrative proceedings. In October 2009, the Foundation OSI Budapest financially supported our activities, focused specifically on the provision of legal aid in cases of misconduct of police officers in relation to the Roma minority.

Selected cases

In March 2009, in Nalepkovo by the Town Hall, local police officers imprisoned a man and woman of Roma origin, charging them with the theft of a wallet. Both detainees were searched and made to be strip naked. The woman was subjected to vulgar and demeaning remarks by the police officers involved. They committed serious misconduct when they carried out the personal search. Neither before nor after the personal search were the detainees informed of their rights. In June 2009 prosecution was initiated for misdemeanor abuse by public officers.

In April 2009, via the media, the public were informed about the case of abuse of six Roma boys by police officers in Kosice. The policemen involved took Roma boys to the police station where they stripped them naked and committed acts of physical and psychological violence and humiliation. Prosecution was initiated for misdemeanor abuse by public officers. In this case we provided legal representation to Roma boys.

Educational activities and publications

Also during July – December 2008, with the financial support of the Slovak Ministry of education, we realized activities aimed at education and dissemination of information on protection from discrimination towards selected target groups. The educational activities were initiated in the areas of Sabinov, Kosice and Petrova. In connection with the organization of these meetings we have also issued a booklet on legal means of protection against discrimination in access to employment, entitled **“Looking for work? Waiting for a fair game?”**.

In late 2009 we began working on an updated edition of our anti-discrimination handbook called **“Let’s say no to Discrimination”**. The handbook was first published in 2005 and addresses issues of using legal means to fight against discrimination. It is written especially for NGOs and Roma activists.

During this period, we also participated in several lectured seminars and conferences that were organized by other civil associations (Citizen, democracy and responsibility, CA for cohabitation). We talked mostly about our practical experience with the implementation of antidiscrimination law in cases of discrimination in the Slovak courts.

Activities at international level

In the area of protection from discrimination, we provided information on the occurrence and utterance of discrimination against the Roma minority in our discriminatory domestic judicial proceedings to domestic, foreign and international institutions (UN, Council of Europe and others). In autumn 2009 we began working to create an alternative report to the UN Committee on the Elimination of Racial Discrimination (CERD) and to present this information in person at 76th committee meeting in early 2010 in Geneva. In this alternative report, we highlighted violations of the Convention on the Elimination of All Forms of Racial Discrimination in relation to the Roma minority in health care and education. We also paid attention to deficiencies in the application of anti-discrimination legislation in Slovakia. We have created the alternative report in cooperation with the NGO People in Need Slovakia.

During the period from 1 July 2008 to 31st December 2009 we also have:

- » provided legal representation for 11 clients in criminal proceedings relating to discrimination based on ethnicity,
- » provided legal representation for 21 clients in proceedings of protection against discrimination,
- » provided legal representation for 12 clients in proceedings related to police violence,
- » took place in 18 testing experiments.

REPRODUCTIVE RIGHTS PROGRAM

Concerning the protection of reproductive rights, after many years of effort, we continue to pursue cases of illegal sterilization in Slovakia and the compensation of its victims. Despite limited funding, we continue to provide legal assistance to Roma women who have been illegally sterilized. In addition, we initiate further support activities in this area i.e. organizing group meetings.

Among the activities and events of the previous year what stands out in particular, is the verdict of the European Court of Human Rights in Strasbourg, which ruled that the Slovak Republic had in fact violated the rights of eight Roma women, under the European Convention of Human Rights, when they were prevented from obtaining copies of their medical documentation.

Strategic litigation in cases of coerced and forced sterilization

Civil court proceedings

During 2008 – 2009, we continued to litigate the cases of forcibly sterilized Roma women in Slovak courts. Most of the civil proceedings were initiated in 2003 and in these proceedings our clients are seeking damages from hospitals for harm caused to them by unlawful sterilization interventions in the Košice and Prešov regions. Out of eight cases, seven court proceedings are still pending at the first instance or appeal courts. Regional courts are still deciding on appeals of legal proceedings in four ongoing cases. In three cases, the courts definitively rejected our clients claims. In one case, the court finally ruled in favour of our client, stating that the sterilization was carried out unlawfully and awarded her with financial compensation.

