



4th periodic report of Slovakia (Due August 2019):

Submission to Committee against Torture on the list of issues prior to reporting

The Slovak non-governmental organization Center for Civil and Human Rights (Poradňa pre občianske a ľudské práva, hereinafter „Poradňa“) presents this submission to the Committee against Torture (“Committee”) for its consideration in respect to adoption of the list of issues for the examination of Slovakia’s fourth periodic report on compliance with Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Convention”)

This submission addresses two key issues, which have been raised by the Committee in its recent concluding observations¹ and remain particularly relevant in respect to Slovakia:

- Police ill treatment and lack of access to justice in this area;
- Failure to effectively investigate the practice of involuntary sterilization of Roma women.

We have previously informed the Committee about the progress that Slovakia has made in addressing these issues² and we have continued to monitor the further developments. Since the Slovak Government has fallen short of addressing these issues, we recommend them as priorities for inclusion in the list of issues.

In addition, we would like to bring to the attention of the Committee the ongoing reluctance of the Slovak Government to implement decisions of the UN Treaty monitoring bodies declaring violation of rights of persons based on their individual complaints and we recommend the Committee to also include this particular problem in the list of issues.

Police ill treatment and lack of access to justice in this area

Despite the previous recommendation of the Committee as well as numerous recommendations of other international human rights bodies, the Slovak Government has been insufficient to effectively address instances of police ill treatment and improve access to justice in this area.

From 2009 Poradňa has been monitoring cases of police ill treatment particularly against Roma minority in Slovakia and providing the affected people free legal assistance in criminal proceedings. Over previous years we have been providing legal representation in more than 10 cases of Roma individuals claiming they have been subject to police ill treatment and we have been advocating for measures to prevent police ill treatment and improve access to justice for affected people.

¹ Concluding observations of the Committee against Torture on the third periodic report of Slovakia adopted on 10 August 2015, (CAT/C/SVK/CO/3), p. 11 and 12.

² E.g. Written comments of the European Roma Rights Centre and Center for Civil and Human Rights concerning Slovakia for consideration by the United Nations Committee Against Torture, at its 55th Session (27 July to 14 August 2015). Available at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCAT%2fNGO%2fSVK%2f21142&Lang=en

Our monitoring findings in this area from recent years suggest that cases of police ill treatment still remain to be present in Slovakia. In May 2017 the Slovak media widely informed about alleged violent police intervention in a Roma community in a village Zborov based on a video footage by a witness. It was reported that on 16 April 2017 the police entered the Roma settlement and began indiscriminately beating Roma, including children and elderly people. Three people required medical assistance.³ Following the reported incident the president of the police forces Mr. Tibor Gaspar publicly stated that the several parts of the intervention in the village “seems quite inappropriate” to him and that the incident is going to be investigated by the Inspection Service Department of the Ministry of the Interior (The Inspection of the Ministry of Interior).⁴

Based on our experience with representing Roma in criminal proceedings in cases of police ill treatment, we have not seen any noticeable improvements in the quality of the investigation process. The Inspection of the Ministry of Interior responsible for investigation of police ill treatment lacks necessary independence and its investigation into concrete reported cases still tends to fall short of effectiveness particularly in terms of its adequacy and thoroughness. It remains reluctant to initiate criminal proceedings into reported cases or these proceedings tends to discontinue in early stages without taking all reasonable investigatory steps and suspected police officers are rarely charged with a crime. Taking into account all the cases of alleged ill treatment in which we represented Roma, only in one of them the suspected police officers were at least accused of a crime and prosecuted by court, (the case of ill treatment of Roma boys at the police station in Kosice from 2009 referred below).

We have previously informed the Committee about two widely reported cases, which have also been raised in its recent concluding observations as a cause of concern: ill treatment of six Roma boys at a police station in Kosice from 2009 and police raid in a Roma settlement in Moldava nad Bodvou from 2013. We regret to inform the Committee that in both cases the aggrieved Roma are still far from achieving justice.

