Report on the observance of human rights including the principle of equal treatment in the Slovak Republic for the year 2015
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Un-purchasable title

Content

List of Abbreviations .............................................................................................................................................. 7
Introduction .................................................................................................................................................................. 10
List of Recommendations of the Centre .................................................................................................................. 12
1 Manifestations of Racism and Extremism in Slovakia .............................................................................................. 24
  1.1 Hate speech on Internet ......................................................................................................................................... 24
  1.2 Attack towards a young Roma woman in Detva ................................................................................................ 26
  1.3 Semi-military formation “Slovenskí branci” (Slovak levies) ................................................................................ 26
  1.4 Does Slovakia march in line with the law? ............................................................................................................ 27
  1.5 Marches in Bratislava and Žilina ....................................................................................................................... 28
    Conclusion ............................................................................................................................................................ 28
2 The Rights of Roma .................................................................................................................................................. 32
  2.1 Police violence .................................................................................................................................................... 32
    Conclusion .......................................................................................................................................................... 33
    Recommendations .............................................................................................................................................. 34
  2.2 Roma as the most common victims of human trafficking ..................................................................................... 34
    Conclusion .......................................................................................................................................................... 35
    Recommendations .............................................................................................................................................. 36
  2.3 Right to housing ................................................................................................................................................ 36
    Conclusion .......................................................................................................................................................... 37
    Recommendations .............................................................................................................................................. 37
  2.4 Good practice – Multifunctional centrum in Horehronie .................................................................................... 37
    Conclusion .......................................................................................................................................................... 38
3 Right to Education .................................................................................................................................................. 40
  3.1 Segregation in the meaning of the amendment of the School Act .................................................................... 40
    Conclusion .......................................................................................................................................................... 41
3.2 Concrete cases of segregation ........................................................................................ 41

Conclusion ........................................................................................................................ 44

Recommendations ............................................................................................................ 45

3.3 Unlawful enrolment of children into special schools – Rokycany ................................. 45

Conclusion ........................................................................................................................ 47

Recommendations ............................................................................................................ 47

3.4 Judgement of the Supreme Court of the Slovak Republic concerning integration of a child with disability .............................................................................................................. 48

Conclusion ........................................................................................................................ 50

Recommendations ............................................................................................................ 50

4 Application of the right to asylum in the Slovak Republic ................................................... 52

4.1 Measures and position of the Slovak Republic in addressing the migrant crisis .......... 52

4.2 Asylum in Slovakia ........................................................................................................ 56

Conclusion ........................................................................................................................ 58

Addendum and recommendations .................................................................................... 59

5 Violence against women ....................................................................................................... 63

5.1 Istanbul Convention ....................................................................................................... 63

5.2 National Helpline for Women Experiencing Violence and the Coordination Methodological Center ........................................................................................................... 66

5.3 Shelter for battered women in Prešov ............................................................................ 67

Conclusion ........................................................................................................................ 68

Recommendations ............................................................................................................ 68

6 Protection of the Rights of LGBTI Persons .......................................................................... 71

6.1 Referendum for the protection of family ........................................................................ 71

6.2 Action Plan for LGBTI People for the Years 2016-2019 .............................................. 72

6.3 Hate speech and hate crimes ......................................................................................... 74

Conclusion ........................................................................................................................ 75

Recommendations ............................................................................................................ 76
10.1 Projects and programmes showing characteristics of TCM implemented in 2015

10.1.1 Project Healthy Communities ................................................................. 118

10.1.2 Housing Development Programme ....................................................... 119

10.1.3 National Programme Family and Work ............................................... 119

10.1.4 National Programme Involvement of the Unemployed in the Restoration of Cultural Heritage .............................................................. 121

10.1.5 Project “You also have a chance!” (Aj ty máš šancu!) .......................... 121

10.2 Research concerning the knowledge and use of TCM by territorial self-government authorities ................................................................................. 122

Conclusion .............................................................................................................. 124

Recommendations .................................................................................................. 125
List of Abbreviations


Act on Establishment of the Centre – Act of the National Council of the Slovak Republic No. 308/1993 Coll. on Establishment of the Slovak National Centre for Human Rights

Antidiscrimination Act – Act No. 365/2004 Coll. on Equal Treatment in Some Areas and on Protection from Discrimination amending and supplementing certain acts as amended

Asylum Act – Act No. 480/2002 Coll. on Asylum and amending and supplementing certain acts as amended

Bratislava City Council – City Council of the Capital City of the Slovak Republic Bratislava

Bratislava Region – Bratislava Self-governing Region

CCHR – Centre for Civil and Human Rights

Centre – Slovak National Centre for Human Rights

City of Bratislava – Capital City of the Slovak Republic Bratislava

CLA – Centre for Legal Aid

Constitutional Court – Constitutional Court of the Slovak Republic

Construction Act – Act No. 50/1976 Coll. on Land-use Planning and Construction Order

Coordination Methodical Centre – Coordination Methodical Centre for the Prevention and Elimination of Violence against Women and Domestic Violence

CRPD – UN Convention on the Rights of Persons with Disabilities

CVEK – Centre for the Research of Ethnicity and Culture

ECRI – European Commission against Racism and Intolerance

Equinet – European Network of Equality Bodies

EU – European Union

EUBA – University of Economics in Bratislava

General Prosecutor – General Prosecutor of the Slovak Republic

IDS BK – integrated transport system in the Bratislava Region

Istanbul Convention – Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence

LGBTI Committee – Committee of the Rights of Lesbian, Gay, Bisexual, Transgender and Intersex Persons of the Government Council of the Slovak Republic for Human Rights, National Minorities and Gender Equality

Magistrate of Bratislava – Magistrate of the Capital City of the Slovak Republic Bratislava

Migration Office – Migration Office at the Ministry of Interior of the Slovak Republic

Ministry of Culture – Ministry of Culture of the Slovak Republic

Ministry of Education – Ministry of Education, Science, Research and Sport of the Slovak Republic

Ministry of Foreign and European Affairs – Ministry of Foreign and European Affairs of the Slovak Republic

Ministry of Interior – Ministry of Interior of the Slovak Republic

Ministry of Justice – Ministry of Justice of the Slovak Republic

Ministry of Labour – Ministry of Labour, Social Affairs and Family of the Slovak Republic

Ministry of Transport – Ministry of Transport, Construction and Regional Development of the Slovak Republic


National helpline – National Helpline for Women Experiencing Violence

NBS – National Bank of Slovakia

OBaFP PPF – Presidium of the Police Force of the Slovak Republic - Office of Border and Foreign Police

Police Force - Police Force of the Slovak Republic

PWDs – persons with disabilities

PWD card – card for an individual with severe health disabilities/accompanied individual with severe health disabilities


School Act – Act No. 245/2008 Coll. on Upbringing and Education and amending and supplementing certain acts as amended

SIS – Slovak Information Service

Slovak Constitution – Act No. 460/1992 Coll. the Constitution of the Slovak Republic

STI – State Trade Inspection

Supreme Court – Supreme Court of the Slovak Republic
TCM – Temporary Compensatory Measures

UN – United Nations

Zuzkin park in Košice Pedagogical and psychological advice and prevention Center “Zuzkin park in Košice”

ŽSSK – Železničná spoločnosť Slovensko, a. s.
Introduction

Human rights naturally form an essential part of everybody’s life, no matter whether the rights of the child, the rights of elderly, foreigners’ rights, the rights of people in the material need, the rights of people with disabilities or other rights are concerned. Unfortunately, those most vulnerable are the most common targets of human rights breaches. Observance of human rights not only supports diversity in the society but it also brings opportunities for self-realisation and self-determination of members of risk groups, while providing numerous benefits for the majority. Hence, human rights bring along tolerance, non-discrimination and, most importantly, the respect towards other human beings. The Slovak National Centre for Human Rights (the Centre) bears in mind the indivisibility of human rights, promotion and protection of human rights, including the rights of the child as well as the principle of non-discrimination.

The Centre was established by the Act of the National Council of the Slovak Republic No. 308/1993 Coll. on Establishment of the Slovak National Centre for Human Rights (the Act on Establishment of the Centre), which entered into force on 1 January 1994, based on the Agreement between the Government of the Slovak Republic and the United Nations (UN) on Establishment of the Centre published as the Notice of the Ministry of Foreign Affairs of the Slovak Republic No. 29/1995 Coll.

The Centre is active in two delimited but closely related areas. The first one is the protection and promotion of human rights under the Act on Establishment of the Centre. Secondly, pursuant to the Act No. 365/2004 Coll. on Equal Treatment in Some Areas and on Protection from Discrimination amending and supplementing certain acts as amended (the Antidiscrimination Act), the Centre acts as the only Slovak institution for equality and for evaluation of the observance of the principle of equal treatment.

The Centre enjoys a special position within the Slovak legal order. In the international context, it acts as a national human rights institution within the UN system. Within the European Union (EU) framework, the Centre represents a specialised national equality body involved in European Network of Equality Bodies (Equinet).

Thus, based on its position, the Centre monitors and evaluates the observance of human rights and fundamental freedoms as well as the observance of the principle of equal treatment in the Slovak Republic. In line with Article 1 para. 4 of the Act on Establishment of the Centre, the Centre annually, by 30 April, prepares and publishes a Report on the
Observance of Human Rights including the Principle of Equal Treatment in the Slovak Republic. This competence results also from para. 3 a (iii) of the Paris Principles (human rights area) and from provisions of the EU antidiscrimination directives\(^1\) (area of non-discrimination and equal treatment).

Individual chapters of the Report on the Observance of Human Rights including the Principle of Equal Treatment in the Slovak Republic for the Year 2015 cover human rights and freedoms, the issue of extremism, the observance of the principle of equal treatment and issues related to discrimination.

The content of the Report specifically focuses on the selected human rights and freedoms that were subject to public discussion in 2015, the exercise of which revealed shortcomings or the protection of which appeared to be problematic in the past year. Several topics were subject of legislative changes or related to various campaigns. The report provides general information on the guarantees of rights and lists the most significant international and national legal regulations.

The purpose of the Report is to provide a fair, true and current image of the observance of human rights in the Slovak Republic for the previous year and also to give opinions and recommendations in order to ensure a more efficient protection and exercise of human rights and fundamental freedoms. Accordingly, within the preparation of the Report the Centre contacted a wide circle of public authorities, public institutions, commercial companies, NGOs active in the area of human rights as well as the academia seeking relevant information required to get the most complex picture of human rights situation in Slovakia.

The Centre obtained current and objective data also through its monitoring, active retrieval, research and other expert activities within performance of its tasks, by handling complaints and information of clients seeking legal advice or help from the Centre as well as with regards to practical experience of the Centre and its regional offices.

The Report on the Observance of Human Rights including the Principle of Equal Treatment in the Slovak Republic for the year 2015 was discussed by the Administrative Board of the Centre in accordance with Article 3a para. 7 (h) of the Act on Establishment of the Centre at its session on 29 April 2016.

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\(^1\) For instance, Article 12 para. 2 (c) of the Council Directive 2004/113/EC and Article 20 para. 2 (c) of the Directive of the European Parliament and the Council 2006/54/EC.
List of Recommendations of the Centre

Manifestations of Racism and Extremism in the Slovak Republic

1. Each individual realise consequences of possible racist, extremist or other intolerant expressions, not only personal but also with regards to addressees of the expression which are generally condemned by the society.

2. The Police Force of the Slovak Republic, the General Prosecutors Office of the Slovak Republic and the Slovak Information Service thoroughly reconsider and evaluate currently available preventive mechanisms concerning expressions of racism, extremism and other manifestations of intolerance and, in case they prove insufficient, implement such measures that would decrease the number of these manifestations. Particularly that they adopt measures to provide cooperation among social networks providers and relevant police units respectively the General Prosecutors Office of the Slovak Republic.

3. The National Council of the Slovak Republic evaluates the significance of exercise of the right to assembly and the freedom of expression and adopts appropriate legislative measures to preclude exercise of the right to assembly by extremist groups, in line with the Slovak Constitution and international conventions ratified by the Slovak Republic.

4. NGOs and civic initiatives continue with their activities publicly condemning racism, extremism and other manifestations of intolerance.

5. Media operating in Slovakia pay proper attention to issues of racism, extremism and other manifestations of intolerance and publicly condemn such manifestations.

The Rights of Roma

6. The Ministry of Interior of the Slovak Republic ensure that video recordings are made of all police interventions (both under single and direct command) which presume the use of coercive measures.

7. The Ministry of Interior of the Slovak Republic continue testing operations of clothing cameras for police officers for future use in police actions.
8. The Ministry of Interior of the Slovak Republic support education of police officers concerning national and international documents on human rights and freedoms, both in terms of their compliance and respect by police officers as well as for their own protection.

9. The Ministry of Interior of the Slovak Republic, the Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities and NGOs raise awareness of marginalized Roma communities about human trafficking and ways of protection through preventive actions, particularly with an emphasis on the risk of forced labour.

10. The City of Košice participate in the pilot program of the Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities “Self-construction of Rental Houses”, which aims to initiate a system of self-constructed buildings and to encourage higher participation of Roma themselves into Roma settlements remodelling.

The Right to Education

11. Elementary schools improve communication and cooperation with Roma parents as one of the fundamental presumptions for improving Roma students’ success at school.

12. Elementary schools consistently monitor needs of students in order to create conditions for their development and, in line with Article 144 of the School Act, pay closer attention to individual opportunities and abilities of students.

13. Elementary schools with a majority of Roma students pay particular attention to the quality of education process and improvement of competences of a pedagogical group.

14. Elementary schools ensure education by teachers and assistants of teachers who can speak Roma language.

15. Elementary schools, within the whole education and upbringing process, apply a multicultural education leading to elimination of stereotypes and prejudice, and thus prevent discrimination.

16. The Ministry of Education, Science, Research and Sport of the Slovak Republic ensure conducting re-diagnostics of children who were enrolled in special schools, hence giving them an opportunity for a possible re-enrolment in standard elementary schools.
17. The Ministry of Education, Science, Research and Sport of the Slovak Republic ensure qualified control (i.e. by the State School Inspection) of decisions concerning enrolment or transfer of children to special elementary schools.

18. The Ministry of Education, Science, Research and Sport of the Slovak Republic innovate diagnostics tests and then distribute them among respective diagnostics centres.

19. The Ministry of Education, Science, Research and Sport of the Slovak Republic increasingly support integrated way of education of students with disabilities based on more positive conditions for possibilities of ensuring the needed personal as well as material and technical equipment of schools.

20. The Ministry of Education, Science, Research and Sport of the Slovak Republic adopt measures which would lead to control, or assessment of individual decisions of directors of elementary schools on admitting or rejecting children with disabilities to education process in a regular elementary school.

**Application of the Right to Asylum in the Slovak Republic**


22. The Government of the Slovak Republic ensure for refugees and migrants the right to protection from any discrimination. The Slovak Republic, as any other state, has an obligation to fulfil respective national obligations in accordance with the international law.

23. The Government of the Slovak Republic ensure and respect access to fair, prompt and effective asylum procedure for every applicant, including the right to information, the right to effective remedy, and take into account the best interest of the child.

24. The Government of the Slovak Republic eliminate and prevent inhuman or degrading treatment and ensure that migrants and refugees at borders are not deprived of liberty, particularly minors. All cases of physical or other abuse of migrants and refugees must to be promptly and fully investigated and the perpetrators brought to justice.
25. The Government of the Slovak Republic ensure for migrants and refugees active access to economic and social rights, including adequate housing, medical, food, water, canalisation, rights for the child’s protection and the protection of family and the promptest possible integration into the educational process.

26. The Government of the Slovak Republic within asylum procedure identify and provide for the particular needs of vulnerable groups (children- mostly separated or unaccompanied; victims of torture, sexual harassment or human trafficking; persons at risk of statelessness; LGBTI persons; traumatised persons; persons with intellectual and/or physical disabilities and older persons) with an aim to ensure their rights.

27. The Government of the Slovak Republic within asylum procedure particularly protect a vulnerable group of women, mostly unaccompanied women. These women, despite running away from home countries because of sexual harassment, are victims of sexual harassment not only at time of migration but also directly in facilities of reception countries. It is also needed to create conditions for freedom of religious speech and to prevent any expressions of intolerance.

28. Public administration bodies of the Slovak Republic and other human rights organisations operating in Slovakia handle complaints submitted by refugees or migrants within scope of their mandates.

29. Public administration bodies and all other human rights organisations operating in Slovakia join awareness raising and spread accurate information on human rights of refugees and immigrants, mostly in terms of current situation and the increasing xenophobia.

30. All other human rights organisations in Slovakia strongly condemn any public statements which represent or support expressions of hatred and discrimination, and urge the relevant bodies to adopt all necessary safety measures to prevent them.

