



ALTERNATIVE REPORT CONCERNING ELEVENTH AND TWELVETH PERIODIC REPORT OF SLOVAKIA

*For Consideration by the Committee on the Elimination of Racial Discrimination at the
94th Session on (20 November 2017 – 8 December 2017)*

**CENTER FOR CIVIL AND HUMAN RIGHTS
(PORADŇA PRE OBČIANSKE A ĽUDSKÉ PRÁVA)**

October 2017

Introduction

The Center for Civil and Human Rights (hereinafter „Poradňa“) hereby submits this report to the Committee on the Elimination of Racial Discrimination (hereinafter “Committee”) for the consideration at its 94nd Session (20 November 2017 – 8 December 2017). This report focuses on selected issues relating to the protection of human rights of Roma ethnic minority in Slovakia:

- police ill-treatment and lack of access to justice in this area;
- failure to ensure effective access to justice in cases of racial discrimination;
- segregation of Roma children in education;
- failure to effectively investigate the practice of involuntary sterilization of Roma women;
- discrimination of Roma women in the maternity health care.

We are concerned that Slovakia has fallen short of addressing these issues and that progress in implementing the International Convention on the Elimination of Racial Discrimination (hereinafter “Convention”) is insufficient.

We have previously informed the Committee about the protection of human rights of Roma minority¹ and we have continued to monitor the further developments. Since we have recently provided information about compliance of Slovakia with the human rights treaties in relation to the Roma minority for the other UN treaty monitoring bodies, this report specifically refers to this information, confirms its ongoing relevance and supplements it.

Expertise of the submitting organization

The Center for Civil and Human Rights (Poradňa pre občianske a ľudské práva, "Poradňa") is an independent non-governmental 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 Roma ethnic minority in various areas of public life. It has also been active in the protection of reproductive rights and protection from police ill-treatment. Poradňa employs strategic litigation to combat discrimination and human rights abuses against minorities. Visit us at www.poradna-prava.sk.

¹ Written Comments of the Center for Civil and Human Rights and People in Need Slovakia concerning the Ninth and Tenth Periodic Reports of the Slovak Republic for the consideration at the 82nd Session of the Committee on the Elimination of Racial Discrimination, January 2013. Available at: http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/SVK/INT_CERD_NGO_SVK_13745_E.pdf

I. 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 against Roma, secure that they are investigated by the independent body and improve access to justice in this regard.

Since 2009 Poradňa has monitored cases of police ill-treatment particularly against Roma minority living in marginalized communities and provided free legal aid including legal representation in criminal proceedings. Over these years we have provided legal representation in more than 10 separate legal cases of Roma individuals claiming they have been subject to police ill treatment. Violent behaviour of the police officers in some of these cases was accompanied by racial verbal abuses and indicated racial motive of acting.

Given our work with cases of police ill-treatment against Roma over last several years, we cannot assess the overall trend in this regard - if the occurrence of such cases in Slovakia decreased in comparison with years before. However, following the results of our ongoing human rights field monitoring we can state that we still document cases of police ill-treatment against Roma living in marginalized communities and we have been repeatedly encountering serious shortcomings in the investigation of these cases which does not sufficiently meet criteria for effective investigation into cases of cruel and inhuman treatment laid down by the jurisprudence of the European Court of Human Rights and the UN Istanbul protocol.

We would like to reiterate our experience from this area that we outlined in our written comments for the UN Human Rights Committee from September 2016 and which remains particularly relevant²:

- cases of police ill-treatment remain to be still reported by Roma in marginalized communities;
- Roma alleging police ill-treatment are very reluctant to file criminal complaint particularly because of being afraid of victimization and not trusting the law enforcement authorities; only a small fraction of these cases is obviously reported to these authorities;
- the investigation of the reported cases of police ill-treatment continues to fall short of effectiveness particularly in terms of its adequacy and thoroughness. The Department of Control and Inspection Service of the Ministry of Interior (hereinafter "Inspection of the Ministry of Interior") remains very reluctant to initiate criminal proceedings into reported cases. It tends not to take all the necessary steps to identify and secure relevant evidence, search for all the relevant witnesses of the ill-treatment and give reasonable relevance of the existing medical records. It also tends not to give the same credibility to the witnesses of police officers and claimants of the ill-treatment.³ Investigation of possible racial motive is downplayed and ineffective.