Criminal investigation

The criminal investigation into the matter of forced sterilization had been initiated originally in January 2003 and was discontinued in October 2003 stating that no crime had been committed. As our clients did not agree with this decision, they submitted two subsequent constitutional complaints to the Slovak Constitutional Court. In the last decision on the matter, in December 2006, the Constitutional Court declared the criminal investigation unconstitutional as it did not meet the requirements of an effective investigation and ordered the law enforcement agencies to deal with the matter again. The law enforcement agencies re-investigated in February 2007 and Poradňa provided legal representation to three Roma women who were in the position of aggrieved parties within this proceeding. This legal representation consisted of the participation in the investigatory steps and submission of various legal briefs. In December 2007, the law enforcement agencies terminated the investigation again and for the third time, declared that no crime had been committed. Poradňa filed an appeal on behalf of our clients against the decision. However, the appeal was dismissed by the Regional Prosecution Office in Košice. Therefore, in 2008, the clients, assisted by Poradňa, lodged the third constitutional complaint. The proceeding at the Constitutional Court was dismissed again on the 29 July 2008.

Proceedings at Slovak Constitutional Court

During that period covered in this report, we provided legal representation for 5 clients, in three cases at the Constitutional Court of the Slovak Republic. After using all available means, we complained on behalf of our forcibly sterilized clients to the Constitutional Court, alleging violation of their fundamental rights and freedom. We are still waiting for The Constitutional Court's decisions.

Proceedings at the European Court of Human Rights

In April the 28th 2009, European Court of Human Rights in Strasbourg came to a decision about a complaint from 2004, when we applied on behalf of eight Roma women who had been denied access to their medical records.

The European Court declared that there was a breach of Article 8 (the right to respect privacy and family life) and 6 para 1, (right of access to court). The European court outlined that access to medical records is part of the rights to respect privacy and family life. The court found no reason why they were unable to obtain copies of their medical records, which they could inspect and make notes from, under the applicable law at that time. The European Court also acknowledged the arguments of our clients made that, without copies of their medical records they did not have enough information about their medical conditions and were in a more difficult position to bring actions for damages due to possible illegal sterilization. The court awarded each of applicants a financial compensation in the amount of 3,500 euros and costs. It is an important court ruling to protect patients' rights, as well as the interpretation of the right on access to justice. The court acknowledged that the right to access evidence before the trial is part of the guaranteed rights of access to justice.

Currently at European Court of Human Rights in Strasbourg, we are representing 5 clients in 3 proceedings. In these proceedings we challenged the violation of rights guaranteed by the European Convention for our clients in relation to the sterilizations. In two cases, the court, in 2009 issued the admissibility decision and declared the cases to be admissible, now the Court will consider them on merits. One case we submitted late in 2009. In 2010, we expect the court's decision on another case, we had submitted in 2004. The cases pending at the European Court on human rights are the strategic ones in the area of violations of the reproductive rights of Romani women.

Victim support groups

In the given period, we also continued to organize support group meetings for our clients, forcibly sterilized Roma women. The goal of the support meetings is to provide concentrated support to the clients but also to empower them in the struggle for their rights. Each meeting is organized in a different Roma community and provides a forum for women to meet, discuss their problems and shape advocacy and legal strategies. In total, we organized four support group meetings in the Roma communities of Hermanovce, Jarovnice and Nálepkovo.

Activities at international level

In July 2008, Poradňa representatives participated in the 41st meeting - UN Committee on the Elimination of Discrimination against Women (CEDAW) in New York, where they held several discussions to inform members of the Committee of violations of Roma women's rights in Slovakia. One Roma woman who endured unlawful sterilization also participated in the meetings presented her views to the Committee. As a part of this activity we submitted an alternative report to the Committee in collaboration with other NGOs before the Committee meeting. The Committee in its final recommendations highlighted the need for a strong implementation of the Convention in areas that we suggested.

In October 2009 we prepared an alternative report for the UN Committee against Torture (CAT), which highlights the deficiencies in compliance and implementation of commitments under the Convention Against Torture. In our report we highlighted violations of selected articles of the Convention in relation to cases of coerced and forced sterilization of Roma women. The Committee's final recommendations draw attention to the area of reproductive rights violations of Roma women and highlighted the need for an independent investigation of cases of coerced and forced sterilization.