31. All other human rights organisations in Slovakia condemn and fight against violations of human rights of migrants and refugees, support tolerance and understanding towards refugees and migrants, including ensuring their protection in reception centres and other housing facilities.

32. All other human rights organisations in Slovakia support cooperation at national and regional level with an aim to protect human rights, provide humanitarian aid, support understanding for refugees and migrants also through media and join intercultural dialogue and common activities.
33. All other human rights organisations in Slovakia insist that human rights cannot be repressed by safety regulations and borders protection.

34. All other human rights organisations in Slovakia use mechanisms, support and help intended for protection of human rights of migrants and refugees at regional, national and international level.

Violence against Women

35. The Slovak Republic complete the process of ratification of the Istanbul Convention without undue delay.

36. The Ministry of Labour, Social Affairs and Family of the Slovak Republic ensure fluent and efficient functioning of the Coordination Methodical Centre the Prevention and Elimination of Violence against Women and Domestic Violence and National Helpline for Women Experiencing Violence.

37. Self-governing regions, towns, municipalities and non-governmental sector increase the number of shelter homes for battered women.

38. The Ministry of Labour, Social Affairs and Family of the Slovak Republic, the Ministry of Interior of the Slovak Republic, non-governmental sector and professional public raise awareness on the issue of violence against women.

39. The Ministry of Labour, Social Affairs and Family of the Slovak Republic and the National Council of the Slovak Republic submit and adopt new legislation on the protection of women against violence.

40. Citizens of the Slovak Republic, before signing petitions, carefully study their contents and related issues.

Protection of the Rights of LGBTI Persons

41. The Ministry of Justice of the Slovak Republic, as a gestor, submits the Action Plan for LGBTI Persons for the Years 2016-2019 for adoption by the Government of the Slovak Republic without undue delay.

42. The National Council of the Slovak Republic amends the Criminal Code extending the wording of Article 140 section f) to cover, among the special motives of crimes, also hatred based on gender identity or sex characteristics of the victim.
43. The National Council of the Slovak Republic amends the Criminal Code extending the list of hate speech crimes to cover hatred based on sexual orientation, gender identity and sex characteristics (i.e. homophobic and transphobic hate speech).

44. The National Council of the Slovak Republic adopts legislation introducing registered partnerships of same-sex couples. Until the adoption, the Centre recommends that the National Council of the Slovak Republic and bodies of public administration mandated in particular areas of public administration secure facilitating of practical problems resulting from non-institutionalised cohabitation of LGBTI couples by implementing effective legislative and non-legislative measures.

45. Media, pedagogues, NGOs and other stakeholders having impact on public opinion raise awareness on LGBTI rights in order to eliminate prejudice and hate speech against LGBTI persons as well as homophobic and transphobic chicane.

**Protection of the Rights of Persons with Disabilities**

46. The Magistrate of the Capital City of the Slovak Republic Bratislava and the Bratislava Self-governing Region eliminate discriminatory transport terms for persons with disabilities (PWD card holders) based on their permanent residence.

47. The Ministry of Transport, Construction and Regional Development of the Slovak Republic adopt legislative changes aiming to provide free transport for PWD card holders within railway transport.

48. The Ministry of Transport, Construction and Regional Development of the Slovak Republic adopt legislative changes in order to introduce unified transport terms for PWD card holders in all cities and municipalities, since decentralisation caused that these terms vary and bring about difficulties in comprehending tariffs of individual transport operators.

49. Public bodies and other legal entities create measures, including allocation of financial support, aimed at removing barriers of public pavements and roads, parking spots, buildings (schools; school, cultural, health or sport facilities, etc.) and commercial buildings (shops, residential buildings etc.), public transport and workplaces. Specific

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2 It is necessary to deal not only with accessible entrance to premises but consider elimination of barriers systematically in order to provide PWDs maximum functional accessibility (clear marking, accessible toilets, width of premises, doorframes, elevators etc.).
minimum standards of accessibility should be introduced with regards to public spaces and premises together with deadline for their implementation.

50. The Ministry of Transport, Construction and Regional Development of the Slovak Republic prepare, or complete, without undue delay a proposal of the new construction act including implementing regulations in order to cover prioritising universal design facilitating integration of persons with disabilities and elimination of discrimination which can occur in the society as a result of special arrangements for persons with disabilities.

51. The National Council of the Slovak Republic protect interests of persons with disabilities in the area of accessibility and personal mobility and push through the new construction act and its implementing regulations which would ensure access of persons with disabilities, on equal basis as for any other persons, to physical environment and mobility therein.

52. The Ministry of Labour, Social Affairs and Family of the Slovak Republic cooperate with the Ministry of Transport, Construction and Regional Development of the Slovak Republic in implementation of the national programme “Universal Design Support”. The Ministry of Labour, Social Affairs and Family of the Slovak Republic in cooperation with the Ministry of Transport, Construction and Regional Development of the Slovak Republic push through the elaboration of universal design standards for buildings and physical environment as well as recommendations how to use universal design in practice within a legislative intent concerning implementation of universal design into the Slovak legislation.

53. Activities motivating to support elimination of barriers of publicly accessible premises in cities and municipalities, e. g. public competitions, are realised in cooperation of central public bodies with territorial self-governments, and eventually with a philanthropy participation of a business sector.

54. Municipalities, cities and the Association of Towns and Villages of Slovakia include elimination of barriers into their wider inclusive social policy, notwithstanding the fact that elimination of historical contexts of architectonical barriers is financially difficult.

55. Founders of school facilities adopt regulations allocating financial resources for gradual elimination of barriers in school premises and preschool facilities both at the ministerial level and the level of territorial self-governments.
56. The Ministry of Health of the Slovak Republic in the area of health care increasingly concern barrier-free access, accessibility and elimination of qualitative differences in health care between persons with disabilities and other persons.

57. Founders and/or operators systematically construct more accessible entrances to various public institutions, sport facilities etc.

58. Relevant subjects of public administration and contractual transport operators providing services in railway transport in Slovakia create measures, including allocation of financial resources, aimed at elimination of barriers in railway stations objects and in railway transport itself. In terms of adopted railway station standards, it would be useful to introduce specific minimum standards of accessibility and at the same time set time limits for their realisation.

59. Activities motivating elimination of barriers in railway transport are realised in cooperation of central bodies of public administration and territorial self-governments, including possible philanthropic participation of a business sector.

60. Železnice Slovenskej Republiky support, increase and maintain nationwide introduction of the so called eurokeys which would provide persons with disabilities with individual access to sanitary facilities, buildings, ramps and platforms.

61. Transport operators (providers of railway transport services) in cooperation with the Ministry of Transport, Construction and Regional Development of the Slovak Republic and territorial self-governance bodies standardise services and unify all provided tariff reductions in railway transport through Slovakia and at local level for the benefit of persons with disabilities.

62. The Slovak Republic in cooperation with contracted transporters include more trains with barrier-free access into railway transport and provide more seats reserved for persons with disabilities in train coaches.

63. Both railway transport operators adopt, until elimination of barriers in providing full accessibility of their services to persons with disabilities, targeted temporary compensatory measures with an aim to eliminate barriers in access to railway transport services.

64. The Ministry of Transport, Construction and Regional Development of the Slovak Republic and transport operators continuously improve quality of transport of persons with disabilities and continuously reach the standards that are, until 2019, subject to exceptions in the Slovak Republic, in order to fully observe all obligations when a time limit of the exceptions expires.
Provision of Goods and Services

65. Banks, which have not yet done so, assess provision of facultative bank products aimed at elimination of inequality of certain groups of population and strengthening competitive environment, while observing prudential requirements.

66. Banks, while observing prudential requirements, evaluate current criteria for drawing loans by inhabitants aged over 62 years (or 65 years) and provide specialised loan products for this group of population in order to minimise discriminatory treatment (institutes of security are recommended in loan relationships in these terms).

67. Bank consider increasing the age limit for maturity of a loan to a statistical average lifetime age in the Slovak Republic with in order to make loan offer more attractive for persons of higher age and to increase their accessibility.

68. Banks publish products particularly for a target group of clients over 62 and older in order to secure transparency of criteria of their loan policies.

69. The National Bank of Slovakia particularly focus on unequal treatment in the area of provision of bank loans based on other than objectively justified circumstances within realization of protection of financial consumer through control purchase of financial services.

70. The Capital City of the Slovak Republic Bratislava observe principle of equal treatment in access to public parking in its territory within preparation of draft regulation of public parking.

71. The Capital City of the Slovak Republic Bratislava, in case it maintains the criterion of residency in determining the parking fee, consider extending the definition of a resident to cover at least also persons who own a real estate in the territory of Bratislava and persons who have permanent residence in Bratislava for less than 12 months.

72. The Capital City of the Slovak Republic Bratislava, in case it maintains the criterion of residency in determining the parking fee, apply the same amount of parking fee for all residents in Bratislava and with regards to non-residents do not apply different amount of parking fee near public institutions, health facilities etc.

73. The Capital City of the Slovak Republic Bratislava look for other ways of solving the current situation in public parking (e.g. construction of public parking houses).
Working Conditions of Employees – Workplace Bullying

74. Employees, in cases with allegations of bullying in workplace, solve the problem primarily by a personal interview with a mobber or an employer or use a work meeting for this purpose.

75. Employees, in cases of unsatisfactory solution of the situation in workplace, contact bodies which can help them (the Labour Inspectorate, the Centre, trade unions, control bodies, the School Ombudsman etc.).

76. Employers ensure control of a work climate in their workplaces through anonymous questionnaires, regular working meetings and providing employees the opportunity to give opinions about social climate in workplace.

77. Employers ensure trainings concerning bullying in workplace (mobbing, bossing) and the Antidiscrimination Act, which can serve prevention from this negative phenomenon.

78. Employers qualify bullying in workplace as a serious infringement of work discipline and a potential reason for immediate termination of employment relationship in their internal legislation.

79. Labour inspectorates, in case of identifying bullying in workplace, state infringement of Article 13 para. 1 of the Labour Code, which implements that employer is in labour relations obligated to treat the employees in accordance with the principle of equal treatment regulated in the area of employment in the Antidiscrimination Act, and that the infringement of Article 13 para.1 of the Labour Code also constituted an infringement of work discipline.

80. Trade unions consistently deal with workplace bullying and provide employees with help within area of their mandate.

81. Bodies mandated to dismiss chief executive workers draw personal consequences in cases of proven adverse social climate and bullying in workplace.

82. The National Council of the Slovak Republic legally regulate the term workplace bullying and adopt a complex regulation of this issue.

83. The National Council of the Slovak Republic legislate individual responsibility for bullying conduct in workplace, i.e. draw real consequences for this conduct at all levels of management.
Temporary Compensatory Measures

84. The Ministry of Health of the Slovak Republic and non-profit organisation Zdravé komunity, n. o. continue with the project Healthy Communities and that it is strictly observed that the health awareness assistants are only used within the scope of their work activities.

85. The Ministry of Labour, Social Affairs and Family of the Slovak Republic continue with the project Work and Family and extend its scope to the Bratislava Self-Governing Region.

86. The Ministry of Education, Science, Research and Sport of the Slovak Republic support TCM projects at all levels of education focusing on the Roma minority.

87. State authorities of the Slovak Republic design structures for funding various projects in such a way to allow support of TCM projects purposely targeting particular addressees conceptually and systematically.

88. Subjects adopting TCM and the Government of the Slovak Republic build on undertaken or ongoing TCM in development of new TCM targeting the same TCM addressees.

89. Subjects adopting TCM fulfil their legal reporting obligation towards the Centre and submit the Centre reports on adopted TCM in line with the Antidiscrimination Act.
Nahláďajme
medzi sebou rozdiely,
ahláďajme čo máme
všedni

Spoločnosti
1 Manifestations of Racism and Extremism in Slovakia

The Centre monitors and evaluates observance of human rights and also gathers and upon request provides information on racism, xenophobia and antisemitism in Slovakia.

The following subchapters cover medialized cases and provide the Centre’s sound evaluation of particular cases of manifestations of racism, extremism or other expressions of intolerance together with possible alternatives of solutions. Racist, extremist or other intolerant manifestations towards certain groups of population based on their membership of race, nation, ethnicity or nationality or based on their religion or belief represent a current problem in the Slovak society. The Centre particularly highlights the need to adopt new prevention measures in order to prevent occurrence of such manifestations or to improve implementation of measures already available.

1.1 Hate speech on Internet

Hate speech on Internet, particularly on social networks, is an extremely debated and current issue. The Centre perceives the increase of hate speech on Internet especially in terms of the migration crises that hit Europe in 2015. It is crucial to individualise each expression spread on Internet with a potential to incite racially, nationally or ethnically motivated crimes.

The Centre pays attention to law enforcement authorities which are entitled not only to evaluate expressions of natural persons but also, if necessary, to initiate criminal proceedings against authors of such expressions and investigate hate speech spread publicly by concrete individuals. It shall be noted that publishing hate speech at a social network itself represents public dissemination of such speech. The freedom of expression guaranteed by the Act No. 460/1992 Coll. the Constitution of the Slovak Republic (Slovak Constitution) is in its content limited by the rights of others, whether constitutionally guaranteed or resulting from legislation in order to protect public interest or values.3

If a published opinion exceeds generally recognised rules of decency in a democratic society, it loses the nature of a concrete opinion and constitutional protection.4 Furthermore, it is extremely important to realise that the exercise of the freedom of expression of one’s

opinions comprises of certain obligations and responsibility for the presented opinions.⁵

Pursuant to the statement of the General Prosecutor of the Slovak Republic (the General Prosecutor), criminal activities on Internet have noticeably increasing tendency. Offenders are mainly persons in the age close to that of juveniles, juveniles but also minors with unpoised opinions about life.⁶

In order to identify causes of committing this type of criminality, its latency, modus operandi and to evaluate cooperation among public authorities active in the area of prevention and fight against this criminality, the General Prosecutor approved preparation of the Evaluation of practice of law enforcement authorities and courts in criminal prosecution of offenders of crimes of extremism or the so called spectator violence for the year 2014.

The Centre supports implementation of preventive and sanction measures aimed to effectively fight hate speech on Internet. It also supports realisation of events and campaigns for prevention of hate speech on Internet with a particular accent on expressions based on racist, extremist, national hatred or hatred based on skin colour of a certain group of people.

In these terms, the Centre welcomes the campaign of the Open Society Foundation (Nadácia otvorenej spoločnosti) called “Say it to my face” (Povedz mi to do oči). The foundation reminds that “hate speech is not protected by the freedom of expression since this freedom must be exercised in a manner that does not interfere within other human rights such as the right to human dignity, honour and protection of good name.”

Support of groups leading to the suppression of fundamental human rights can be measured mainly through data available from online social networks. Registered users can present their opinions on certain groups, values and create their personal profile through functions of the social networks. The number of supporters of publicly medially known extremist groups increases and in many cases exceeds 1000. Data available at social networks show the increasing level of radicalisation in the society.

The Centre finds the adoption of measures providing cooperation among social networks providers and relevant police units and the General Prosecutors Office of the Slovak republic to be a very, if not the most, important part of fight against extremis, racism and manifestations of intolerance in Slovakia. It is crucial to prevent dissemination of propaganda presenting suppression or efforts to suppress fundamental human rights and freedoms of certain groups of population through publicly available profiles at social networks.

⁶ Statement of the General Prosecutor of the Slovak Republic regarding the questions of the Centre dated of 22.02.2016.
1.2 Attack towards a young Roma woman in Detva

In 2015, the public got shocked by a physical attack towards a woman from Detva. Law enforcement authorities initiated criminal proceedings on charges of bodily harm and disorderly conduct. Medialized information stated that the woman was attacked by two attackers shouting statements against refugees.

The attacked woman was of a Roma ethnicity. Roma are a group with specific cultural customs, traditions and common history, while its members speak common language and can be characterised by roughly similar values of life. Based on Roma ethnicity of the attacked woman and medialized information of external expressions and looks of the attackers, the Centre tends to conclude that motivation behind the attack was the woman’s membership of a certain ethnic group. In these terms, it is crucial to understand that motivation to commit a crime represents offender’s internal reason for committing a crime. Since results of the criminal proceedings were not publicly available by the end of 2015, the motivation of the attackers’ actions can only be presumed. The Centre has, nevertheless, expressed its opinion through medialized statements condemning any unlawful activities motivated by hatred based on race, nationality, ethnicity or skin colour.

1.3 Semi-military formation “Slovenskí braní” (Slovak levies)

“Slovenskí braní” characterise themselves as an apolitical, non-profit organisation with an aim to develop love of young people towards homeland, nature and cultural heritage through various voluntary and charitable events such as e.g. events to help people in natural disasters or military exercise for children.\(^7\)

In 2015, Slovak media started to more and more frequently bring information on a group of young people who regularly train with weapons, wear fatigues, hold ranks and call themselves “Slovenskí braní”. This formation was created in 2012, has its own website and a logo containing a double-cross with growing roots. The formation is not formally registered. Within trainings, “Slovenskí braní” use expansion weapons which are real weapons able to shoot only with blank cartridges and can be legally bought and held under the sole requirement of reaching 18 years of age.