² Written comments of the Center for Civil and Human Rights concerning the fourth periodic report for Consideration by the United Nations' Human Rights Committee at the 118nd Session, September 2016. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fCSS%2fSVK%2f25193&Lang=en

³ In July 2015 we published a critical advocacy report in which we comprehensively described shortcomings in the investigation of police ill-treatment in Slovakia. Available in Slovak at: <https://www.poradna-prava.sk/sk/dokumenty/vysetrovanie-policajneho-nasilia-na-slovensku-kriticka-sprava-za-rok-2014/>

- the Inspection of the Ministry of Interior lacks necessary independence to investigate the cases of police ill-treatment and must to be replaced by the fully independent body. The fact that the investigation in this area is conducted under the supervision of the prosecutor does not guarantee its independence in view of the relevant jurisprudence of the Strasbourg court.

We would like to demonstrate the ongoing grave situation in access to justice for Roma facing police ill-treatment on the case of six Roma boys at the police station in Kosice from March 2009, about which we informed the Committee in our Written comments from January 2013.⁴ The officers forced the boys to take off their clothes, stand naked against a wall and hit and kiss each other while the officers shouted anti-Roma statements at them. Two of the policemen repeatedly threatened the boys with loaded guns. Some of the policemen filmed the incident on their mobile phones and this video was subsequently posted on Internet and shown on television. We have been directly involved in the case by providing the affected boys free legal aid. The case has been under strong public and media scrutiny being watched by the various international human rights bodies. Since the case was backed by the exceptionally clear evidence (video recording of the significant part of the treatment) the prosecutor supervising the investigation in the spring 2010 charged the suspicious police officers with a crime of misconduct of public office with racial motive.

It took almost five years the District court in Kosice as first-instance court released a verdict in this case and in February 2015 acquitted all the accused officers. The court reasoned that the crime did not take place as alleged, and the prosecution thus failed to prove the abuse. The District court specifically considered the existing video recording of the incident to be illegal evidence and disregarded it. Upon the Prosecutor's appeal, in April 2016 the Regional Court reversed the decision by the District Court. However, in May 2017 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 affected Roma boys are far from achieving justice.⁵ The case is currently pending at the appellate Regional court in Košice for the second time.

In this context we find it particularly symptomatic that taking into account all the cases of alleged ill treatment in which we represented Roma, the described case of Roma boys from 2009 is the only one where the suspected police officers were at least charged with a crime and prosecuted by a court. The other ones were rejected by the law enforcement authorities mostly in early stages of criminal proceedings.

The most recent case of alleged police ill treatment against Roma in which we have provided free legal aid in criminal proceeding occurred in January 2017 and it only illustrates the ongoing shortcomings in this area. The local policemen from a town Spisska Nova Ves detained two Roma youngsters (boy and minor girl) accused of stealing in a shop and took them to the police station. The one of them was allegedly threatened, racially verbally abused and beaten by the policemen during her detention while being transported in a police car to the police station. Subsequently, during the detention at the police station, the girl who was minor under 18 years old jumped off the window, got hurt and fell into a coma for 7 weeks. The Inspection of the Ministry of Interior initiated firstly ex officio criminal investigation for failure of the police officers to prevent the arrested girl to escape and jump off the window. Subsequently, once a girl as a witness in a first proceeding reported

⁴ Supra. footnote 1, pp. 8-9.

⁵ See our press release on the repeated decision of the District court Košice II 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/>

police violence during detention, the Inspection of the Ministry of Interior investigated also alleged police violence during detention. However, the investigator of the Inspection dismissed the claim regarding the alleged violence even before starting the criminal investigation and we considered this investigation to be ineffective. No investigation on the possible connection of the alleged police violence and the girl's jump off the window has been conducted. An attorney cooperating with Poradna submitted a claim pointing at the illegality of the investigator's decision to the prosecution office, but it has been dismissed. Subsequently the legal representative of Roma girl submitted another complain to the upper prosecution office, thus the case is now still pending before the Regional prosecution office in Košice.