As for the case of police ill treatment of six Roma boys at the police station in Kosice, on 17 May 2017 the District Court Kosice II repeatedly acquitted accused police officers. According to the court, neither the additional investigation proved that the act took place as alleged by the prosecution. The District Court first acquitted the police officers in February 2015. The court’s reasoning relied on the fact that the act by the police officers did not take place as alleged by the prosecution.⁵ However, in April 2016 the Regional Court in Kosice upheld the Prosecutor’s appeal and reversed the decision by the District Court. Similarly to its decision from 2015, the District court again refused to enter the video footage capturing a part of the abuse into the evidence records. The prosecutor again appealed the verdict and even after eight years from the incident the court proceeding in this case is nowhere near the end.⁶

In regard to the recent development in the case of police raid in Moldava nad Bodvou, in November 2015 and March 2016 The Inspection of the Ministry of Interior has progressively terminated all

³ See the press release of the European Roma Rights Centre informing about the incident. The press release includes the video footage made by a witness: <http://www.errc.org/article/police-attack-roma-community-in-slovakia-children-and-elderly-injured/4579>

⁴ See article "ERRC studies allege inappropriate police violence in Roma community". Slovak spectator", 25 May 2017. Available at: <https://spectator.sme.sk/c/20541400/errc-studies-allege-inappropriate-police-violence-in-roma-community.html>

⁵ See our press release on the decision of the District court from 27 February 2015 in English. Available at: <https://www.poradna-prava.sk/en/news/the-court-acquits-police-officers-accused-of-abusing-roma-boys-from-lunik-ix/>

⁶ See our press release on the repeated decision of the District court from 18 May 2017 in English. Available at: <https://www.poradna-prava.sk/en/news/the-slovak-court-repeatedly-acquits-police-officers-accused-of-abusing-roma-boys-at-a-police-station-in-kosice/>

criminal proceedings in relation to this case.⁷ The Regional state prosecution rejected the subsequent appeals of aggrieved Roma and the case has been pending for more the one year before the Constitutional court. Given the fact the investigation into the case has been terminated, some of the aggrieved persons have been recently interrogated within initiated criminal proceeding in relation to their alleged false deposition against the previously investigated police officers. Although the affected Roma have not been charged with a crime yet, we consider this development very worrying as it victimises them and can seriously discourage other people from reporting cases of police ill treatment in the future.

In our previous submission we also informed the Committee about police intervention in a Roma settlement in a village Vrbnica from April 2013. A large number of policemen entered the settlement to find people evading arrest warrants. A police house-to-house search reportedly resulted in injuries to at least 19 Roma individuals who reportedly did not resist the police.⁸ In December 2016 the investigator of the Inspection of the Ministry of Interior brought charges against police officer who led a police intervention. The investigation in relation to him is still pending. However, the investigator simultaneously interrupted the criminal investigation held for ill treatment by certain police officers on the spot. The investigator reasoned his decision to interrupt the investigation in this part by the lack of sufficient evidence against police officers who allegedly ill treated Roma.⁹ We objected the effectiveness of the conducted investigation by our subsequent complaint on behalf of several aggrieved persons to the Regional prosecution but without success. As a result, in March 2017 we filed a complaint to the Constitutional court, which is still pending.

In the recent months the issue of strengthening the independence of the investigation of police ill treatment and other police crimes has been increasingly discussed by the Slovak Government representatives. In October 2016 it was reported that The Minister of Justice Ms. Lucia Zitnanska came up with the proposal to put the Inspection body for investigation of police crimes under the supervision of General prosecution, but the institutional functioning of the body obviously still remains to be a matter of discussion throughout the Government and consensus has not been reached yet.¹⁰

In December 2016 it was reported that the Ministry of Interior evaluated the introduction of personal police cameras that would record police interventions. According to the Ministry this measure should enhance trust of people in the police.¹¹

In our view, the Slovak Government has to considerably speed up the process of strengthening the independence of the body for investigation of police ill treatment. The reasonable measures to prevent ill treatment, which have been initially discussed, must be put into practice and it is necessary to introduce additional measures in this area. Particularly, it is critical to strengthen the overall effectiveness of investigation and access to justice for those who were subject to police ill treatment.

Failure to effectively investigate the practice of involuntary sterilization of Roma women

Despite repeated recommendations of international human rights bodies and judgements of the European Court of Human Rights (ECHR), The Slovak Government has not taken any steps to

⁷ In February and April 2016 we informed the Committee about the given developments in two concise separate follow-up submissions presented jointly with the European Roma Rights Centre. Available at:

http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=SVK&Lang=EN

⁸ See supra note 2, pp. 5.