\(^7\) Kto sme? Slovenskí braní [online]. ©2016 [ref.2016-03-09]. Available at: http://www.slovenski-branci.sk/kto-sme/
On 12 October 2015, the State School Inspection published results of inspections conducted in schools in which the formation “Slovenskí branci” delivered military exercise training uncovering misconducts. The State School Inspection stated the following: “The training (lecture) had nothing to do with patriotism and national feeling which provided conditions for negative influencing of students’ attitudes towards patriotism and their disorientation”.

The Centre welcomes activities of the Police Force of the Slovak Republic (Police Force) units that particularly focus on the formation and continuously monitor its activities in cooperation with the Slovak Information Service (SIS).

Based on the abovementioned and notwithstanding the statements of the main representatives of the formation “Slovenskí branci”, connections between their activities and activities of persons supporting groups leading to suppress human rights and freedoms cannot be dismissed with certainty. The Centre appeals that the responsible authorities, particularly the relevant Police Force units, the Ministry of Defence of the Slovak Republic and SIS continue monitoring activities of this formation as well as other similar groups.

1.4 Does Slovakia march in line with the law?

The year 2015 was significantly marked by the migration crises which brought about a wave of resistance (not only) by citizens of the EU countries. Accordingly, the Centre finds it particularly important in this context to address a long-term problem regarding the freedom of expression and the right to assembly.

The freedom of expression is limited by the rights of other persons guaranteed by the legal order of a state or a supranational union of states. If the right to assembly is to serve the exercise of the freedom of expression, it is unacceptable that this right is exercised by violation of this freedom.

Public assemblies of extremist groups are undoubtedly able to initiate intolerance or hatred of other citizens towards certain groups of people based only on their membership of a certain race, ethnicity or their skin colour. This can be concluded based solely on the nature of extremist groups. The Centre, thus, appeals to the legislator and calls for adoption of a legislation preventing extremist groups from exercising the right to assembly. The Centre expresses the need of more thorough assessment of submitted notices of planned assemblies by municipalities or districts, not in terms of formalism but in order to protect human rights and prevent public dissemination of hatred towards certain groups of population.
1.5 Marches in Bratislava and Žilina

Marches that took place in Bratislava and Žilina with an aim to express negative attitudes towards the EU migration policy are publicly known. The hidden ideas behind the marches related to the aim to express negative attitude towards the migration crises and the so called “Islamisation of Europe” cannot be ruled out.

The very nature of groups convening the contested assemblies or similar assemblies does not correspond with the requirement of tolerance towards groups of citizens regardless of their skin colour, nationality, ethnicity or religion.

The Centre finds it crucial to take into account the spectrum of groups convening such assemblies respectively the groups whose supporters or members participate at these assemblies. The mere existence of these groups is liable to incite radical attitudes of part of the population. Hence, the Centre finds it justified that the responsible authorities consider it the priority to prevent from spread of extremist, racist or hate positions towards elimination of consequences of these assemblies.

One of such consequences was an attack towards an Arabic family, which occurred within the extremist assembly against the migration policy. Both the assembly and the attack took place on 20 June 2015. The attack that happened at the main train station in Bratislava is sorrowful also since June 20 commemorates the International Refugees Day. Besides vulgar expressions addressed to the family, the offenders also threw stones and bottles filled with water at the members of the family including a child in a pushchair.

The Centre welcomes and supports civic initiatives in forms of assemblies aiming to fight against extremism in Slovakia. In 2015, such initiative was e.g. “Výzva k ľudskosti” (A Plea for Humanity) which significantly overshadowed the previous extremist marches expressing negative attitudes towards the EU migration policy.

Conclusion

Chapters of the Centre’s Report from Media Monitoring Focusing on Manifestations of Racism, Extremism, Antisemitism and Other Manifestations of Intolerance cover evaluation of concrete cases and circumstances behind them. In many cases, this evaluation contains also proposals of possible solutions of the identified issues. Under the Slovak legislation currently in force, mainly the Criminal Code, these cases represent unlawful conducts. They serve as impulses for consideration in terms of both preventing and
sanctioning same or similar behaviour.

Manifestations of racism, extremism, antisemitism or other forms of intolerance are reprehensible conducts which should have no place in the developed society. It is thus justified to keep forming awareness of the society aimed at suppressing manifestations of racism, extremism or other forms of intolerance in the society. Since it is unthinkable that the occurrence of these cases increases in the future, prevention and the need of awareness raising concerning consequences of such behaviours for all individuals cannot be undermined.

It is crucial that each individual understands behaviours suppressing human rights of a certain group of persons based on their membership of a race, ethnicity, nationality or their skin colour as legally prohibited conducts bearing legal consequences under the criminal law but also in terms of social climate that condemns such behaviour and denies it of any value.

The Centre welcomes activities aimed at elimination of the mentioned forms of intolerance and highlights the need of their wide medialization by which the media themselves could support creation of the so called “zero tolerance culture” towards racism, extremism, antisemitism and other manifestations of intolerance rooted not only in physiological diversity of a particular group of persons. Although, the chapter addresses selected subjects, it must be kept in mind that the fight against the mentioned unwanted and legally unacceptable behaviours is primarily a matter of each individual person.

Recommendations

The Centre recommends that:

1. Each individual realise consequences of possible racist, extremist or other intolerant expressions, not only personal but also with regards to addressees of the expression which are generally condemned by the society.
2. The Police Force of the Slovak Republic, the General Prosecutors Office of the Slovak Republic and the Slovak Information Service thoroughly reconsider and evaluate currently available preventive mechanisms concerning expressions of racism, extremism and other manifestations of intolerance and, in case they prove insufficient, implement such measures that would decrease the number of these manifestations. Particularly that they adopt measures to provide cooperation among social networks providers and relevant police units respectively the General Prosecutors Office of the Slovak Republic.
3. The National Council of the Slovak Republic evaluates the significance of exercise of the right to assembly and the freedom of expression and adopts appropriate legislative measures to preclude exercise of the right to assembly by extremist groups, in line with the Slovak Constitution and international conventions ratified by the Slovak Republic.

4. NGOs and civic initiatives continue with their activities publicly condemning racism, extremism and other manifestations of intolerance.

5. Media operating in Slovakia pay proper attention to issues of racism, extremism and other manifestations of intolerance and publicly condemn such manifestations.
3rd year of the competition of the Slovak National Centre for Human Rights called “My Human Rights”,
Elementary School Šmeralova, Zuzana Lukáčová
2 The Rights of Roma

2.1 Police violence

The second biggest national minority in Slovakia is Roma. Last population census in 2011 showed that 108,881 people record their Roma minority, which represents 2% of the whole population. According to an estimation of the minimum assessment material of the Council of the EU, the EU Framework for National Roma Integration Strategies up to 2020, the number of Slovak citizens of Roma nationality is much higher.8

The issue of police violence became visible again after a police intervention in Vrbnica (Michalovce County) in 2015. The police from the Regional Department of the Police Force in Košice conducted on 2 April 2015 a regional operation called “100”. During the regional operation they checked 46 problematic areas, where persons who did not report to serve their sentence could be located. While searching for a concrete person, the police was informed that the missing person could be found in Vrbnica. Approximately 12 to 15 policemen went to this village but no one was found there.

After the police intervention, the Mayor of the village together with citizens and the director of the Regional Department of the Police Force in Košice presented misleading information in media. The Centre believes that this case showed, similarly as in the case of police intervention in Moldava nad Bodvou, that the lack of debate and persistent mutual insulting from both sides does not lead to solutions.

The Mayor of Vrbnica Jaroslav Tokár pointed out the inadequacy and brutality of the police intervention. He described that the concerned persons were leaned against the wall, where they were beaten to their heads, hands and legs which caused them bruises. The policemen supposedly hurt more than 15 people.9

Juraj Leško, the Director of the Regional Department of the Police Force in Košice denied any brutal treatment by police and did not agree with the statements of Roma people. During the press conference, he claimed that no coercive measures were used in Vrbnica.

This case was under the investigation of Jana Dubovcová – the Public Defender of Rights. After closer investigation, she stated that the police intervened into fundamental rights and freedoms of 15 people and that the interference was not necessary in a democratic and

8 See Eleventh and twelfth periodic reports of the Slovak Republic on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination.
9 Sme.sk [online].©2015. [ref.2016-03-14].
under the rule of law. She pointed at the disproportionate general investigative police actions in regions with marginalised Roma communities as compared with the rest of Slovakia.\(^{10}\)

The Section of Control and Inspection Service of the Ministry of Interior of the Slovak Republic launched a criminal prosecution for official misconduct of authority on 9 April 2015. The result of investigation was not known until the end of 2015.

The Centre adds that according to the Report on the criminal offences of the members of police for the year 2014, the inspection has received 215 submissions in which people complained about police violence. Almost 90% of them were refused as unfounded without prosecution.\(^{11}\)

The European Commission against Racism and Intolerance (ECRI) Report on Slovakia published on 16 September 2014 points at internal investigation of official misconduct of the police authority, which is in the scope of the Section of Control and Inspection Service of the Ministry of Interior of the Slovak Republic. The ECRI report states that this section rejects over 80% of received complaints within one month because of the lack of evidence.\(^{12}\)

The UN Committee Against Torture in its concluding observations assessing the observance of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, criticizes Slovakia for insufficient effective investigation of repressive police interventions against Roma. The UN Committee against Torture expressed its concern about allegations of excessive use of force by the police against Roma, including underage youth. It also considers questionable investigations of cases of police violence by the Control and Inspection Service of the Ministry of Interior of the Slovak Republic.

**Conclusion**

The Centre highlights the urgent need to radically improve the attitude of public authorities towards the protection of fundamental human rights and freedoms.

The Centre also emphasises the need for creation of video records from all police interventions in case there is an assumption that coercive measures would be used. Cameras

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\(^{10}\) Sme.sk [online].©2015. [ref.2016-03-14].

\(^{11}\) Report on the criminal offences of the members of police for the year 2015 will be available after 30 April 2016 at the website of the Ministry of Interior of the Slovak Republic.

\(^{12}\) Annual reports on criminal offences of members of the Police Force of the Slovak Republic show that 84% of 184 received complaints were handled and rejected without initiating criminal proceedings in 2010; in 2011 it was 89% of 168 received complaints, and in 2012 the proportion was 83% of 158 received complaints.
on police uniforms could help to clarify the course of police interventions and also lead to increased credibility of the Police Force.

**Recommendations**

The Centre recommends that:

1. The Ministry of Interior of the Slovak Republic ensure that video recordings are made of all police interventions (both under single and direct command) which presume the use of coercive measures.
2. The Ministry of Interior of the Slovak Republic continue testing operations of clothing cameras for police officers for future use in police actions.
3. The Ministry of Interior of the Slovak Republic support education of police officers concerning national and international documents on human rights and freedoms, both in terms of their compliance and respect by police officers as well as for their own protection.

**2.2 Roma as the most common victims of human trafficking**

Human trafficking represents the third most profitable and fastest growing type of crime in the world.

Human trafficking is a crime, which is linked with the violation of fundamental human rights. The trade and trafficking with human beings are generally characterized as carrying out the purchase, sale and exchange of goods in order to obtain a certain profit. Their essence lies in procuring goods not in order to be directly used but to be sold for profit.\(^\text{13}\) Slovaks also become the so called modern slaves, especially people from Eastern Slovakia and mainly in the UK.

The main aim of human trafficking, in terms of particular Slovak circumstances, is mostly profiting from forced prostitution, at the expense of other forms of exploitation such as forced labour, modern slavery or the removal of organs, etc.\(^\text{14}\)


Human trafficking situation in Slovakia in 2015

It can be said that Slovakia is regarded as a country of origin or a source country for victims, although human trafficking in the Slovak Republic cannot be excluded and the statistics show its presence.

In the past year, 25 persons were included in the Programme for support and protection of victims of trafficking and have been granted full assistance. In 2015, support and protection was provided to 47 victims of human trafficking.

Most of the victims who were monitored were from the Košice Region (8), as was the case in 2014 and 2013. This is a long-term situation which points to the need for continued implementation of preventive activities concerning the issue of human trafficking, particularly in the Eastern Slovakia.15

According to the recent studies of the Slovak branch of the organisation People in Need, Roma living in socially excluded localities are the most vulnerable group in terms of trafficking. Roma leave for work primarily to the Great Britain, Germany and the Czech Republic. Peterborough, Sheffield, Leicester, Derby, Birmingham and Glasgow are the most searched cities in England.

People in Need stated that the perpetrators lure victims usually directly in Roma settlements, notably through a well-known person or by recommendation. A victim is often attracted by a member of an extended family or someone from friends.

National Programme for Fight against Human Trafficking deals with the issue of the human trafficking for years 2015-2018 and aims to provide base for a comprehensive and effective fight against human trafficking.

Conclusion

The Centre is concerned by the phenomenon of human trafficking and therefore also developed a project called “Lets learn together more” – a series of educational activities aimed at raising public awareness and knowledge in the field of non-discrimination, labour law and the issue of human trafficking in Roma communities.

Despite the fact that international documents and the criminal law create a framework to fight against human trafficking, it is also important to actively address prevention of the

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problem, support and strengthen international cooperation with NGOs and try to optimally adjust systematic solutions for cooperation in particular conditions of our country.

**Recommendations**

The Centre recommends that:

1. The Ministry of Interior of the Slovak Republic, the Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities and NGOs raise awareness of marginalized Roma communities about human trafficking and ways of protection through preventive actions, particularly with an emphasis on the risk of forced labour.

2.3 **Right to housing**

Housing is recognised as one of fundamental human needs, which should be satisfied at level adequate to overall social and economic development of the society. A citizen is primarily responsible for procuring his/her housing in the market economy. The main aim of this principle is that the state provides citizens with good living conditions of housing. A housing issue is one of resuming major problems of low income households.\(^\text{16}\)

The highest estimated level of Roma lives, according to the estimates in the Atlas of Roma Communities 2013, in the city of Košice, with a population of approximately 18 162 Roma, taking into account the attributed ethnicity. Košice has demolished a couple of apartment buildings in Lunik IX district in the last few years. Citizens have moved mostly to an illegal settlement Mašličkovo, which is situated near Lunik IX.

The long-term problem of Lunik IX is a low number of leasing agreements. The Centre positively evaluates that there are not only demolitions but also constructions ongoing on Lunik IX. In the last year, a new block of flats was built, which cost € 542 thousand. The City of Košice received a non-repayable financial grant under to the Agreement on Non-repayable Grant from the Ministry of Agriculture and Rural Development of the Slovak Republic.

All tenants had to meet pre-determined criteria, such as being employed, possessing integrity, not having debts on payments and their children have to visit school regularly. The

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\(^{16}\) See Eleventh and twelfth periodic reports of the Slovak Republic on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination.
The sustainability of the project is to be provided by the tenants, housekeeper selected from tenants as well the employees of the Community Centre at Lunik IX, who have to monitor compliance with house policy and regular payment of rent.

**Conclusion**

The social exclusion is mostly visible in the area of housing. The Centre highlights the fact that the evicted residents of flats in Lunik IX are only relocated to another location, particularly to the settlement Mašlíčkovo, thus this illegal settlement without water, electricity or gas constantly grows. The village Mašlíčkovo currently has a population of more than 260 persons.

The Centre sees a possible solution in self-construction which is associated with a reduction of financial costs of the project. Another benefit is in acquisition of working skills of Roma themselves, increasing their potential success in the labour market.

The willingness of Roma to change their way of living is considered also as an important fact.

**Recommendations**

The Centre recommends that:

1. The City of Košice participate in the pilot program of the Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities “Self-construction of Rental Houses”, which aims to initiate a system of self-constructed buildings and to encourage higher participation of Roma themselves into Roma settlements remodelling.

**2.4 Good practice – Multifunctional centrum in Horehronie**

Ivan Mako is a founder of an NGO Association of Young Roma, which has been trying since 1999 to have a positive impact on Roma population and change the perception of the group.

One of the current projects of the Association of Young Roma was opening of the Horehronie Multifunctional Centre in the village Valaská-Piesok. The pilot project is focused
on boosting economic inactive communities through social entrepreneurship. A former office building, which has been reconstructed and which creates space for the social economy, lectures, trainings and many other activities, was chosen for the establishment of the multifunctional centre. The criterion of ethnicity is not used in the process of choosing the employees. Not only Roma but also the majority inhabitants of the region who cannot find work for the long period work in the centre. This includes mothers after maternity leave, young unemployed, persons in their fifties, persons with physical disabilities or persons with low education.