In addition, we would like to bring attention of the Committee to the two police interventions, which occurred in marginalized Roma communities in Moldava nad Bodvou (June 2013) and Vrbnica (April 2015), during which the police officers allegedly resorted to the ill-treatment. We represented some of the affected Roma in criminal proceedings in both cases and we found the conducted investigation by the Inspection of the Ministry of Interior ineffective, including the investigation of racial motive. We provide detailed information about these cases and their legal development in our recent submission to the UN Committee against Torture from June 2017.⁶

Given the ongoing shortcomings, the Slovak government authorities have to intensify its effort to prevent police ill treatment against Roma minority by securing effective investigation of concrete cases including racial motive and by introducing additional preventive measures in this area. We particularly encourage the Committee to recommend the following to the Government:

- establish a fully independent autonomous institution, outside of the structures of the Ministry of Interior that will be responsible for investigation of complaints of alleged torture, cruel and inhuman treatment of the police officers as well as all complaints alleging possible racial motive;
- introduce a mechanism for the external evaluation of the effectiveness of investigations of police ill-treatment with an aim to identify systemic deficiencies in the investigation process of such cases in Slovakia;
- secure continuous education of all persons investigating cases of police ill-treatment as well as state prosecutors and judges with particular emphasis on standards of effective investigation of torture, cruel and inhuman treatment laid down by the jurisprudence of the European court of Human Rights and the UN Istanbul protocol.

⁶Submission of the Center for Civil and Human Rights to the Committee against Torture on the list of issues prior to reporting, June 2017, pp. 2-3. Available at: http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/SVK/INT_CAT_IC_SVK_27936_E.pdf

II. Failure to ensure effective access to justice in cases of racial discrimination

a) Implementation of the antidiscrimination legislation in practice

Poradňa (as one of very few local NGOs) monitors cases of racial discrimination and provides free legal help for aggrieved persons. Since the adoption of Antidiscrimination Act in Slovakia (2004)⁷, we have been provided legal representation in majority cases of racial discrimination that have been brought to Slovak courts. Our findings shows that discrimination against Roma minority remains to be present in various areas of public life, implementation of the antidiscrimination legislation in cases of racial discrimination remains insufficient and aggrieved persons continue to face difficulties in access to justice.

Within our human rights monitoring in this area, we still document cases of discrimination of Roma in access to public services (such as denial in access to some pubs or restaurants) or employment. For instance, discriminatory job advertisements published on internet openly stating that Roma are not supposed to apply for an advertised job, are present.⁸ Instances of discrimination of Roma children in education and against Roma women in maternity health care are described in separate chapters of this report.

Despite of the fact that Roma continue to face discrimination, they rarely defend themselves by legal means of protection and in our view among the most relevant reasons is definitely ongoing insufficient quality of decision making by courts in this area. To illustrate this statement, in March 2017 the District Court in Spisska Nova Ves ruled in favour of a Roma woman who was seeking a redress for discrimination faced in 2010, when she applied for a job as a field social worker in town Spisska Nova Ves. According to the Court the town must apologize and compensate her financially (2500 Euro). However, it is arguably still the very first decision issued by the domestic courts concerning racial discrimination in access to employment in favour of discriminated person from the adoption of Antidiscrimination Act, it took several years to achieve it and it is still not final. Notably, this decision was achieved after the aggrieved women turned to the Slovak Constitutional Court, which in December 2015 ruled that practices and previous decisions by the general courts violated her right to a fair trial.⁹

We reiterate our legal experience of dealing with cases of racial discrimination outlined in our written comments for the UN Human Rights Committee from September 2016, which remains particularly relevant and still describes the current reality as for access to justice in cases of racial discrimination in the country:

- the implementation of the provisions of Antidiscrimination Act by courts remains inconsistent and often flawed. Courts remain not sufficiently informed about antidiscrimination legislation and its proper application in practice. Specifically, the application of reversed burden of proof continues to falls short of a legal consistency, which also indicates the Committee's opinion in a case V.S. vs. Slovakia from 16 December 2015 (CERD/C/88/D/56/2014).

⁷ Act No 365/2004 Coll. on Equal Treatment in Certain Areas and on Protection against Discrimination and on amendments and supplements to certain laws.