⁹ See our press release on the investigator's decision in this case in English. Available at:

<https://www.poradna-prava.sk/en/news/the-criminal-charges-have-been-brought-in-a-case-of-police-raid/>

¹⁰ See article "Kaliňák je vo funkcii a postavenie policajnej inšpekcie sa nemení". Dennik N, 20 October 2016. Available in Slovak at: <https://dennikn.sk/588863/kalinak-je-vo-funkcii-a-postavenie-policajnej-inspekcie-sa-nemeni/>

¹¹ See article "Zásahy policajtov budú natáčať kamery". Pravda, 30 December 2016. Available in Slovak at: <https://spravy.pravda.sk/domace/clanok/415283-zasahy-policajtov-budu-natacat-odevne-kamery/>

effectively investigate the practice of involuntary sterilization of Roma women and has not provided survivors with adequate remedies.

This illegal practice was documented and exposed in a report *Body and Soul: Forced Sterilization and Other Assaults on Roma Reproductive Freedom in Slovakia* published by Poradna and the Center for Reproductive Rights in 2003.¹² Since then Poradna has been continuously advocating for effective investigation of this practice and for providing redress for all affected Roma women. Poradna has also been providing free legal aid to a limited number of sterilized Roma women before domestic courts and the ECHR that between 2011-2013 condemned Slovakia in three separate cases concerning involuntary sterilization of Roma women in Slovak hospitals.

In this regard, we would like to bring to the attention of the Committee our recent submission from October 2016 that we presented with our partner NGOs to the UN Human Rights Committee in relation to the consideration of 4th Periodic Report of Slovakia under the International Covenant on Civil and Political Rights.¹³ In our submission we provided updated overview of the legal and policy developments on this particular issue including references to all the relevant court decisions.

We would like to emphasize that following the achieved decisions of the ECHR, Slovak domestic courts recently decided in favour of two involuntary sterilized Roma women and awarded them adequate financial compensation.

In February 2016 The District Court Kosice II decided that the Pasteur University Hospital in Kosice violated the rights of a Roma woman whom they sterilized without her informed consent. She was sterilized in 1999 while giving birth by Caesarian section to her second child, who was born premature. The doctor did not inform the woman that he planned to sterilize her until she was already in labor in the maternity ward, undergoing strong contractions, and very concerned for the life of her not-yet-born child. The court awarded the woman the financial compensation in the full amount requested of almost EUR 17 000.¹⁴ In November 2016 the Regional court in Kosice upheld this decision which became final.¹⁵

In May 2017 the District court in Spisska Nova Ves awarded another involuntary sterilized Roma woman the financial compensation in the full amount requested of EUR 16 000. The woman was sterilized in 1999 whilst giving birth to her second child by Caesarian section. The hospital staff did not inform her about the sterilization and neither did they receive her consent prior to performing it. The verdict on the financial compensation is not final yet.¹⁶

The multiple judgments of the ECHR as well as domestic courts increasingly suggest that a substantial number of Roma women in Slovakia and former Czechoslovakia have been affected by this practice. It is therefore critical that - in line with the recent recommendation of the UN Human Rights Committee

¹² *Body and Soul: Forced Sterilization and Other Assaults on Roma Reproductive Freedom in Slovakia* (2003). Poradna and the Center for Reproductive Rights. Available at: <https://www.poradna-prava.sk/en/documents/body-and-soul-forced-sterilization-and-other-assaults-on-roma-reproductive-freedom-in-slovakia/>

¹³ Submission of the Center for Civil and Human Rights – Poradna, Citizen, Democracy and Accountability, Women’s Circles and the Center for Reproductive Rights for the Human Rights Committee in relation to the consideration of Slovakia’s 4th Periodic Report of Slovakia under the International Covenant on Civil and Political Rights., pp. 1-4. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fCSS%2fSVK%2f25282&Lang=en

¹⁴ See our press release on this court decision in English. Available at: <https://www.poradna-prava.sk/en/news/forcibly-sterilized-romani-woman-achieved-justice-at-the-domestic-court-in-slovakia/>

¹⁵ See full decisions of the District and Regional court in Kosice. Available at (in Slovak only): <https://www.poradna-prava.sk/sk/dokumenty/?typ=rozhodnutia>

¹⁶ See our press release on this court decision in English. Available at: <https://www.poradna-prava.sk/en/news/the-slovak-court-awards-compensation-to-another-forcibly-sterilised-roma-woman/>

from October 2016¹⁷ - the Slovak Government acknowledges responsibility for the past practice of involuntary sterilization of Roma women and establishes an independent body to investigate the full extent of the practice of sterilization without informed consent and provides financial and other reparation to the survivors. We believe this measure would enable to effectively investigate the full extent of this practice and remedy the affected Roma women.