In the area of reproductive rights for women, from 1 July 2008 to 31st December 2009, we have:

- » litigated 15 cases of strategic litigation,
- » provided legal representation to 16 clients in legal proceedings, including the Constitutional Court and European Court of Human Rights in Strasbourg,
- » Organized four support meetings.

People

Board of Advisors (2008-2009)

Barbora Bukovská - Attorney
Ruben Pellar - Translator and Roma rights activist
Ingrid Giňová - Roma activist
David Záborský - Writer
Zuzana Kirchnerová - Film director and producer
Monika Miháľová - Lawyer

Board of Treasurers

Viera Čápvá
Andrea Grúberová
Lucia Kvočeková

Staff

Andrea Mitrová - Executive Director
Elena Sopková - Deputy Director
Vanda Durbáková - Attorney
Štefan Ivanco - Equal Opportunities Program Coordinator
Lenka Kresňáková - Office Manager and Grants Accountant
Natália Richterová - Social worker (external cooperation)
Katarína Šiňanská - Social worker (external cooperation)
Mirka Danková - Social worker (external cooperation)
Eva Krajňáková - Social worker, 2009 (external cooperation)
Marián Balog - Field worker, 2009 (external cooperation)
František Eku Mižigár - Field worker, 2009 (external cooperation)
Marek Poracký - Volunteer, 2008
Xénia Kronová - Volunteer, 2008
Zdeněk Nový - Webmaster (external)

Cooperation organizations

People in Need Slovakia
Citizen, Democracy and Responsibility, Slovakia
Milan Simecka Foundation, Bratislava
Fenestra, Košice
Pro-Choice, Slovakia
Slovak National Centre for Human Rights
League of Human Rights, Czech Republic
Life Together, Ostrava, Czech Republic
Counselling Centre for Citizenship, Civil and Human Rights, Czech republic
INTERIGHTS, London, Great Britain
Amnesty International, London
Federation for Human Rights, Paris, France
IWRAP Asia Pacific, Malaysia
local NGOs, Roma community centers and individuals

Donors

We would like to thank all organizations and individuals that have supported our activities financially:

- » Open Society Institute, Budapest
- » Open Society Foundation, Bratislava
- » Trust for Civil Society in Central & Eastern Europe, Warsaw
- » MamaCash Foundation, Amsterdam
- » Fillia Foundation, Hamburg
- » Slovak-Czech Women's Fund
- » The International Federation on Human Rights, France
- » Oak Philantropy, London
- » Marie Clair, USA
- » Ministry of Education of the Slovak Republic
- » Financial Mechanism of EEA, Norwegian Financial Mechanism and the national budget of Slovakia
- » Ruben Pellar
- » Anonymous individual donors

Financial report of Poradna

Income and Expenses of Poradna in 2008

Revenues	in SKK	in EUR
Grants	1 249 147,11	41 464,09
Other incomes (e.g. 2% tax assignation, exchange rate income)	3818,85	126,76
Total	1 252 965,96	41 590,85

Costs	in SKK	in EUR
Office overheads and equipment	126 888,35	4211,92
Telephone, Fax, Internet	64 486,52	2 140,56
Office rent	95 316,00	3 163,91
Salaries	716 641,70	23 788,15
Accounting	33 300,00	1 105,36
Travel expenses	75 342,94	2 500,93
Court fees and other fees	24 062,07	798,71
Other financial expenses	71 366,13	2 368,92
Educational activities (seminars, meetings, supervision)	120 472,40	3 998,95
Total	1 327 876,11	44 077,41

Note : Used exchange rate 1€=30.126 Sk

Income and Expenses of Poradna in 2009

Revenues	in EUR
Grants	34 488,92
Other incomes (e.g. 2% tax assignation, exchange rate income)	12 480,54
Total	46 969,46

Costs	in EUR
Office overheads and equipment	1 375,31
Telephone, Fax, Internet	1 081,32
Office rent	3 133,68
Salaries	23 341,51
Accounting	1 301,24
Travel expenses	2 831,80
Insurance	66,39
Court fees and other fees	1 229,01
Other financial expenses	839,50
Total	35 199,76



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