⁸ See article "Employers: Roma, do not call us!". Slovak Spectator. 27 September 2016. <https://spectator.sme.sk/c/20287329/employers-roma-do-not-call-us.html>

⁹ See the press release in English informing about the decision of the District court: <https://www.poradna-prava.sk/en/news/slovak-court-rules-in-favor-of-a-roma-woman-facing-discrimination-while-applying-for-a-job-as-a-field-social-worker/>

- the court proceedings concerning discrimination continue to last excessively long period (rarely less than several years);
- the courts remain extremely reluctant to award any financial compensation for victims of racial discrimination. They still tend to downplay seriousness of racial discrimination overlooking or not understanding its *prima facie* impact on human dignity. In some instances we still recognize certain bias or preoccupation of courts when dealing particularly with cases of discrimination of Roma minority. To illustrate this situation, in the spring 2016 the courts awarded the amount of 600 Euro to the Roma couple who faced racial discrimination in access to services. It is the first final decision of the Slovak court awarding some financial compensation in a case of racial discrimination. We consider this amount to be really symbolic comparing to the amounts granted by Slovak courts to the politicians to remedy interference into their personal rights by the media, which reach thousands of Euros.¹⁰

In order to improve the current situation the Slovak courts have to considerably speed up their decision making and produce more quality courts' decisions in favour of discriminated persons with adequate compensation granted for them and with sufficient deterrent effect on the offenders. Positive court rulings will gradually motivate other persons to actively pursue their rights and resist discrimination by legal remedies and will strengthen their trust in legal institutions. There is also a particular need to sensitize the judges when dealing with cases of discrimination of marginalized minorities to prevent any preoccupations in their decision making.

We ask the Committee to urge the Government to intensify its efforts to make the domestic antidiscrimination legislation fully operational and recommend the following:

- enhance the speed and efficiency of court proceedings concerning discrimination;
- introduce programs for sensitization of judges in the area of the protection of human rights of minorities and vulnerable groups.

b.) Failure to ensure access to justice in a case of discrimination in line with UN treaty monitoring body's opinion

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 2016¹¹ as well as in our recent submission to the UN Committee against Torture in June 2017¹² and we note with concern that till now the Slovak Government has not changed its position in this regard.

¹⁰ For more information about this case see the press release in English: <https://www.poradna-prava.sk/en/documents/press-release-the-slovak-court-ordered-a-bar-owner-to-pay-compensation-for-discrimination/>

¹¹ Supra. footnote 2.

¹² Supra. footnote 7.

On 16th December 2015 the Committee adopted an opinion in a case *V.S. vs. Slovakia* regarding the violation of the right of Romani woman to equal access to employment.¹³

We have provided the affected Roma woman a legal representation before domestic courts as well as in the procedure before the CERD and we are deeply concerned that the Government has rejected to associate itself with the recommendations to express her apology and grant her adequate compensation.

In May 2017 the Slovak Government reaffirmed its position concerning this issue in its note¹⁴ submitted to the Committee on the Elimination of Discrimination against Women (CEDAW) in response to its View adopted in November 2016 in a case *D.S. vs. Slovakia*.¹⁵

We argue that the Government is by no means legally bound to follow the domestic court decision, which upon the Committee's Opinion proved to be contrary to the Convention. It is however enforced to fulfil the recommendations of the Committee based on their derivation from the legally binding Convention. Furthermore, the Government's denial to fully implement the recommendations of the Committee may have adverse effect on the credibility and authority of the individual complaint's procedures under the UN Treaties in Slovakia as such.

We urge to Committee to question the Government about its denial to provide individual remedies for the petitioners in the given cases, stress the legal obligation to provide such remedies stemming from the international law and make the following recommendations:

- introduce a legal mechanism that would enable to effectively provide individual remedies for petitioners in cases when UN treaty monitoring bodies find violations of their guaranteed human rights upon the individual complaints procedures;
- provide individual remedy for the petitioner in line with the opinion of the CERD in the case *V.S. vs. Slovak republic* and respect all the other decisions of the UN Treaty Monitoring Bodies on violations of human rights of individual petitioners concerning Slovakia.