One roof will cover the community centre, social service training and training rooms and programs for persons with difficulties to get employed. Laundry room with ironing space and the community centre are already providing services and the training centre is in progress.

The main aim of the Community Centre Horehronie is to provide comprehensive social services at the local and regional level and to contribute to social integration of people at risk of social exclusion.

**Conclusion**

The Centre positively rates the project of the Multifunction Centre Horehronie. This example shows active initiative of Roma in integration into social life. The Centre highlights that the work of the Association of Young Roma is focused on intercultural dialogue, supports equality and openness and helps to improve cohabitation between Roma and non-Roma citizens.
3rd year of the competition of the Slovak National Centre for Human Rights called “My Human Rights”
Elementary School Holčíkovce, Nina Jakubová
3 Right to Education

3.1 Segregation in the meaning of the amendment of the School Act

Education is, according to the Act No. 245/2008 Coll. on Upbringing and Education and amending and supplementing certain acts as amended (the School Act), based on the principle of banning all forms of discrimination and mostly segregation. The Centre annually pays attention to this topic. In April 2015, the European Commission joined the criticism of segregation at Slovak schools and initiated an infringement proceeding against Slovakia concerning the Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.\footnote{The infringement procedure is laid down in Article 258 of the Treaty on the Functioning of the European Union. The Commission hence has an effective legislative instrument for securing the observance of the EU law. If by the opinion of the Commission, a Member State infringes the EU law and the regulations, which the Member State implemented to address the concerns of the Commission are considered inadequate, the Commission can submit the case to the Court of Justice of the European Union. If the Court decides that the Member State does not comply with its obligations under the Treaties, it requests a necessary remedy from the state.}

The aim of legislative regulations in the area of segregation and discrimination is to achieve such application of the School Act that would not allow misinterpretation of special educational needs based on physical dysfunction with special educational needs based mostly on origin in socially disadvantaged environment.

Changes in the School Act

- It was legally granted that a child or pupil whose educational needs result solely from being grown up in a socially disadvantaged background cannot be accepted to a special school or a special class, or to a special nursery, or to special class of an elementary school or to a special high school class.
- The School Act explicitly and directly determines enrolment of kids and pupils from socially disadvantaged background to classes with other kids and pupils.
- The Amendment changes the functioning of specialised classes, which serve to gain the missing knowledge by pupils who have not successfully managed education in the particular year. Pupils are enrolled in such class based on a proposal of the class
teacher, upon opinion of an education consultant and with parents’ (legal representatives’) consent for a maximum of 1 year.

- The changes also concern the provision of financial contribution for pupils from socially disadvantaged background. Only pupils enrolled in regular classes are now entitled to the financial contribution.
- Control mechanism of the state regarding school facilities of education consultancy and prevention, as well as enabling relevant subjects to revise the diagnostic procedures and proposals for inclusion of a child or a pupil to a concrete form of education and upbringing get stricter.

Conclusion

The Centre considers the changes in the School Act as a necessary response to the reservations of the European Commission concerning the non-observance of the prohibition of segregation of Roma children in education. The Centre positively rates that the adopted measures focus on concrete activities against segregation. The adopted changes, however, do not represent a complex measure to address elimination of segregation practices in Slovak schools in a long-term horizon. The changes, moreover, do not concern introduction of adequate support for students in transition from elementary to secondary school and improvement of their study results. The Centre highly appreciates that the amendment of the School Act explicitly allows the State School Inspection control activities of school facilities of educational consultancy and prevention and other relevant subjects which have impact on enrolment of children and pupils to particular forms of education and upbringing.

3.2 Concrete cases of segregation

School is a difficult, unknown and formalised environment for Roma children from segregated settlements, which they find for various reasons hard to get integrated to.

New perspective can be a cooperation of the State School Inspection with a civil association eduRoma. The State School Inspection together with eduRoma prepared a uniform methods for clear identification of segregation practices. The Centre also participated in work meetings concerning the issue of monitoring segregation of Roma students.

18 Statement of the State School Inspection regarding the questions of the Centre dated of 28.01.2016
students in schools in Slovakia.

The State School Inspection and eduRoma will analyse all cases which have shown or would show segregation and also secure inclusive education for students from socially disadvantaged background at every school.\textsuperscript{19}

\textbf{Stará Ľubovňa}

The Centre for Civil and Human Rights (CCHR) submitted in the spring 2015 to the County Court Bratislava III an actio popularis under the Antidiscrimination Act. CCHR has sued the state, represented by the Ministry of Education, Science, Research and Sport of the Slovak Republic (Ministry of Education) and the city of Stará Ľubovňa for segregation of Roma children at Elementary School in Stará Ľubovňa – Podsadek location. The school is attended for a long time by socially disadvantaged Roma kids. CCHR in its law suit objects that the education at the ethnically segregated school cannot secure equal educational opportunities for Roma children and proposes their integration in schools in the city with other children. Instead of adopting measures for protection from discrimination, the elementary school extended the capacity of the school by a build-up module extension, which was opened in the school year 2015/2016.\textsuperscript{20}

The Mayor of Stará Ľubovňa stated that the city did not discriminate or segregate Roma students. The reason why the school in Podsadok has exclusively Roma students results from a demographic development and a free choice of parents who enrolled their children into concrete schools.\textsuperscript{21}

The Ministry of Education submits that there has not been segregation since a group of people, in this case pupils, is not educated at the Elementary School based on criterion of ethnicity. The students are educated in school in Podsadok based on their link to the area belonging to the school district in which they have a permanent residence.\textsuperscript{22}

The judicial hearing was set for February 2016.

\textsuperscript{19} See: Sme.sk [online].©2015 [ref.2016-03-17].
\textsuperscript{21} Sme.sk [online].©2015 [ref.2016-03-18].
\textsuperscript{22} Sme.sk [online].©2015 [ref.2016-03-18].
Plavecký Štvrtok

Two elementary schools are situated in one building in Plavecký Štvrtok. A new private school was opened in September 2015. The village, therefore, reacted to the request of parents, whose children were going to start the first grade. The main reason was that all children with compulsory school education duty were going to schools in other villages. Parents and the local self-government considered and still consider it necessary that children are educated in the area where they live. The resolution of the municipal council requested the founder of private secondary schools in the village to also open a private elementary school. The Private Elementary School in Plavecký Štvrtok was included in the network of schools starting in the school year 2015/2016.23

The private elementary school is currently attended by 6 pupils of the first grade, including one pupil from the socially disadvantaged background. The public elementary school has 113 pupils, all of them from socially disadvantaged background and 49 pupils with combined health disability.24

The last non-Roma child left the Plavecký Štvrtok Elementary School in 2010 and in 2015 no non-Roma child was enrolled in the first grade at the school.25

The director of the public elementary school stated that the students did not have much stimulus and that they have been trying to improve the classes from their own resources. The director believes that a more intensive pre-school education of all Roma children from the settlement could help.26

On the other hand, the premises of the private elementary school are reconstructed. Students have a new classroom, pc room, school club and a canteen. Monthly tuition fee is €50 and the municipality pays for the students’ lunches.

The Ministry of Education opines that the private elementary school in Plavecký Štvrtok observes the basic principles of education and upbringing.

Medzilaborce

The city of Medzilaborce is a founder of two elementary schools. Together, both of

23 Statement of the municipality Plavecký Štvrtok regarding the questions of the Centre dated of 22.02.2016.
24 Statement of the municipality Plavecký Štvrtok regarding the questions of the Centre dated of 22.02.2016.
25 Aktuality.sk [online].©2015 [ref.2016-03-16].
26 Aktuality.sk [online].©2015 [ref.2016-03-16].
them enrolled 683 students, including 220 Roma students, in the school year 2015/2016. There are 29 combined classes, 7 purely Roma classes and 2 purely non-Roma classes.\textsuperscript{27}

In 2013, a case of segregated provision of lunches in the school canteen at the Comenius Elementary School hit media. The management of the school stated that Roma children did not have basic hygienic habits, could not use cutlery and ate by hands. Hence, an individual room – canteen where these children were led by a special teacher was established for children who did not have basic hygienically habits.\textsuperscript{28}

The Ministry of Education found this decision of the school to be in a breach with the School Act which prohibits all forms of discrimination and segregation.

The problem with segregated diet was partially solved. All students were given opportunity to dine together. A part of Roma students dines together with non-Roma students. The others choose the option to eat separated due to the presence of assistants who can help them.\textsuperscript{29}

Management of both elementary schools as well as all pedagogues implement organisational changes leading to inclusion of students from marginalised Roma communities. Parents of students from socially disadvantaged backgrounds are regularly invited for meetings with teachers. These activities of the school have mirrored in a lower number of skipped classes by students from socially disadvantaged backgrounds and a slightly higher number of Roma parents attending school reunions. Communication between Roma parents and class teachers has also improved.\textsuperscript{30}

\textbf{Conclusion}

The primary presumption of guaranteeing the right to education to all is to secure conditions for a healthy development of all children in order to make them ready to fulfil compulsory school education.

The question of a possible segregation of students from a socially disadvantaged background does not only concern the mentioned elementary schools. Schools and/or their founders only occasionally decide to desegregate without external pressure. A part of desegregation has to be, apart from integration of Roma students in standard classes, also an

\textsuperscript{27} Statement of the city of Medzilaborce regarding the questions of the Centre dated of 08.02.2016.
\textsuperscript{28} Aktuality.sk [online].©2015 [ref.2016-03-16].
\textsuperscript{29} Statement of the city of Medzilaborce regarding the questions of the Centre dated of 08.02.2016.
\textsuperscript{30} Statement of the city of Medzilaborce regarding the questions of the Centre dated of 08.02.2016.
internal change of the whole school. Desegregation of Roma students at elementary schools must be included into a wider plan of integration and inclusion in education, as well as into the community strategy for supporting social cohesion and fighting against social exclusion.\textsuperscript{31}

The Centre emphasises that it is necessary to ensure the quality of education for all students within desegregation and to develop existing and proven policies and measure which leads to integration of Roma children in the mainstream education and to ensure their proper implementation in practice. The Centre also emphasises that it is always necessary to take into account the best interest of the child and approach each case individually.

**Recommendations**

The Centre recommends that:

1. Elementary schools improve communication and cooperation with Roma parents as one of the fundamental presumptions for improving Roma students’ success at school.
2. Elementary schools consistently monitor needs of students in order to create conditions for their development and, in line with Article 144 of the School Act, pay closer attention to individual opportunities and abilities of students.
3. Elementary schools with a majority of Roma students pay particular attention to the quality of education process and improvement of competences of a pedagogical group.
4. Elementary schools ensure education by teachers and assistants of teachers who can speak Roma language.
5. Elementary schools, within the whole education and upbringing process, apply a multicultural education leading to elimination of stereotypes and prejudice, and thus prevent discrimination.

**3.3 Unlawful enrolment of children into special schools – Rokycany**

A topic of unlawful enrolment of children in special primary schools publically resonated in the previous year. Rokycany Private Special Elementary School was exactly this kind of case of “re-location” of children to special schools. Children were allegedly enrolled in Rokycany Private Special Elementary School on purpose based on non-standard psychological tests made by a private school centre of education consultancy and prevention

“Dad, mom and me”. The result of the inappropriate tests and improper diagnostics was that children were allegedly diagnosed with mental retardation and were recommended to get educated at Rokycany Private Special Elementary School.  

The Plenipotentiary of the Government of the Slovak Republic for Roma Communities also pointed at the problem of Rokycany private special elementary school. According to his statements, admission of students to Rokycany private special elementary school was realized in conflict with the legislation, since admission of children from socially disadvantaged backgrounds was done in absence of appropriate diagnostics.

The conducted inspection showed several shortcomings, based on which the Main School Inspector submitted on 7 December 2015 a proposal for disqualifying the Rokycany private special elementary school from the network of schools, school facilities, centres of practical education and workplaces for practical education of the Slovak Republic to the Ministry of Education.

According to the results of the inspection, the director of Rokycany private special elementary school accepted 17 students to the special school (4 of which were admitted to higher grades) without a recommendation of an elementary school director and the respective facility for education consultancy and prevention, as well as without diagnostic tests specialising to establish special educational and upbringing needs.

Besides closing the Rokycany Private Special Elementary School, the State School Inspection also proposed closing of the private facility for education consultancy and prevention called “Dad, mom and me”. The Ministry of Education decided to disqualify Rokycany Private Special Elementary School from the network of schools, school facilities, centres of practical education and workplaces for practical education of the Slovak Republic as of 1 September 2016. The private school facility of education consultancy and prevention “Dad, mom and me” is supposed to be eliminated from the network of schools, school facilities, centres of practical education and workplaces of practical education as off 1 March 2016. The private school facility for education consultancy and prevention “Dad, mom and me” appealed against the decision of the Ministry of Education.


A statement was submitted also by Rokycany private special elementary school against the decision of the Ministry of Education concerning the removal of Rokycany Private Special Elementary School from the network of school, school facilities, centres of practical education and workplaces with practical education.\textsuperscript{35}

**Conclusion**

Special elementary schools are different from standard elementary schools. After completion of studies at special schools a chance for the students for full integration to the life decreases, their chances to get employed also decrease. It is important to remember that development of a child in a socially disadvantaged background does not mean a health disadvantage of this child, which should be a decisive factor for his/her enrolment to a special school.

The Centre is also concerned by information pointing on the fact that enrolment of students based on incorrect diagnostics also occurs on other schools. The Centre believes that, despite a high level of children who are attending special elementary schools, it is necessary to provide re-diagnostic in each case of a child enrolled to education at a special school and accordingly revise whether a child needs to continue being educated at a special school or whether his/her enrolment in a special school is correct.

The Centre negatively perceives information regarding the lack of diagnostic tests within Slovakia. Appropriate tests are a precondition of correct diagnostics of children and represent the only way to determine with certainty whether a child should attend a special school or not.

**Recommendations**

The Centre recommends that:

1. The Ministry of Education, Science, Research and Sport of the Slovak Republic ensure conducting re-diagnostics of children who were enrolled in special schools, hence giving them an opportunity for a possible re-enrolment in standard elementary schools.

\textsuperscript{35} Statement of the Ministry of Education, Science, Research and Sport of the Slovak Republic regarding the questions of the Centre dated of 18 March 2016 [ref.2016-03.18].
2. The Ministry of Education, Science, Research and Sport of the Slovak Republic ensure qualified control (i.e. by the State School Inspection) of decisions concerning enrolment or transfer of children to special elementary schools.

3. The Ministry of Education, Science, Research and Sport of the Slovak Republic innovate diagnostics tests and then distribute them among respective diagnostics centres.

### 3.4 Judgement of the Supreme Court of the Slovak Republic concerning integration of a child with disability

Alongside segregated education of students with special education needs in special schools, their integration in standard schools is another option.

In 2015, a case concerning a decision rejecting admission of a child with a Down syndrome and communication problems into an elementary school got public and showed that there is an insufficient level of integration of disabled children or children with special educational needs into educational facilities. The Supreme Court of the Slovak Republic (the Supreme Court) decided in favour of the child with disability and his/her right to inclusive education and provision of the so called reasonable accommodation.

The subject matter of the case was a decision of the Municipal Office of the City district Rača which ruled together with a decision of a director of the Katarina Brudery Elementary School with Nursery on rejection of admission of a child with special educational needs to the school. Legal representatives of the child (the applicant) brought an action against the decision to the Regional Court, which rejected it. The court ruled that it was not sufficiently proven that the school did not have adequate material, technical and personal resources as defined by the state education programme.

The applicant appealed against the decision of the Regional Court because the case shown that it concerned interference into the right to education in the so called inclusive area. Pedagogical and legal construction of inclusive education concept is based on a presumption that all children are educated always together, if possible, irrespective their differences. The right to inclusive education covers not only a negative duty to respect this right, but also a positive duty, which is to provide reasonable accommodation, i.e. to make all steps leading to

36 A pupil with a special educational needs is a pupil who has a diagnosed educational needs by a facility of educational consultancy and prevention, except from children who are placed in special educational institutions (diagnostic centre, re-education centre, medical and educational centre) by a decision of a court (Article 2 (j) of the School Act).
full observance of this right, including by adopting individualised measures which would allow the applicant to start education in the elementary school.

The Supreme Court accepted the applicant’s appeal. According to the opinion of the Supreme Court it was a duty of administrative bodies to interpretive individual provisions of the School Act in accordance with the UN Convention on the Rights of Persons with Disabilities (CRPD), or the administrative bodies could directly apply rules of international law, which are covered in CRPD, and therefore the legal base in the applicant’s case should be CRPD which stipulates that discrimination is also a denial of reasonable accommodation.37

The Supreme Court found that nothing in the material of case proved that the director of the elementary school tried to create specific conditions for the applicant. The Supreme Court underlined that a denial of reasonable accommodation is a form of discrimination based on health disability. The Supreme Court also found that the best interest of the applicant, which was supposed to be the primary criterion for assessing the application for inclusive education in a regular elementary school class, was not sufficiently taken into account. It could be concluded that inclusive education of the applicant in the elementary school, while granting reasonable accommodations, would be in her best interest.