Regrettably, till now the Slovak Government has still not taken any action in this regard and there is even no indication it gives any attention to this issue.

As for the measures to prevent shortcomings in providing informed consent with sterilization recommended by the Committee, we are not aware that the Slovak Government took any steps to ensure that medical personnel is properly trained about informed consent nor does it systematically monitor compliance with informed consent legislation in practice. Although the Ministry of Health already in 2014 adopted legally binding regulation that contains templates for acquiring informed consent when performing sterilisations including their translation in Romani language,¹⁸ the Slovak Government still fails to improve direct communication of the medical personnel with Roma women when acquiring informed consent in everyday practice, which is crucial for preventing any risk of involuntary sterilization or other medical interventions for the future.

Failure to ensure access to justice in line with UN treaty monitoring bodies` decisions

The Slovak Government continues to fall short of respecting recent decisions of the UN Treaty monitoring bodies in favour of individual petitioners from Slovakia based on their individual complaints and providing them recommended remedies. We raised this particular issue in our written comments to the UN Human Rights Committee in September 2016 and we note with concern that the Slovak Government has not changed its position in this regard.¹⁹

On 4 December 2015 the UN CERD adopted an opinion in a case V.S. vs. Slovakia regarding the violation of the right of Roma woman to equal access to employment. In its opinion the CERD considered that the Slovak Republic violated the International Convention on the Elimination of Racial Discrimination by not preventing her from discrimination in her access to employment and failed to ensure adequate legal protection from discrimination and among others recommended that the Slovak Government expresses apology to the petitioner and grants her adequate compensation. We provided the aggrieved woman a free legal representation before domestic courts as well as in the procedure before the CERD and we are concerned that the Slovak Government in its note submitted to the CERD on 9 March 2016 has rejected to associate itself with the recommendations to express her apology and grant her adequate compensation.²⁰

On 7 November 2016 the UN CEDAW adopted its view in a case D.S. vs. Slovakia concerning woman who claimed to be discriminated against on the grounds of gender, marital and family status. The CEDAW decided that the domestic courts had failed to sufficiently protect the claimant from being

¹⁷ Concluding observations of the Human Rights Committee on the fourth report of Slovakia adopted on 31 October 2016, CCPR/C/SVK/CO/4, p. 26 – 27.

¹⁸ Regulation of the Ministry of Health n. 56/2014 Coll. Of Laws on providing details on the content of instruction before obtaining informed consent with the sterilization and templates of informed consent prior to sterilization in state languages and languages of national minorities.

¹⁹ Written Comments of the Center for Civil and Human Rights - Poradna to the Human Rights Committee concerning the fourth periodic report of Slovak republic, September 2016, pp. 6-7. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fCSS%2fSVK%2f25193&Lang=en. The Human Rights Committee touched upon this issue in its recent concluding observations. See Supra note 17, p. 7.

²⁰ Opinion of the Committee on the Elimination of Racial Discrimination adopted at its 88th session on 4 December 2015, CERD/C/88/D/56/2014.

discriminated against, and recommended the Slovak Government to provide her with adequate compensation.²¹ We provided the aggrieved woman a free legal representation before domestic courts as well as in the procedure before the CEDAW and we are concerned that till now Slovak Government has not provided her remedies.²²

The current position of the Slovak Government relates to individual complaint's procedure established under several UN Treaties including the Convention and, as a result, we urge the Committee to include this particular issue in the list of issues.

Information about the submitting NGO:

The Center for Civil and Human Rights (*Poradňa pre občianske a ľudské práva*) is a non-profit, non-governmental independent organization based in Slovakia focused on the protection of human rights with particular emphasis on the rights of minorities and protection from discrimination. Poradňa has for a long time worked on the issue of discrimination against the Roma ethnic minority in various areas of public life. It has also been active in the protection of reproductive rights and protection from police brutality. Poradňa employs strategic litigation to combat discrimination and human rights abuses against minorities. Visit us at: <https://www.poradna-prava.sk/en/>.

²¹ Views adopted by the Committee on the Elimination of Discrimination against Women at its 65th session on 7 November 2016, CEDAW/C/65/D/66/2014.

²² See our press release on the reluctance of the Slovak Government to redress individual petitioners based on the decisions of the UN Treaty monitoring bodies in English. Available at: <https://www.poradna-prava.sk/en/news/a-woman-who-achieved-justice-before-the-cedaw-still-awaits-compensation-from-the-slovak-government/>