III. Segregation of Roma children in education

In the previous several years Poradňa has regularly monitored the occurrence of segregation of Roma children in education mostly throughout the region of eastern Slovakia, advocated for necessary desegregation measures and conducted strategic litigation in this area. Following our findings and experience in this area, we would like to bring to the attention of the Committee our recent written submissions presented to the UN Treaty monitoring bodies, which discussed the situation in this area and highlighted persisting shortcomings.

¹³ Opinion of the Committee on the Elimination of Racial Discrimination adopted at its 88th session on 16 December 2015. CERD/C/88/D/56/2014.

¹⁴ Note of the Permanent Mission of the Slovak Republic to the United Nations Office and the International Organizations in Geneva from 15 May 2017, 033866/2017-CHSM1-0065319.

¹⁵ View of The Committee on the Elimination of Discrimination Against Women adopted at its 65th session on 21 November 2016. CEDAW/C/65/D/66/2014.

Our report submitted with the European Roma Rights Centre (ERRC) to the UN Committee on the Rights of the Child from June 2015 provided comprehensive information about the ongoing forms and prevalence of this discriminatory practice in Slovakia including relevant research data and conclusions. We, among others informed that the European Commission launched infringement proceedings against Slovakia for violating the EU Race Equality Directive for discrimination of Roma children in education. This proceeding is currently still pending.¹⁶ Our follow-up submission to this Committee from April 2016 particularly discussed the recent legislative changes in this area in our country and considered them highly insufficient since they were not accompanied by any concrete and sustainable de-segregation policies and measures.¹⁷

We would like to affirm an ongoing relevance of above mentioned information with regard to the current situation in this area in Slovakia. Thousands of Roma children in the country remain segregated in special schools and classes for children with “mild mental disabilities”, or segregated in separate classrooms and schools within mainstream education and the progress made by the Slovak Government in preventing these forms of discrimination of Roma children has been highly insufficient.

In our recent report for the Human Rights Committee from September 2016¹⁸ we elaborated on general reasons why the Roma children from marginalized environment continue to face discrimination in access to education and tangible progress in this regard is hardly noticeable given our ongoing field monitoring in this area. We would like to draw attention of the Committee to these reasons and affirm their relevance since, in our view, the Slovak Government has still not sufficiently recognized them.

We would also like to inform the Committee about the four pending public interest court cases initiated by Poradňa against the state and local municipalities, addressing segregation of Roma children in selected localities in Slovakia and about their legal developments. These are *actio popularis* claims brought under domestic antidiscrimination legislation. As such they also demonstrate some of the existing forms of discrimination of Roma children in the country that we documented. Two of these court proceedings address segregation of Roma children in mainstream schools, which are attended solely by socially disadvantaged Roma children and specifically target those selected localities where the Government supported building modular school annexes close to segregated Roma communities.¹⁹ We assume that this measure maintains the segregation of Roma children in the given localities. Another case specifically addresses segregation of Roma children in special classes for children with mental disabilities, placed separately near a segregated Roma community, attended by 90 percent of all school-age Roma children living in this community. The last case challenges the decision of a regional school office that has set a local school district in a way that concentrates Roma children in one school, instead of supporting their integration in other local schools. Three of these court proceedings are still in their early stages pending before the first instance courts. In one of the given cases

¹⁶ Written comments to the UN Committee on the Rights of the Child concerning Slovakia for Consideration by the UN Committee on the Rights of the Child at the 72nd Pre-Sessional Working Group. June 2015, pp. 4-7. Available at: <https://www.poradna-prava.sk/en/documents/written-comments-for-the-un-committee-on-the-rights-of-the-child/>

¹⁷ Written comments of the European Roma Rights Centre and the Center for Civil and Human Rights concerning Slovakia for Consideration by the UN Committee on the Rights of the Child at the 72nd Session. April 2016, pp. 6-9. Available at: http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/SVK/INT_CRC_NGO_SVK_23781_E.pdf

¹⁸ Supra. Footnote 3, pp. 7.