Since the Supreme Court found that reasonable accommodation cannot be automatically considered as all general demands for personal resources (i.e. a psychologist, a special pedagogic or a speech therapist) without their automatic concretisation for each individual case. It also highlighted the fact that any of the reports from expert examinations of the applicant did not require support in such a broad extent, on the contrary the reports mentioned assistance (or an assistant of a teacher) while individual educational plan was also proposed. The Supreme Court found that it is in breach with CRPD to propose the applicant measures which exceed the necessary level and which consequently lead to discrimination of the applicant based on health disability, making her integration into a regular elementary school class impossible.

The Supreme Court’s opinion is that even if it is necessary to ensure a special pedagogue, a psychologist and a speech therapist they could be provided externally while this fact could be a part of the education programme.38

37 Reasonable accommodation means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.
38 See: State educational program for 1st grade of elementary schools in Slovakia ISCED 1 – the primary education, the part on Individual education program.
The Supreme Court by its decision overruled the decision of the Regional Court by cancelling the decision of the defendant as well as the decision of the director of the elementary school and moved the case to new further proceeding.

Conclusion

Even though the terminology and meaning of integration of children with disabilities in the society, including within educational process, is generally known, its realisation in practice is currently problematic. Pursuant to the School Act education and upbringing of children with disabilities is realised also in regular schools. Therefore, it is necessary in every individual case of a child with disability to make efforts for realisation of reasonable accommodation, and thus to fulfil requirements resulting from the disability of the child, which are necessary for making his/her inclusive education possible. Also in the area of education of children with disabilities it is necessary to adopt decisions in their best interest.

Recommendations

The Centre Recommends that:

1. The Ministry of Education, Science, Research and Sport of the Slovak Republic increasingly support integrated way of education of students with disabilities based on more positive conditions for possibilities of ensuring the needed personal as well as material and technical equipment of schools.
2. The Ministry of Education, Science, Research and Sport of the Slovak Republic adopt measures which would lead to control, or assessment of individual decisions of directors of elementary schools on admitting or rejecting children with disabilities to education process in a regular elementary school.
3rd year of the competition of the Slovak National Centre for Human Rights called “My Human Rights”
Školská Elementary School and Kindergarten, Klára Szilágyiová and Andrea Faguľová, class 8.A
4 Application of the right to asylum in the Slovak Republic

4.1 Measures and position of the Slovak Republic in addressing the migrant crisis

Accenting the need for security, protection of the state, risk of terrorism, the growth of crime, mass attacks, foreign religion, import of foreign values, uncontrollable masses of millions, multiculturalism as a fiction and the Balkan route can easily pass through Slovakia – particularly during the second part of the year 2015 the topic of migration sounded intensively.

International political crisis began with the growing number of refugees and immigrants applying for asylum in the EU countries, who have been coming to Europe through two main migration routes – the so called Balkan route – from Turkey through the Aegean Sea and Balkan to the central Europe and the so called Mediterranean route – from Northern Africa through the Mediterranean Sea to Italy.

At the end of summer 2015 a situation concerning the numbers of refugees was the most dramatic, mostly in the Balkan route. Therefore, the EU Member States approved in September 2015 the relocation of 120 thousand applicants for asylum by the so called “big majority”. From V4 countries Slovakia, the Czech Republic and Hungary did not vote in favour of compulsory quotas. Poland joined the majority of the EU countries. Romania also voted against. Finland was the only Member State, from all 28, which abstained. The relocation of 120 thousand migrants was decided by the ministers of interior. According to the calculations, Slovakia was supposed to receive 2287 migrants. 4 criteria were decisive: population, economical power of the country (GDP), the number of applications for asylum in the previous five years and the level of unemployment. The Prime Minister of the Slovak Republic Robert Fico reacted that he would rather turn to the infringement procedure against Slovakia than agree with the Brussel’s dictate.39

However, the position of the Slovak Government towards the solution of the migration crisis was not only opposing. One of proactive steps was a signature of a Memorandum of understanding with the Austrian Ministry of Interior concerning help with receiving

applicants for asylum in Austria, which was signed in Vienna on 21 July 2015 for a period of 2 years by the Slovak Minister of Interior Róbert Kaliňák and the Austrian Minister of Interior Johanna Mikl-Leitner. Pursuant to the Memorandum, Slovakia started to temporarily receive the applicants for asylum from the Austrian Centre of First Contact in Traiskirchen. Slovakia committed to ensure housing capacities in a housing facility for maximum 500 applicants under the conditions laid down in the Memorandum. A total number of applicants received in the housing facility can be supplemented by other applicants upon leave of some persons, however, a total number received in the facility at the same time cannot be more than 500 persons in. Slovakia provides the applicants with housing and food and bears all costs resulting from its commitment. Austria bears the costs for transport of refugees to Slovakia and their pocket money. Every applicant who will be relocated to Slovakia will go through an interview and a medical check in Austria. All cases concern only applicants for asylum in Austria. These are, under the Memorandum, accommodated in Slovakia for a duration of the asylum procedure (max. 6 months). The applicants for asylum in Austria are temporarily accommodated in a refugees camp in Gabčíkovo. The Austrian Ministry of Interior has sent its social employees to Gabčíkovo, who take care of refugees and are assisted by Slovak employees. Upon the end of the asylum process, all applicants will return to Austria, hence they will not stay in Slovakia.

Signing of the Memorandum with Austria was accompanied by protests mostly from the citizens of Gabčíkovo who organised a petition and asked the Mayor of the city to call for a referendum. The referendum was held on 2 August 2015 and 96,97 % of citizens (58% participated) expressed that they were against the establishment of a refugees camp in their city.

The first 24 Syrian applicants for asylum in Austria arrived to the camp in Gabčíkovo on 17 September 2015 and till 4 March 2016 there were 1188 of them. Until

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today, 718 applicants for Austrian asylum left the camp and to this day 470 applicants stay there. The situation in Gabčíkovo has been calm for the whole time.45

In addition to the bilateral help to Austria, Slovakia also committed to help Hungary. On 15 October 2015, as part of an agreement between the V4 Prime Ministers, Slovakia committed to send fifty policemen to protect Hungarian border with Serbia. The Slovak Prime Minister expressed an intention to allocate € 21 million to the migration crisis, of which € 300 thousand will go to a UN food programme and € 3 million to a special food programme for Syria.46 After the agreement between the EU and Turkey, Slovakia committed on 29 November 2015 to allocate another €13 million during the years 2016 and 2017 to a fund for refugees in Turkey which was created by the EU.47

Several foreign media criticised and spoke ironic about the position of Slovakia towards migrants. The Speaker of the Ministry of Interior of the Slovak Republic (Ministry of Interior) stated for media that Slovakia was willing to accept two hundred Syrian refugees, but only under a condition that they would be Christians. Although the European Commission did not comment on this statement, its speaker said that the Member States are prohibited to discriminate in any form. The UN High Commissioner for Refugees reacted more directly and requested the governments to “express a responsive attitude, in terms of refugees and their efforts to settle, while their selection cannot be based on discrimination.”48

Media reactions to the statements of the Speaker of the Ministry of Interior, however, overshadowed the fact indirectly linked to this statement. Islam is currently not a registered religion in Slovakia. Although religion communities representing Islam in Slovakia can celebrate religious rituals and other expressions of religious freedom without registration, they do not have the status of legal persons.

Churches and religious communities are registered by the Ministry of Culture of the Slovak Republic (Ministry of Culture). Under Article 11 of the Act No. 308/1991 Coll. on

46 Fico: Dohoda s Tureckom je dôležitá. [online]. ©2015 [ref.2016-04-08]. Available at: http://m.pravda.sk/travel.cnn.com/#!/a=370868
Freedom of Religion and Status of Churches and Religious Communities, a church or a religious community can be registered upon application of a preparing body of the church or the religious company only if proven that the church or religious company has at least 20,000 adult members with a permanent residence in Slovakia and Slovak citizenship. The application for registration must, since May 2007, necessarily include a solemn declaration of at least 20,000 adult persons with a permanent residence in Slovakia and Slovak citizenship stating that they adhere to this church or religious community, support the application for its registration, are its members, know the basic articles and education and are aware of their rights and duties from the membership in a church or religious communities and state their name, last name, permanent residence and identification number (Article 12 (d) of the referred act). The number of Muslims living in Slovakia is in thousands, however no more than 4000.

A full liberalization of registration conditions is not viable in Slovakia, since Slovakia has yet not really been considering full financial separation of registered churches from state, and taking into account cultural and historical specificities of the country. It is, however, important to emphasise that fundamental human rights and freedoms are equally granted to members of registered and non-registered churches. Churches and religious communities can freely operate both *de iure* and *de facto*, irrespective their registration, while the state only limits their operation by an obligation to respect law. The Constitutional Court of the Slovak Republic (the Constitutional Court) found that: “*legally constituted conditions for registration of a church or a religious community (including the threshold of members) do not restrict (affect) enjoyment of the fundamental right to freely express religion or faith in the scope as guaranteed by the Constitution of the Slovak Republic, since the registration of churches or religious communities is not a necessary a condition (condition sine qua non) for enjoyment of freedoms or rights guaranteed by Article 24 of the Constitution of the Slovak Republic and Article 9 of the European Convention on the Protection of Human Rights and Fundamental Freedoms.*”

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51 See: Finding of the Constitutional Court of the Slovak Republic No. 10/08.
4.2 Asylum in Slovakia

Asylum represents an international form of protection of a foreigner from persecution and a fundamental right enshrined in the Slovak Constitution. Article 53 of the Slovak Constitution defines the right to asylum as followed: “Slovakia grants asylum to foreigners persecuted for exercise of their political rights and freedoms. Asylum can be denied to a person who has acted in contradiction with fundamental rights and freedoms. Details shall be laid down by law”

The Centre for Legal Aid (CLA) stated that the overall number of requests for assistance in asylum issues in Slovakia (offices in Bratislava and Košice) was 106 requests in 2015, while the applicants contact CLA with requests of legal aid, which is subsequently given to them in cases of administrative deportation, detention and in asylum issues. It concerns legal aid and instructions regarding available remedies of legal protection, appealing against the decisions of the Migration Office at the Ministry of Interior of the Slovak Republic (the Migration Office). CLA also cooperates with the International Organisation for Migration, mostly in terms of information exchange for clients who seek a voluntary return.

The Presidium of the Police Force of the Slovak Republic - Office of Border and Foreign Police (OBaFP PPF) participates in a common procedure in implementation of the Act No. 480/2002 Coll. on Asylum and amending and supplementing certain acts as amended (the Asylum Act) together with the Migration Office. OBaFP PPF participates also in the implementation of the asylum and migration policy, which is legally based on the Conception of Migration Policy of the Slovak Republic. A gestor of this document is the Migration Office. OBaFP PPF participates at fulfilling tasks resulting from the conception and assesses their fulfilment. The assessment is directly addressed to the gestor who processes it and submits it to competent bodies.

**OBaFP PPF also provided the following statistics for the year 2015:**

<table>
<thead>
<tr>
<th></th>
<th>Number of detained irregular migrants</th>
<th>Number of submitted statements to application for asylum</th>
</tr>
</thead>
<tbody>
<tr>
<td>ICSB External ground border out of border crossing point</td>
<td>134</td>
<td>12</td>
</tr>
<tr>
<td>ICSB External ground border through border crossing point</td>
<td>74</td>
<td>0</td>
</tr>
</tbody>
</table>
Comparison of number of applications for asylum made in Slovakia in 2011-2015

<table>
<thead>
<tr>
<th>YEAR</th>
<th>NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>491</td>
</tr>
<tr>
<td>2012</td>
<td>732</td>
</tr>
<tr>
<td>2013</td>
<td>441</td>
</tr>
<tr>
<td>2014</td>
<td>331</td>
</tr>
<tr>
<td>2015</td>
<td>330</td>
</tr>
</tbody>
</table>

The Migration Office indicates that the overall number of submitted statements to the application for asylum in Slovakia in 2015 was 330. This number includes 112 statements to the application for asylum by irregular migrants detained in 2015. The difference of 218 submitted statements to application for asylum represents applicants who were detained during irregular migration on previous occasions (new and repeated applications for asylum), but also those foreigners who did not breach the legal conditions of their stay in Slovakia, i.e. who lawfully reside in Slovakia, including 149 citizens of Iraq accepted as a voluntary contribution of Slovakia for solution of the current crisis. The Migration Office includes among the most frequent reasons for denying asylum a failure to fulfil requirements laid down in Articles 8 and 10 of the Asylum Act. In 2015, citizenship was granted to 5 persons granted asylum.

The Migration Office did not record any case of violation of the Asylum Act or the Convention Relating to the Status of Refugees in the previous year. Neither has it registered any obstacles in legislation concerning the asylum law and it highlighted the Act No.

The integration of persons granted asylum in terms of financial resources concern a single payment in the amount of 1.5 multiple of a living minimum for an adult granted asylum and the health care and is covered from the EU resources. These persons are entitled to social benefits as Slovak citizens. Acquisitions of financial resources from the EU funds will also be addressed within the integration programme.

Conclusion

The issues of asylum and/or migrants were given an enormous attention in 2015 compared to the previous years. Accordingly, the word “refugee” became the word press of the year 2015, because it was mentioned in the relevant press media 11 769 times. Articles, news, reports or discussions on this theme were everywhere, while the society got divided in two parts. One part believed that it was needed to keep state boarders open and help people migrating from war affected countries, from harassment or famine. The second part of the society has not been open to this attitude and believes that the main motivation for migrants is their wish for better economical chances and opportunities, which has nothing to do with fear for their lives. It is very important to underline that the right to asylum is linked to migration from harassment or fear from losing lives.

The solution of migration crisis remains one of the hardest challenges for the European Union and its Member States nowadays. Mass influx of migrants to the European countries must be corrected and the legislation of the Member States must be adapted accordingly. Various intergovernmental organisations and NGOs deal with the issue, while a lot of programmes, recommendations, conceptions and studies are being adopted and prepared. The Centre, based on its experience with the membership of a working group on asylum and migration within the European Network of National Human Rights Institutions, pointed out extensive infringement of human rights of refugees and other person on their way to Europe already in 2014.

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In 2015, the refugee topic caused tense situation among the nation. Whether media or politicians, moods established lead to fear, worries, negative prejudices and often also to hatred. Migrants were discussed also by children. During one of the Centre’s education activities, a 10-years old child gave the lecturers a question: “I know that they are running away from their homes because they want to be saved and escape from the disasters of the war, but it was said in TV that there were also bad persons among them… Tell me, should we fear them?” There is no clear answer to this question. Similarly, a clear solution of the migrant crisis does not exist. Slovakia has so far chosen a tactic of autonomy solution, independent from but cooperating with the EU. It accents the need for security and protection and partially negates the principles of multiculturalism, with unusual passion in verbalisation in media. All of this in terms of 5 asylums granted, 330 requests for asylum pending, 149 Assyrian Christians welcomed out of a 1 255 640 in total people applying for the first time in 2015 and the practical impossibility to register Islam in Slovakia.

Addendum and recommendations

On 23 and 24 November 2015, the Centre attended a conference organised in Belgrade by the Serbian Ombudsman on the topic “Human rights challenges in refugees and migrant crisis”. All participants underlined a huge significance of protection of human rights and fundamental freedoms as well as migrants and refugees’ protection without discrimination based on their nationality.

The participants recognised that terrorism and other safety concerns cannot be assigned with any particular religion, nation or ethnic group.

In this context, general principles regarding the migration and refugees crisis were accepted, based on which the Centre recommends that:

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2. The Government of the Slovak Republic ensure for refugees and migrants the right to protection from any discrimination. The Slovak Republic, as any other state, has an obligation to fulfil respective national obligations in accordance with the international law.

3. The Government of the Slovak Republic ensure and respect access to fair, prompt and effective asylum procedure for every applicant, including the right to information, the right to effective remedy, and take into account the best interest of the child.

4. The Government of the Slovak Republic eliminate and prevent inhuman or degrading treatment and ensure that migrants and refugees at borders are not deprived of liberty, particularly minors. All cases of physical or other abuse of migrants and refugees must to be promptly and fully investigated and the perpetrators brought to justice.

5. The Government of the Slovak Republic ensure for migrants and refugees active access to economic and social rights, including adequate housing, medical, food, water, canalisation, rights for the child’s protection and the protection of family and the promptest possible integration into the educational process.

6. The Government of the Slovak Republic within asylum procedure identify and provide for the particular needs of vulnerable groups (children—mostly separated or unaccompanied; victims of torture, sexual harassment or human trafficking; persons at risk of statelessness; LGBTI persons; traumatised persons; persons with intellectual and/or physical disabilities and older persons) with an aim to ensure their rights.

7. The Government of the Slovak Republic within asylum procedure particularly protect a vulnerable group of women, mostly unaccompanied women. These women, despite running away from home countries because of sexual harassment, are victims of sexual harassment not only at time of migration but also directly in facilities of reception countries. It is also needed to create conditions for freedom of religious speech and to prevent any expressions of intolerance.
The Centre, as a national human rights institution is obligated to and at the same recommends that:

8. Public administration bodies of the Slovak Republic and other human rights organisations operating in Slovakia handle complaints submitted by refugees or migrants within scope of their mandates.

9. Public administration bodies and all other human rights organisations operating in Slovakia join awareness raising and spread accurate information on human rights of refugees and immigrants, mostly in terms of current situation and the increasing xenophobia.

10. All other human rights organisations in Slovakia strongly condemn any public statements which represent or support expressions of hatred and discrimination, and urge the relevant bodies to adopt all necessary safety measures to prevent them.

11. All other human rights organisations in Slovakia condemn and fight against violations of human rights of migrants and refugees, support tolerance and understanding towards refugees and migrants, including ensuring their protection in reception centres and other housing facilities.

12. All other human rights organisations in Slovakia support cooperation at national and regional level with an aim to protect human rights, provide humanitarian aid, support understanding for refugees and migrants also through media and join intercultural dialogue and common activities.

13. All other human rights organisations in Slovakia insist that human rights cannot be repressed by safety regulations and borders protection.

14. All other human rights organisations in Slovakia use mechanisms, support and help intended for protection of human rights of migrants and refugees at regional, national and international level.
3. ročník súťaže Slovenského národného centra ľudských práv nazvaného "Môje ľudské práva"

J. Švermu Základná škola, Viktória Cseryová
5 Violence against women

The number of women who have experienced gender-based violence is not decreasing. According to an organisation Woman in Distress (Zena v tiesni), the number of women seeking help increases each year. In 2015, the organisation provided assistance to 451 women from which 47% experienced psychological violence, 27% physical violence and 20% economic violence. Nearly 6% of women have experienced sexual violence. The most common abusers were husbands (66%) and ex-husbands (15.2%). According to the Slovak Crisis Centre Touch (Slovenske krizove centrum DOTYK), 41 victims of violence against women sought its help in 2015. The most common form of violence was psychological violence which was followed by physical violence.

A non-profit organisation Centre Sniecko stated that the most common form of violence against women it recorded was physical violence as well as psychological violence, while in most of the cases the abuser was a victim’s husband. Alliance of Women in Slovakia (Aliancia zien Slovenska) pointed out also cases of stalking (dangerous pursuit). Most of the perpetrators were partners, former partners, colleagues and bosses.

According to the Woman in Distress, cases in which woman experienced violence by their sons were also present in the Slovak Republic in 2015. Approximately 6.9% of the abusers were other family members among which the most common violator was a victim’s son. The Centre also actively participated in helping an abused woman who experienced psychical violence from her own son.

5.1 Istanbul Convention

The Council of Europe’s Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention) was signed by the Slovak Republic in 2011. Ratification of the Istanbul Convention was postponed several times, with the latest deadline by 30 June 2016.

55 Statement of the Woman in Distress regarding the questions of the Centre dated of 10.3.2016.
56 Statement of the Slovak Crisis Centre Touch regarding the questions of the Centre dated of 10.3.2016
57 Statement of the Center Sun regarding the questions of the Centre dated of 10.3.2016
58 Statement of the Alliance of Women regarding the questions of the Centre dated of 10.3.2016
59 Statement of the Woman in Distress regarding the questions of the Centre dated of 10.3.2016.
5.1.1 Petition of the Alliance for Family

The issue of ratification of the Istanbul Convention was reopened in 2015 with the help of several NGOs. The main aim of a campaign “Ring the bell against violence against women – Let’s support the Istanbul Convention” initiated by the civic association Freedom of Choice (Možnosť vol'by) was to encourage people to take an action against violence against women through supporting ratification of the Istanbul Convention. This campaign was followed by several negative reactions; one of the NGOs strictly against ratification of the Istanbul Convention was the civic association Alliance for Family.

Alliance for Family initiated on 4 May 2015 a petition against the ratification of the Istanbul Convention. The petition mainly consisted of the following points:

1. We refuse that our kids are taught in schools about the so called “non-stereotypical” roles and we refuse the efforts to outroot the so called “Stereotypical” roles, (art. 14, para 1 of the Istanbul Convention);

2. We refuse that several so called independent experts in the GREVIO are given the right to define what a “stereotype” is (art. 66 – 70 of the Istanbul Convention);

3. We refuse the aim of the Istanbul Convention: to eliminate traditions based on the stereotypical roles of women and men (art. 12, para 1 of the Istanbul Convention). Stereotype is not always something wrong. Folklore traditions, Eastern habits or folklore dances based on stereotypical roles of women and men create our historical heritage and national identity;

4. We refuse that the so called „gender identity” independent from sex is introduced in the legislation of the Slovak Republic (art. 4 para 3 of the Istanbul Convention).  

The petition contains a number of inaccurate and biased information. Information given in point 1 and point 2 are not laid down in the Istanbul Convention as it is presented in a petition. Point 3 also presents false information. Article 24 of the Istanbul Convention mentioned in point 3 is further elaborated in the explanatory report to the Istanbul Convention. “The obligations contained in paragraph 1 are based on the conviction of the drafters that existing patterns of behaviour of women and men are often influenced by prejudices, gender stereotypes and gender-biased customs or traditions… As a general obligation, this paragraph does not go into detail as to propose specific measures to take,

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61 Article 12 para. 1 of the Istanbul Convention.
leaving it within the discretion of the Party.”

This means that the Istanbul Convention does not dictate the Slovak Republic to suppress Easter customs and folk dances, as mentioned in point 3. Point 4 relates to a long-lasting resistance of a part of the society which is against gender equality or any related concept, precisely because of the fear of elimination of biological differences between men and women.

The petition has already been signed by 5326 people. Nevertheless, according to the Ministry of Labour, Social Affairs and Family of the Slovak Republic (Ministry of Labour) “the deadline for ratification of the document remains unchanged (June 2016).”

5.1.2 Act on domestic violence

In 2015, the Ministry of Labour in cooperation with the Ministry of Justice of the Slovak Republic (Ministry of Justice) actively elaborated a draft act on domestic violence. The act passed the inter-ministerial comment procedure; however, it has not been submitted to the National Council of the Slovak Republic.

Creation of the Act on domestic violence is not only a condition for ratification of the Istanbul Convention by the Slovak Republic, but it also results from the National Action Plan on the Prevention and Elimination of Violence against Women in the Slovak Republic for the Years 2015-2019 (NAP on Violence against Women) and from the Recommendation of the UN Committee on the Elimination of Discrimination against Women. The Centre therefore believes that in 2016 the act will be approved making timely ratification of the Istanbul Convention more likely.

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63 This issue was further elaborated in the Report on the observance of HR for the year 2014.

64 Petition against the gender-ideological Istanbul Convention and for adoption of a non-discriminatory act on victims of crimes. Alliance for Family.

65 Statement of the Ministry of Labour regarding ratification of the Istanbul Convention.
5.2 National Helpline for Women Experiencing Violence and the Coordination Methodological Center

In 2015, the Ministry of Labour launched the National Helpline for Women Experiencing Violence (the national helpline). The helpline became operational on 1 February 2015 with specially trained advisers.

By 2015, Slovakia did not have a national non-stop helpline; similar hotlines were created by NGOs, however, they did not meet minimum standards in provision of assistance to women who are victims of gender-based violence. Among recommendations of the Committee of Ministers of the Council of Europe adopted in 2002 regarding the protection of women against violence, member states are recommended to “encourage the establishment of emergency services such as anonymous, free of charge telephone help-lines for victims of violence and/or persons confronted or threatened by situations of violence...”66 Additionally, the helpline was established in 2015 in relation to the future ratification of the Istanbul Convention, particularly implementation of Article 24 therein.67

From 1 February 2015 to 31 December 2015, the national helpline dealt with 6 073 calls of which 46.58% (2 829 calls) were from women who experienced violence. In most of the cases women report psychological violence (97.4%), followed by physical (67.9%), economic (45.1%), social (26.9%) and sexual (16.2%) violence. 12 women reported rape and 22 reported attempted murder.68

On 16 March 2015, the General Prosecutor’s Office also launched a hotline for abused persons, which was extended to regional prosecutor's offices as of 1 November 2015. This line does not serve as an advisory tool, such as the national helpline. Record of reported violence is evaluated and the General Prosecutor’s Office consequently determines whether it is a report of a crime or examination of law enforcement bodies procedures. From March to 25 October 2015, 370 claims were delegated to relevant regional prosecutor’s offices.69

The Coordination Methodical Centre for the Prevention and Elimination of Violence against Women and Domestic Violence (the Coordination Methodical Centre) was established in May 2015 under the Institute for Research of Work and Family and should become an

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67 Article 24 of the Istanbul Convention.
68 Statement of the Ministry of Labour regarding the national helpline [ref.2016-03-16].
independent entity in the future. Its main aim is to “create, implement and coordinate national policy in the field of prevention, intervention and fight against violence against women.” Creation of the Centre was recommended not only in the NAP on Violence against Women but also in the Recommendations of UN Committee on the Elimination of Discrimination against Women. Together with the national helpline, establishment of the Coordination Methodical Centre was one of the conditions set in the Istanbul Convention.

5.3 Shelter for battered women in Prešov

The Centre’s Report on the Observance of Human Rights including the Observance of the Principle of Equal Treatment and the Rights of the Child for the Year 2014 (the 2014 HR Report) contained a chapter on the construction of Safe Women’s House developed by a civic association UsMothers. The citizens of the city district Sidlovec opposed the construction of a Safe Women’s House due to their fear from bartered women and their children.

In 2015, the association received an email which stated that residents do not want to have a gaming house in the former kindergarten. An anti-campaign followed, saying that “Children in Šidlovec need kindergarten, not a future gaming house”.

Meanwhile, negotiations at the City Council were held containing both opponents and supporters of the renovation of the former kindergarten by the association. Finally, the City Council voted in favour of the Safe Women’s House, not only in order to maintain the reputation of the city, but also because of the high fine the city would have to pay for breaching the concluded contract with the association UsMothers.

The shelter for abused women in Šidlovec was finally open on 6 September 2015. The first women moved in in December 2015.

In 2015 several other shelters were opened, such as the shelter in Nitra opened by the organisation Centre Slniečko and the Bratislava Self-governing Region (Bratislava Region) in cooperation with NGOs.

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Conclusion

Violence against women is a problem that has not been adequately addressed for several years. In 2015, not only in connection with the ratification of the Istanbul Convention, the things started to move forwards and the national free non-stop line for abused women together with the coordination and methodological centre were created. The Centre welcomes both measures showing more intensive involvement of the state in the area of violence against women. The Centre also supports and welcomes the creation of new safe homes for abused women and hopes that such houses will emerge in greater quantity than before. The Centre also hopes that people would realise that abused women, whether with or without children, pose no threat to their environment.

On the other hand, the Centre perceives negatively the failure to adopt the act on domestic violence. The adoption of this act would benefit not only women in Slovakia who experience violence but also the ratification of the Istanbul Convention in due time. Lastly, the Centre criticises the petition against ratification of the Istanbul Convention initiated by the Alliance for the Family, which not only misrepresents the articles of the Istanbul Convention, but also creates a misconception among people concerning the Istanbul Convention.

Recommendations

The Centre recommends:

1. The Slovak Republic complete the process of ratification of the Istanbul Convention without undue delay.
2. The Ministry of Labour, Social Affairs and Family of the Slovak Republic ensure fluent and efficient functioning of the Coordination Methodical Centre the Prevention and Elimination of Violence against Women and Domestic Violence and National Helpline for Women Experiencing Violence.
3. Self-governing regions, towns, municipalities and non-governmental sector increase the number of shelter homes for battered women.
4. The Ministry of Labour, Social Affairs and Family of the Slovak Republic, the Ministry of Interior of the Slovak Republic, non-governmental sector and professional public raise awareness on the issue of violence against women.
5. The Ministry of Labour, Social Affairs and Family of the Slovak Republic and the National Council of the Slovak Republic submit and adopt new legislation on the protection of women against violence.

6. Citizens of the Slovak Republic, before signing petitions, carefully study their contents and related issues.
3rd year of the competition of the Slovak National Centre for Human Rights called “My Human Rights”
Art Elementray School Kováčska, Gabriela Gaľová
6 Protection of the Rights of LGBTI Persons

The rights of LGBTI persons (lesbian, gay, bisexual, transsexual and intersexual persons) in Slovakia were debated in the beginning of 2015 in relation to the referendum for the protection of family and in the second half of the year with regards to preparation of the Action Plan for LGBTI Persons for the Years 2016-2019 (the LGBTI Action Plan). Adoption of an action plan specifically covering protection of the rights and equality for LGBTI people and reflecting necessary legislative measures to improve status of these people in the society has been repeatedly recommended by the Centre. The Centre considers growing manifestations of intolerance and hatred against LGBTI persons, which further increase discrimination against these people in their everyday lives, to be a particularly problematic issue in 2015.

6.1 Referendum for the protection of family

In the 2014 HR Report, the Centre covered the prepared referendum for the protection of family initiated by a petition organised by the Alliance for Family (Aliancia za rodinu). The referendum was called upon the Decision of the President No. 320/2014 Coll. to be held on 7 February 2015. The referendum asked three questions concerning cohabitation of same-sex couples, adoption of and raising up children by same-sex couples and participation of children in education covering sexual behaviour or euthanasia.\(^{73}\)

The referendum was preceded in the beginning of 2015 by a strong campaign. Positively, this campaign created a space for an open debate on the rights of LGBTI persons and their status in the society. Unfortunately, this campaign was closely accompanied by slandering, manifestations of homophobia and hatred against the LGBTI community deepening prejudices towards LGBTI persons. This experience underlined, *inter alia*, the need to change legislation regarding hate speech crimes and special motives of other crimes to strengthen protection of the rights of transgender and intersexual persons.

The referendum was unsuccessful due to a low turnout, since only 21.41% of eligible voters participated. The majority of voters answered all three referendum questions in

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\(^{73}\) Wording of the referendum questions is available in the 2014 HR Report, pp.35-39.
affirmative (first question 94.5%, second question 92.43% and the last question 90.32%). In total, 78.59% of eligible voters did not vote in the referendum, whilst many explicitly declared that they did so due to their disapproval with the subject matter of the referendum.

The debate regarding the referendum was, unfortunately, very poised and negatively marked by slanders, intolerance and misunderstandings with a tendency to constitute manifestations of hatred. The Centre underlines that it does not consider the referendum to be an appropriate mean to find answers to current challenges in the area of human rights. On the contrary, specific measures shall be results of expert and tolerant public debate respecting opinions of opponents in order to protect human dignity, freedom of thought, conscience, religion and belief as well as the freedom of expression and freedom of speech.

The questions opened in the referendum remain current and in terms of protection of the rights of LGBTI persons there is a need to adequately address them as well as other practical issues faced by these persons in their everyday life.

6.2 Action Plan for LGBTI People for the Years 2016-2019

In October 2015, the Ministry of Justice submitted, based on the Resolution of the Government of the Slovak Republic No. 71 of 18 February 2015 to the Nationwide Strategy for Human Rights Protection and Promotion in the Slovak Republic, the LGBTI Action Plan into comment procedure. The comment procedure took place from 6 October 2015 till 20 October 2015.

The LGBTI Action Plan is based on Annex no. 9 to the Nationwide Strategy for Human Rights Protection and Promotion in the Slovak Republic and represents the first strategic document mapping international commitments, national situation and legislation in order to address issues faced by LGBTI persons. Bodies responsible for its implementation should be the Ministry of Justice, the Committee of the Rights of Lesbian, Gay, Bisexual, Transgender and Intersex Persons of the Government Council of the Slovak Republic for Human Rights, National Minorities and Gender Equality (the LGBTI Committee), the Public Defender of Rights, the Centre and other ministries regarding the allocated tasks. Tasks defined in the LGBTI Action Plan are divided into five areas: awareness raising, other public policies, sectional tasks; education; private and family life and employment; health care; protection from hate crime based on sexual orientation or gender identity.