¹⁹ The Government particularly referred to the project of building modular schools in order to solve lack of school capacities in selected localities in addendum to its reply to the list of issues raised by the Human Rights Committee from September 2016, CCPR/C/SVK/Q/4/Add.1, para. 38-43. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fSVK%2fQ%2f4%2fAdd.1&Lang=en

concerning segregation of Roma children in segregated school in the town Stara Ľubovna the first-instance court released the verdict in October 2016 rejecting our lawsuit.²⁰ We found the decision contrary to the domestic and international antidiscrimination law and filed an appeal to the Regional court in Bratislava where the case is currently pending.

We note with particular concern that the Ministry of Education in these court proceedings clearly objects discriminatory nature of the reported segregation and does not fully recognise the positive obligation of the Government to prevent and eliminate discrimination and introduce in cooperation with school founders (municipalities) desegregation policies and measures.

We ask the Committee to emphasize in a dialogue with the Government the absolute necessity of implementing systemic and sustainable desegregation policies and measures to secure equal access of Roma children to education and recommend the following:

- condition the distribution of national, regional and local funds for education on the development of desegregation policies and measures, including effective transportation of disadvantaged Roma children to non-segregated schools;
- significantly increase financial support for primary schools to enable them to employ sufficient teaching (including support) staff and to effectively integrate children from various social backgrounds and fulfil their individual educational needs and learning potential;
- provide primary schools with sufficient guidance on how to include all children into mainstream educational system so children's individual educational needs and learning potential can be fulfilled;
- develop and implement policies to challenge the phenomenon of "white-flight" from primary schools and thoroughly promote ethnic and social diversity in primary schools;
- address segregation of Roma children in education, accounting for its close relationship with housing segregation and discrimination of Roma in other areas.

IV. Failure to effectively investigate the practice of involuntary sterilizations of Roma women

Despite the previous relevant recommendation of the Committee, repeated recommendations of many other international human rights bodies as well as relevant judgements of the European Court of Human Rights (ECtHR), the Slovak Government has not taken any steps to effectively investigate the practice of involuntary sterilizations 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 Poradňa and the Center for Reproductive Rights in 2003.²¹

²⁰ The press release on the decision of the District Court Bratislava IV from October 2016 in English available here: <https://www.poradna-prava.sk/en/news/the-court-s-decision-in-a-case-of-school-segregation-of-roma-children-in-stara-lubovna-violates-the-international-law/>

²¹ *Body and Soul: Forced Sterilization and Other Assaults on Roma Reproductive Freedom in Slovakia* (2003). Poradňa 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/>

Since then Poradna has been continuously advocating for effective investigation of this practice and for providing redress for all aggrieved Roma women. Poradna has also been providing free legal aid to a limited number of involuntary sterilized Roma women before domestic courts and the ECtHR 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 submission from October 2016 that we presented with our partner NGOs to the UN Human Rights Committee.²² 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.

Following the most recent development, we would also like to draw attention of the Committee to rulings of Slovak domestic courts that lately - while taking into account relevant decisions of the Strasbourg court - decided in favour of two involuntary sterilized Roma women and awarded them adequate financial compensation. We provided information about them in our report for the UN Committee against Torture from June 2017.²³

The Slovak Government in its combined eleventh and twelfth periodic reports made a statement that the issue of involuntary sterilizations has been eventually closed at the level of international forums.²⁴ Numerous recommendations of the international human rights bodies from the recent years urging for the effective investigation of this practice and providing adequate remedies to survivors indicate the opposite. The judgments of the ECtHR as well as recent domestic courts decisions increasingly suggest that a substantial number of Roma women in Slovakia and former Czechoslovakia have been affected by this practice and Poradňa has been able to provide legal representation before courts only to a small number of them.

The UN Human Rights Committee in its recent concluding observations from October 2016 has made clear that the Slovak Government should finally take responsibility for this past practice and establish an independent body to investigate its full extent 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 aggrieved Roma women.

We note with concern that 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. Given that we urge the Committee to reiterate the recommendation of the UN Human Rights Committee and emphasize during the session with Slovak Government as well as in its concluding observations an urgent need to:

- establish an independent body to investigate the full extent of the practice of sterilizations without informed consent and provides financial and other reparation to the survivors.

²² Submission of the Center for Civil and Human Rights – Poradňa, 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 Fourth Periodic Report 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

²³ Supra. Footnote 7, pp. 4.

²⁴ Combined eleventh and twelfth periodic reports of Slovakia for the Committee on the Elimination of Racial Discrimination from 18 July CERD/C/SVK/11-12. para. 188.

Referring to another particular previous recommendation of the Committee,²⁵ we are not aware that the Government has taken measures to ensure medical staff are properly trained about informed consent and what it entails and sensitised in respecting diversity, 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,²⁶ 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. Given that we urge the Committee to stress the Slovak Government the importance to:

- monitor healthcare providers' implementation of Slovak legislation on informed consent in situations of sterilization and ensure appropriate sanctions are applied if breaches occur;
- introduce clear guidelines for medical staff on informed consent and provide ongoing and systematic training for healthcare personnel on how to ensure informed consent is obtained.

V. Discrimination of Roma women in the maternity health care

Various forms of discrimination and humiliation of Roma women in the maternity health care are widely reported in Slovakia. In October 2016 Poradňa in cooperation with the international NGO Center for Reproductive Rights (CRR) conducted a field monitoring, which documented experiences of Roma women in reproductive and maternal health care facilities in Slovakia. Within the monitoring we conducted in-depth interviews with 38 Roma women living in several marginalized Roma communities in the eastern part of the country. The interviewed women reported experiencing 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. The findings of this monitoring are going to be presented in the advocacy report, which is about to be released in the forthcoming weeks.²⁷

Segregation of Roma women in maternity wards remains to be a common practice in some hospitals in eastern part of Slovakia. We particularly document this practice for a long time in the State-run hospital in Prešov, and also in some other hospitals in Eastern Slovakia. Roma women are in some instances also prevented from using the same bathrooms and toilets as non-Roma, as well as being prevented from entering the dining room and/or having a separate table for dining. Apart from segregation in hospitals targeting Roma women, instances of placing Roma children in separate rooms on Pediatric departments of some hospitals in eastern Slovakia has been also reported within our field monitoring in marginalized Roma communities.

Addressing instances of discrimination of Roma women in maternity health care by legal means is largely ineffective due to the already mentioned shortcomings in the implementation of antidiscrimination legislation as well as in decision making of courts or responsible state administrative bodies. Poradna currently litigates

²⁵ CERD/C/SVK/CO/9-10, para. 13.

²⁶ 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.

²⁷ The report will be published in Slovak as well as English language.

"actio popularis" lawsuit based on the domestic Antidiscrimination Act targeting segregation of Roma women in the maternity ward of the Prešov hospital, but the court proceeding has been pending before the first instance court for four years without any meaningful progress. In addition, a group of Roma women in April 2017 initiated a public petition by which they pointed at the segregation and humiliation of Roma women in the Prešov hospital. Petition was subsequently submitted to the Ministry of Health that assessed it as a complaint and requested to the responsible Office of Self-governing Region to make an inspection in the hospital. However, the inspection of the given Office has been, in our view, clearly ineffective since its results have been based solely on the statements of the medical personnel of the hospital, rejected the claims of Roma women without adequate examination of the situation in the hospital and without proper justification. Among others the given Office concluded that the fact that no mistreatment occurs in a hospital can also be proven by the fact that Roma women are still coming back to give birth to this hospital.²⁸

The documented practices revealed an urgent need for the Slovak Government to take effective measures to improve the quality of reproductive and maternal health care in the country, to prevent discrimination of Roma women and improve control mechanisms in this area.

We urge the Committee to recommend the Slovak Government to:

- establish effective programs, procedures, and mechanisms to assess, monitor, eliminate, prevent, and sanction discriminatory practices against Roma women in maternity health care as well as all the other forms of discrimination of Roma patients in health care and eradicate the harmful consequences of these practices;
- implement effective training and awareness-raising programs for health care personnel providing reproductive health services in Slovakia designed to combat and eradicate stereotypes and prejudices that foster the discriminatory treatment of Roma women.

²⁸ See the reply of the Office of Self-governing Region concerning the petition of Roma women against their segregation and humiliation at the maternity ward at the Prešov hospital. Available in Slovak language at: <https://www.poradna-prava.sk/sk/aktuality/odpoved-uradu-presovskeho-samospravneho-kraja-na-peticiiu-zien/>