In terms of legislation, the LGBTI Action Plan lays down only 4 particular tasks. These cover a legislative proposal enabling issuing of new certificates on completion of studies to persons who underwent gender reassignment and amendments of relevant legislation in order to secure free choice of name and surname also for persons undergoing gender reassignment. With regards to criminal legislation, the proposal suggests introduction of hatred based on gender identity and sex characteristics among special motives of certain crimes and extension of hate speech crimes by homophobic and transphobic hate speech. The aim of the proposed changes is to fill in gaps in the protection of the rights of transgender persons.

In the area of private and family life, including legislation on adoptions, the LGBTI Action Plan proposal does not bind to adopt legislation regulating registered partnerships or other forms of institutionalised co-habitation of unmarried heterosexual or homosexual couples. Activities in this area only refer to preparation of model situations and assessment of financial impact of social care contributions in case of legal recognition of same-sex couples, and to an analysis of legal status of unmarried couples and identification of barriers these couples face in realisation of their rights. Legislative measures should only be proposed upon results of these activities and only if necessary. The rest of the tasks concern awareness raising on LGBTI rights, sexual orientation and gender identity as well as education of various target groups in order to eliminate prejudice against LGBTI people. The proposal of the LGBTI Action Plan primary aims to eliminate prejudice, discrimination and chicane against LGBTI persons, eliminate homophobia and transphobia and to improve legislation in order to strengthen protection of rights of transgender people. Despite the fact that the proposal does not suggest legislative measures regarding institutionalisation of cohabitation of same-sex couples, the Centre welcomes inclusion of the task aiming to analyse existing barriers resulting from the current legislation for unmarried couples and to analyse impact of a possible recognition of same-sex couples on public finances. It is crucial that the outcomes of these analyses are followed by specific legislative and other measures promoting LGBTI rights and improving their status in the society.

The process of adoption of the LGBTI Action Plan was not successfully accomplished in 2015. The fact, that the LGBTI Action Plan has yet not been adopted, however, does not prevent the relevant stakeholders to work on adoption of measures addressed in this document already prior to its adoption. For instance, the amendments to criminal legislation aiming to eliminate homophobia, transphobia and to effectively fight violence based on sexual orientation, gender identity and sex characteristics or legislation enabling issuing new
certificates on completion of studies upon gender reassignment could be prepared.

6.3 Hate speech and hate crimes

Manifestations of hatred against LGBTI persons have increased in the past couple of years in relation to graduate opening of topics regarding LGBTI rights in the Slovak society and public debate on the Nationwide Strategy for Human Rights Protection and Promotion in the Slovak Republic, the referendum for the protection of family and the LGBTI Action Plan.

The amendment of the Criminal Code in 2013 included hatred against a group of persons or an individual based on their sexual orientation with special motives which constitute aggravating circumstances applicable to specific crimes.\(^{75}\) This amendment, however, did not cover hatred based on gender identity or sex characteristics of a victim. Transgender and intersexual people represent a particularly vulnerable group which is often subject to hate speech or other crimes due to their gender identity or sex characteristics. Currently, the Slovak legislation does not protect from these types of manifestations of hatred. The LGBTI Action Plan proposes adoption of legislative measures addressing loopholes in criminal legislation in order to eliminate transphobia and to fight violence based not only on sexual orientation of a victim but also on grounds of gender identity and sex characteristics.

Despite the failure to adopt the LGBTI Action Plan in 2015, there was an initiative to amend criminal legislation by supplementing the Article 140 section. d) and f) of the Criminal Code. The Ministry of Labour submitted a substantive comment in the inter-resort comment procedure to a proposal of an act providing the list of substances with anabolic or other hormonal effects for the purposes of the Criminal Code, amending and supplementing certain acts. This substantive comment proposed extension of special motives of crimes by hatred based on sex or gender. The Ministry of Labour reasoned this by increasing numbers of femicides and series of violent crimes motivated by hatred against women as a group or hatred against transgender persons. The comment was approved and implemented in the proposal of the act. The governmental proposal was adopted in the first reading at the 56\(^{th}\) session of the National Council of the Slovak Republic. Upon consideration in the committees, a gestor committee\(^{76}\) proposed to strike out the extension of legislation regarding

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\(^{75}\) See Article 140 section f) of the Criminal Code.

\(^{76}\) The Constitutional Law Committee of the National Council of the Slovak Republic was the only committee that suggested leaving out the two relevant points from the proposal and being the gestor committee it approved its own proposal.
special motives of crimes. The act was adopted in the modified version, hence, the Criminal Code in its current wording does not protected from crimes motivated by hatred based on sex, gender identity and sex characteristics.

Another legislative loophole is the current legislation concerning verbal manifestations of hatred (hate speech). Hate speech legislation defines a criminal offence of defamation of a nation, race and conviction and a criminal offence of incitement of national, racial and ethnic hatred. Definition of a crime protecting from hate speech against LGBTI persons is missing.

Extension of criminal legislation in the area of hate speech crimes to cover hatred based on sexual orientation, gender identity and sex characteristics was in 2015 also recommended by the Council of Europe Commissioner for Human Rights.

The Centre finds the growing verbal and non-verbal manifestations of hatred against LGBTI persons to be a serious problem and a significant barrier in the enjoyment of fundamental rights by LGBTI persons in Slovakia. It is crucial to amend the Criminal Code without undue delay and to provide legal base for protection from homophobic and transphobic hate speech as well as from other hate crimes based on hatred against transgender persons. Subsequently, it is vital to raise awareness on the means of protection in order to support reporting of this type of criminality with an aim to thoroughly investigate cases and effectively enforce the law.

Conclusion

LGBTI persons in Slovakia have in a long-term been victims of discrimination and other forms of intolerance. In the beginning of 2015, the campaign preceding the referendum for the protection of family brought about a wide debate marked by slandering, manifestations of intolerance and misunderstanding by both opinion groups and had a tendency to amount to manifestations of hatred. The LGBTI Action Plan which was submitted into comment procedure by the Ministry of Justice aimed to solve several challenges in relation to the protection of the rights of LGBTI persons in Slovakia. However, for the LGBTI community it was an unsatisfactory proposal, mainly in the areas of family and private life, since it did not

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77 Common report of committees of the National Council of the Slovak Republic regarding the governmental proposal of an act providing the list of substances with anabolic or other hormonal effects for the purposes of the Criminal Code, amending and supplementing certain acts (press 1714) in the second reading, CRD-1630/2015, part IV. point 3.

explicitly refer to legal recognition of cohabitation of same-sex couples. Historically first conception of public policy in the area of LGBTI rights was, unfortunately, not adopted in 2015. Hence, fulfilment of the identified tasks remains distant. The Centre highlights the need to adopt the LGBTI Action Plan without undue delay. It is crucial to effectively address the growing cases of hate speech against this group of persons. The Centre believes that the failure to adopt the LGBTI Action Plan does not create a barrier to early amendment of the Criminal Code.

**Recommendations**

The Centre recommends that:


2. The National Council of the Slovak Republic amends the Criminal Code extending the wording of Article 140 section f) to cover, among the special motives of crimes, also hatred based on gender identity or sex characteristics of the victim.

3. The National Council of the Slovak Republic amends the Criminal Code extending the list of hate speech crimes to cover hatred based on sexual orientation, gender identity and sex characteristics (i.e. homophobic and transphobic hate speech).

4. The National Council of the Slovak Republic adopts legislation introducing registered partnerships of same-sex couples. Until the adoption, the Centre recommends that the National Council of the Slovak Republic and bodies of public administration mandated in particular areas of public administration secure facilitating of practical problems resulting from non-institutionalised cohabitation of LGBTI couples by implementing effective legislative and non-legislative measures.

5. Media, pedagogues, NGOs and other stakeholders having impact on public opinion raise awareness on LGBTI rights in order to eliminate prejudice and hate speech against LGBTI persons as well as homophobic and transphobic chicane.
3. ročník konkurencie SNSU pod názvom "Môj človečný právo"

Elementárna škola a mateřská škola Palín, Stanko Mitrík, trieda 5.A
Rights of persons with disabilities (PWDs) represent a topic which requires a constant attention since PWDs are one of the most vulnerable groups of our population.

A fundamental pillar of protection of the rights of PWDs is the UN Convention on the Rights of Persons with Disabilities (CRPD) and Optional Protocol thereto adopted by the UN on 1 December 2006. The aim of CRPD is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all PWDs, and to promote respect for their inherent dignity.

CRPD as well as its Optional Protocol entered into force in Slovakia on 25 June 2010. CRPD was officially published as a Notice of the Ministry of Foreign and European Affairs of the Slovak Republic (Ministry of Foreign and European Affairs) No. 317/2010 Coll. on Adoption of the Convention on the Rights of Persons with Disabilities and its Optional Protocol as a Notice of the Ministry of Foreign and European Affairs No. 318/2010 Coll. on Adoption of the Optional Protocol to the Convention on the Rights of Persons with Disabilities. Pursuant to Article 7 para. 5 of the Slovak Constitution, CRPD is an international treaty which prevails over national acts.

Under Article 35 para. 1 CRPD, each State Party to the Convention shall submit to the Committee on the Rights of Persons with Disabilities, through the UN Secretary General, a comprehensive report on measures taken to give effect to its obligations under CRPD and on the progress made in that regard. The Slovak Republic submitted a complex report to the Committee on the Rights of Persons with Disabilities in June 2012. “A national coordinator for the Convention on the Rights of Persons with Disabilities is the Ministry of Labour, which prepared the implementation report on its observance. In September 2015, the Committee addressed follow-up questions regarding the implementation report (the so called List of Issues).” According to the Ministry of Labour the Initial Implementation Report of Slovakia

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79 The aim of the Optional Protocol is to enable individuals and groups whose rights have been breached submit a complaint to the UN Committee on the Rights of Persons with Disabilities.

80 “States shall understand the reporting process, including the process of preparation of the reports, as a measure of ensuring observance of their international obligations but also as an opportunity to review the level of human rights protection within their jurisdictions in order to ensure more effective policy planning and implementation of the Convention.” See: Guidelines concerning the Convention-specific document submitted by the State parties to the Convention under Article 35 para.1 of the Convention on the Rights of Persons with Disabilities. Available at: www.employment.sk

81 The material is published at the website of the Committee (CRPD/C/SVK/Q/1). Source: Statement of the Ministry of Foreign and European Affairs of the Slovak Republic regarding the questions of the Centre dated of 09.02.2016.
was assessed on the 15\textsuperscript{th} session of the UN Committee on the Rights of Persons with Disabilities, particularly on 4 and 5 April 2016 in Geneva. The list of 32 questions concerning the Initial Report was submitted to the Ministry of Labour on 18 September 2015.\textsuperscript{82}

A proposal for establishment of the main focal point for implementation of CRPD was adopted by a Resolution of the Government of the Slovak Republic No. 103 of 20 February 2013. Accordingly, the main focal point was established at the Ministry of Labour.

“The activities of the main contact point result from the aim of CRPD (Article 1) which binds the states to promote, protect and ensure full and equal enjoyment of all human rights and fundamental freedoms by all PWDs, and to promote respect for their inherent dignity” the Ministry of Labour stated.\textsuperscript{83}

**Legislative developments concerning PWD**

**Commissioner for Persons with Disabilities**

Act No. 176/2015 Coll. on the Commissioner for Children and the Commissioner for Persons with Disabilities and amending and supplementing certain acts entered into force on 1 September 2015. It provides legislative grounds for an independent mechanism mandated to monitor observance of CRPD.

The Commissioner for Persons with Disabilities participates in the protection of the rights of PWDs by promoting and supporting rights granted to PWDs under international treaties ratified by the Slovak Republic (i.e. CRPD and its Optional Protocol). Everybody can turn to the Commissioner forPersons with Disabilities regarding possible violations of the rights of PWDs.\textsuperscript{84} The Commissioner for Persons with Disabilities is also mandated to submit complaints to the UN treaty bodies on behalf of PWDs.\textsuperscript{85} JUDr. Zuzana Stavrovska became the first elected Commissioner for Persons with Disabilities.

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\textsuperscript{82} Statement of the Slovak Disability Council and the Slovak Blind and Partially Sighted Union regarding the questions of the Centre dated of 22.02.2016.

\textsuperscript{83} Statement of the Ministry of Labour, Social Affairs and Family of the Slovak Republic regarding the questions of the Centre dated of 16.02.2016.

\textsuperscript{84} Act No. 176/2012 Coll. on the Commissioner for Children and on the Commissioner for Persons with Disabilities and amending and supplementing certain acts.

\textsuperscript{85} Statement of the Ministry of Labour, Social Affairs and Family of the Slovak Republic regarding the questions of the Centre dated of 16.02.2016.
Amendment of the School Act

Association for Help to People with Mental Handicap in the Slovak Republic stated the following: “In the spring 2015, the Ministry of Education submitted an amendment of the School Act and amending and supplementing certain acts as amended and amending and supplementing certain acts. In this amendment, the Ministry initiated elimination of a discriminatory provision of Article 99 concerning practical schools.” Such schools are attended mainly by students with grave levels of mental disabilities. The amendment concerns the length of studies since, according to the former wording of the provision, maximum duration of education in practical schools is 3 years. In practice, this meant that a student could only attend a practical school for 3 years, excluding the option to repeat a grade. In comparison, a student without mental disability can be granted the option to repeat more grades by the headmaster of the school based on various justified reasons (e.g. due to failure to master the studies for health reasons or its higher difficulty) in order to allow him/her to continue with education and complete it in the final grade. Hence, the new wording of the provision shall read as followed – Practical school has three grades while a student can repeat a grade if required by the above-mentioned reasons. The adoption of the amendment is beneficial for the students with mental disabilities.

Rules of Civil Non-Contentious Litigation

The Ministry of Justice in its statement concerning the new Act No. 161/2015 Coll. Rules of Civil Non-Contentious Litigation referred to the first one of 4 basic principles of the civil non-contentious procedure stating the following: “Court applies and interprets law equally with regards to all parties to the proceedings. If a minor is a party to the proceedings, the court acts in its best interest and, if appropriate, informs the child on all relevant issues concerning the proceedings and the issue at stake. If a PWD is a party to the proceeding, the court safeguards effective access to justice equal to other parties to the proceeding.”

Additionally, the Ministry of Justice stated that the whole text of the Rules of Civil Non-Contentious Litigation respects the rights under the Convention on the Rights of the Child (mainly Article 12), related general comments to the Convention on the Rights of the Child (mainly Articles 10, 12 and 14) and also under CRPD (mainly Article 13).

Article 231 of the Rules of Civil Non-Contentious Litigation lists among forms of
procedure concerning legal capacity only limitation of legal capacity, changes of limitation of legal capacity and re-granting legal capacity of a natural person, thus, precluding a full deprivation of legal capacity.

The Ministry of Justice further stated: “Besides the mentioned supporting measures, a right of person whose legal capacity is concerned to initiate court proceedings or a specific instructing duty of a court in proceedings specifically instructing a person whose legal capacity is concerned with respect to his/her health condition (strengthening the principle of effective access to justice), shall also be mentioned. The whole proceeding is characterised by a direct contact between a judge and the person concerned, in order to eliminate decisions based only on medical or expert testimony, active participation of the person concerned in the proceeding and consideration of his/her best interest.”

A person whose legal capacity is concerned enjoys a full procedural capacity, notwithstanding the fact if this was limited by a prior decision. He/she can seek participation of his/her fiduciary who is not his/her legal representative. Procedure concerning limitation of legal capacity is joint to the procedure for appointment of a guardian.86

Based on the abovementioned information provided by the addressed subjects, it can be concluded that issues of the rights of PWDs, their enjoyment and observance are one of the priorities in our society and that a certain progress can be identified in 2015. The Centre believes that the society would continue with creating favourable conditions allowing PWDs to live fully.

### 7.1 Fare reductions in public transport

The monitored period was also marked by changes in transport of PWDs holding cards for an individual with severe health disabilities/accompanied individual with severe health disabilities (PWD card) introduced within the integrated transport system in the Bratislava Region (IDS BK) with the launch of its third phase on 1 November 2015.

The aim of IDS BK was to link three independent systems of public transport into one, i.e. city public transport in Bratislava, regional bus transport and regional railway transport, allowing transport with a single ticket.87

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86 Statement of the Ministry of Justice of the Slovak Republic regarding the questions of the Centre dated of 25.02.2016.
87 Pravda.sk [online] ©2015 [ref.2016-03-10].
Changes in the scope of reduced fares were adopted by the City Council of the Capital City of the Slovak Republic Bratislava (Bratislava City Council) already in 2012, although 2012 changes did not distinguish based on permanent residence. In terms of unification of tariff terms with regards to PWD card holders, it was crucial to unify the amount of fare reduction to 50%. This proposal was approved by the Resolution of the Bratislava City Council No. 915/2012 of 13 December 2012 as part of the material Integrated Transport System in the Bratislava Region – introduction of phase I. Entry into force of this decision was three times postponed (by resolutions No. 983/2013 of 27 February 2013, No. 1088/2013 of 6 June 2013 and No. 1375/2013 of 12 December 2013). Regarding the latest postponement, a new date of entry into force was set by the launch of phase III. of IDS BK. Initiation of a phase III. was approved in June.

The Slovak Disability Council and the Slovak Blind and Partially Sighted Union commented on the introduced changes stating that the community of PWDs very negatively perceived cancellation of free transport for PWD card holders in Bratislava city public transport.

Association for Help to People with Mental Handicap in the Slovak Republic reacted as followed: “We are surrounded mainly by negative reactions concerning the changes. The changes concerning PWD card holders themselves are not the only problem. The whole procedure introducing them was insufficiently and unclearly communicated. Changes that bring about increased transport costs for PWD card holders in Bratislava and Bratislava Region, such a rich city and region based on various economic statistics, look very untrustworthy. Particularly, in comparison with increasing examples of free city public transport not only for PWD card holders in Europe.”

PWDs expressed their disagreement with the changes also in a petition and by a protest assembly.

The Capital City of the Slovak Republic Bratislava (the City of Bratislava) was interested in keeping the free transport. Hence, it sought to negotiate with transport operators involved in IDS BK, i.e. Železničná spoločnost Slovensko and regional bus operator Slovak Lines, on possibilities of free transport for PWD card holders. These negotiations were

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88 Statement of the Magistrate of the Capital City of the Slovak Republic Bratislava, Transport Section, regarding the questions of the Centre dated of 16.03.2016.
89 Proposal to address the issue of PWD card holders transport within IDS BK [online] ©2015. [ref.2016-03-10]. Available at: http://zastupitelstvo.bratislava.sk/samosprava/material/id:3157/navr_tzp
90 Statement of the Slovak Disability Council and the Slovak Blind and Partially Sighted Union regarding the questions of the Centre dated of 22.02.2016.
91 Statement of the Association for Help to People with Mental Handicap in the Slovak Republic regarding the questions of the Centre dated of 12.02.2016.
unsuccessful since the operators must keep unified tariffs throughout Slovakia and cannot make exceptions.\(^92\)

Pursuant to the new transport terms within IDS BK, all PWD card holders have a 50% discount. The City of Bratislava in cooperation with the Bratislava Region, moreover, decided that PWD card holders with a permanent residence in the Bratislava Region would also be provided a “bonus discount” of 80% of the reduced travel tariff for a purchase of a prepaid ticket for city zones (the so called zones 100+101). Overall, PWD card holders with permanent residence in the Bratislava Region can travel within the city zones with a 90% discount\(^93\) as compared to a basic tariff. The bonus discount was introduced since both the City of Bratislava and the Bratislava Region fully compensate this bonus discount, i.e. they reimburse transport operators for each such prepaid ticket in total 80% of the travel cost.\(^94\)

The unification of tariff terms of individual operators within IDS BK, thus, caused cancellation of the free transport entitlement for a selected group of passengers, including PWD card holders. Moreover, new transport terms for this group of persons were differentiated based on permanent residence in the Bratislava Region, i.e. there are two groups of PWD card holders, those with permanent residence in the Bratislava Region and those without it.

The Association for Help to People with Mental Handicap in the Slovak Republic added: “We believe that there has been a breach of the principle of equal treatment…”

“Bratislava is a centre of education. Pupils and students with permanent residence outside the Bratislava Region who live in dormitories or daily commute to schools in Bratislava are not entitled to the same discount in public transport as their colleagues with a permanent residence in Bratislava. This causes a significant financial disadvantage.” The Slovak Disability Council commented.\(^95\)

The Ministry of Transport, Construction and Regional Development of the Slovak Republic (the Ministry of Transport) does not find the permanent residence requirement discriminatory since all PWD card holders enjoy a 50% fare reduction on one-way tickets or

\(^92\) Pravda.sk [online] ©2015 [ref.2016-03-10].

\(^93\) “Adoption of the Resolution No. 235/2015 brought about a significant decrease of impact on PWDs who were granted an additional discount of 90% of the travel cost. The City of Bratislava committed to reimburse this discount under the Agreement on reimbursement of an additional discount of 30 December 2015 for all passengers with disabilities with permanent residence in Bratislava.” Source: Statement of the Magistrate of the Capital City of the Slovak Republic Bratislava, Transport Section, regarding the questions of the Centre dated of 16.03.2016.

\(^94\) Statement of the Ministry of Transport, Construction and Regional Development of the Slovak Republic regarding the questions of the Centre dated of 15.02.2016.

\(^95\) Statement of the Slovak Disability Council and the Slovak Blind and Partially Sighted Union regarding the questions of the Centre dated of 22.02.2016.
prepaid tickets (i.e. also PWD card holders without a permanent residence in the Bratislava Region).\textsuperscript{96} Company Bratislavská integrovaná doprava, a. s. stated that the additional bonus discount provided only to PWD card holders with permanent residence in the Bratislava Region shall be seen as a social policy measure (public transport contribution) of the City of Bratislava and the Bratislava Region.\textsuperscript{97} According to the Transport Section of the Magistrate of the Capital City of the Slovak Republic Bratislava (the Magistrate of Bratislava), differentiation of transport terms based on PWD card holders’ permanent residence cannot be seen as a breach of the equal treatment principle.

The City of Bratislava\textsuperscript{98} plans to assess the number of sold tickets approximately after a half year\textsuperscript{99} with a possible correction of the supposed impacts and reassessment of the amount of bonus discount or a scope of persons entitled to it.\textsuperscript{100}

Restoration of a free transport for PWD card holders in Bratislava public transport is currently subject to consideration. The Magistrate of Bratislava has evaluated how many PWD card holders use public transport and found out that actual costs of reimbursement of such transport is lower than expected.\textsuperscript{101} The City of Bratislava, however, took into account only PWD card holders with a permanent residence in the Bratislava Region. Hence, it remains questionable whether free public transport in Bratislava is being reconsidered also for PWD card holders who do not have a permanent residence in the Bratislava Region.

Conclusion

Changes in transport costs for PWD card holders were perceived negatively due to the

\textsuperscript{96} Statement of the Ministry of Transport, Construction and Regional Development of the Slovak Republic regarding the questions of the Centre dated of 22.02.2016.

\textsuperscript{97} Statement of the Bratislavská integrovaná doprava, a. s. regarding the questions of the Centre dated of 24.02.2016.

\textsuperscript{98} “In these terms, the City of Bratislava prepares an impact analysis of free transport for PWD card holders from Bratislava regarding the sale of prepaid tickets, which shall be debated at the session of its council on 31 March 2016 and shall include a complex proposal of modification of the current 90% discount for PWD card holders, blood donors and former political prisoners. The analysis calculated impacts of a 100% discount of travel costs a reimbursement of which would increase costs by € 500 000 per year as compared to the current 90% discount.” Source: Statement of the Magistrate of the Capital City of the Slovak Republic Bratislava, Transport Section, regarding the questions of the Centre dated of 16.03.2016.

\textsuperscript{99} “…evaluation of provided discounts is covered by a measure OP11 in the Strategy for Development of Public Personal Transport of the Slovak Republic by 2020, adopted as an annex to the Strategic Plan for Development of Transport Infrastructure of the Slovak Republic by 2020 by a Resolution of the Government of the Slovak Republic No. 311 of 25 June 2014.” Statement of the Bratislava Self-governing Region regarding the questions of the Centre dated of 03.03.2016.

\textsuperscript{100} Proposal of addressing the issue of PWD card holders transport within IDS BK [online] ©2015. [ref.2016-03-16]. Available at: www.zastupitelstvo.bratislava.sk

\textsuperscript{101} www.bratislava.sme.sk [online] ©2015 [ref.2016-02-24]
increased financial burden on budgets of PWDs but also regarding unsuitable technical conditions concerning e.g. ticket purchase by a blind person or a person in a wheelchair.

The Centre does not find the cancellation of free transport for PWD card holders as the most serious issue. It is the differentiation of transport terms for this group based on their permanent residence which is seen more problematic. The Centre believes that PWD card holders with a permanent residence in the Bratislava Region are being treated more preferably than PWD card holders who have permanent residence in other regions. The Centre condemns such unequal treatment and finds it unacceptable.

**Recommendations**

The Centre recommends that:

1. The Magistrate of the Capital City of the Slovak Republic Bratislava and the Bratislava Self-governing Region eliminate discriminatory transport terms for persons with disabilities (PWD card holders) based on their permanent residence.
2. The Ministry of Transport, Construction and Regional Development of the Slovak Republic adopt legislative changes aiming to provide free transport for PWD card holders within railway transport.
3. The Ministry of Transport, Construction and Regional Development of the Slovak Republic adopt legislative changes in order to introduce unified transport terms for PWD card holders in all cities and municipalities, since decentralisation caused that these terms vary and bring about difficulties in comprehending tariffs of individual transport operators.

**7.2 Barriers at public organs**

Within the process of elimination of barriers, the Slovak Republic committed, *inter alia*, to undertake or promote research and development of universally designed goods, services, facilities and equipment which would require the minimum possible adaptation and the least costs to meet the specific needs of PWDs, to promote their availability and use, and to promote universal design in development of standards and guidelines.\(^\text{102}\)

\(^{102}\) Article 4 para. 1 (f) CRPD.
PWDs should be able to use the same entrances to buildings as other persons. In these terms, the concept of universal design differs from the established understanding of accessibility of buildings particularly by its alternative approach. The Centre has repeatedly pointed at the issue that many owners of buildings within reconstruction or construction take accessibility into account only formally. It is not exceptional that accessibility is only declaratory or causes further separation of PWDs from the majority.

The National Programme for the Development of Living Conditions of Persons with Disabilities for the Years 2014-2020 defines accessibility as securing opportunities for PWDs to enjoy all aspects of life independently with a use of appropriate adjustments or tools, and in case it is necessary also with assistance. In terms of the needs of PWDs, the right to free movement is a particularly important human right, enjoyment of which is crucial in order to achieve full integration in the modern society.

Every State Party to CRPD is obliged, under Article 20 CRPD, to take effective measures to ensure personal mobility with the greatest possible independence for PWDs, including by facilitating the personal mobility of PWDs in the manner and at the time of their choice, and at affordable cost. In Slovakia, personal mobility is promoted mainly through keeping or introducing various fare reductions for example within transport infrastructure, cultural heritage visits, sport events etc.

The requirement of public accessibility and meeting specific requirements for a use of construction by persons with limited mobility and orientation, as well as the requirement of accessibility, result in cases of publicly available constructions also under provisions of the Act No. 50/1976 Coll. on Land-use Planning and Construction Order (the Construction Act) as amended. What is alarming is that the current regulation of accessibility is a result of a 16 years old legislative procedure as specifications of accessibility has not been amended since 1 August 2000.

Upon conclusion of an inter-resort comment procedure and a governmental session, the Ministry of Transport submitted on 29 May 2015 a proposal of a new construction act to the session of the National Council of the Slovak Republic. The prepared extensive amendment, which was supposed to replace the 37 times amended 1976 act, was supposed to, inter alia, provide PWDs access to public space and mobility therein on equal basis as enjoyed by other persons. The proposal of the new construction act was withdrawn from the

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session of the National Council of the Slovak Republic on 22 September 2015. The Ministry of Transport expects this extensive reconstruction of the Construction Act to be adopted at least by 2020.

The National programme “Universal Design Support” was adopted on 21 September 2015 within the operational programme Human Resources for priority axes 2, 3 and 4. Its aim is to find out alternative legislative solutions of universal design of buildings and environment in accordance with Article 2 CRPD in order to make them usable by all people without the need for further adjustments or a special design. Outcomes of the national programme should comprise: standards for universal design of buildings and environment applying universal design in practice, proposal of a legislative intent concerning implementation of the universal design into Slovak legislation, awareness raising on the use of universal design in practice both among public bodies and in the private sphere. Since the proposal of the new construction act was withdrawn from the session of the National Council of the Slovak Republic, it can be assumed that the project would became the main measure (although not legislative) of universal design promotion in the following period. The Centre expects the Ministry of Labour to closely cooperate with the Ministry of Transport in realisation of this project.

Alongside the insufficient legislation concerning elimination of barriers to support accessibility and the greatest possible guarantees of personal mobility, problems related to practical realisation of accessibility must also be highlighted, especially with regards to reconstructions of buildings. Practice in Slovakia uncovers issues related mainly to heavy financial burden upon investors, insufficient spatial disposition, problematic legal relations concerning the premises and their ownership or complications regarding localisation in a monument zone or definition of the object as an architectonic monument.

Conclusion

The Centre highlights the fact that accessibility is a key principle of all relevant provisions of CRPD. Under CRPD, Slovakia is obliged to adopt appropriate measures to ensure that private subjects providing facilities and services publically provided or available consider all aspects of accessibility for PWDs in order to enable them to live an independent life and fully participate at all aspects of life.

For 2 years, the Ministry of Transport was preparing an extensive amendment of the Construction Act. Despite the withdrawal of the proposal of the new construction act from the parliamentary debate in September 2015, the Centre remains convinced that a prompt implementation of the amended institutes concerning accessibility, personal mobility, freedom of movement and priority of universal design into new legislation and subsequent regulatory acts is crucial.

Furthermore, despite long-term efforts for accessible construction and elimination of barriers, barriers pertain mainly due to failures to observe legislation (the Construction Act), insufficient consultancy of construction projects with their future users with disabilities and inconsistency regarding approval procedure for finished constructions.

The Centre believes that the new Construction Act would, among others, contain also a preference of a universal design which would facilitate integration of PWDs and eliminate discrimination that could result from specific arrangements for PWDs.

Recommendations

With regards to the requirement of accessibility, personal mobility of PWDs and universal design standards the Centre recommends that:

1. Public bodies and other legal entities create measures, including allocation of financial support, aimed at removing barriers of public pavements and roads, parking spots, buildings (schools; school, cultural, health or sport facilities, etc.) and commercial buildings (shops, residential buildings etc.), public transport and workplaces. Specific minimum standards of accessibility should be introduced with regards to public spaces and premises together with deadline for their implementation.

\[107\] It is necessary to deal not only with accessible entrance to premises but consider elimination of barriers systematically in order to provide PWDs maximum functional accessibility (clear marking, accessible toilets, width of premises, doorframes, elevators etc.).

88
2. The Ministry of Transport, Construction and Regional Development of the Slovak Republic prepare, or complete, without undue delay a proposal of the new construction act including implementing regulations in order to cover prioritising universal design facilitating integration of persons with disabilities and elimination of discrimination which can occur in the society as a result of special arrangements for persons with disabilities.

3. The National Council of the Slovak Republic protect interests of persons with disabilities in the area of accessibility and personal mobility and push through the new construction act and its implementing regulations which would ensure access of persons with disabilities, on equal basis as for any other persons, to physical environment and mobility therein.

4. The Ministry of Labour, Social Affairs and Family of the Slovak Republic cooperate with the Ministry of Transport, Construction and Regional Development of the Slovak Republic in implementation of the national programme “Universal Design Support”. The Ministry of Labour, Social Affairs and Family of the Slovak Republic in cooperation with the Ministry of Transport, Construction and Regional Development of the Slovak Republic push through the elaboration of universal design standards for buildings and physical environment as well as recommendations how to use universal design in practice within a legislative intent concerning implementation of universal design into the Slovak legislation.

5. Activities motivating to support elimination of barriers of publicly accessible premises in cities and municipalities, e. g. public competitions, are realised in cooperation of central public bodies with territorial self-governments, and eventually with a philanthropy participation of a business sector.

6. Municipalities, cities and the Association of Towns and Villages of Slovakia include elimination of barriers into their wider inclusive social policy, notwithstanding the fact that elimination of historical contexts of architectonical barriers is financially difficult.

7. Founders of school facilities adopt regulations allocating financial resources for gradual elimination of barriers in school premises and preschool facilities both at the ministerial level and the level of territorial self-governments.

8. The Ministry of Health of the Slovak Republic in the area of health care increasingly concern barrier-free access, accessibility and elimination of qualitative differences in health care between persons with disabilities and other persons.
9. Founders and/or operators systematically construct more accessible entrances to various public institutions, sport facilities etc.

7.3 Rail transport of PWDs in the Slovak Republic

CRPD lays down an obligation to adopt “appropriate measures that would provide PWDs, on equal basis as for any other persons, access to physical environment, transport, information and communication, including information and communication technologies and systems, as well as other means and services publicly available or provided...” Despite its efforts, the Slovak Republic has yet not fully implemented CRPD neither at legislative nor at practical level.

With regards to transport, Slovakia is bound to adopt appropriate measures ensuring that private entities providing facilities and services for public or publicly available take into account all aspects of accessibility for PWDs with an aim to enable them to live an independent life and fully participate at all aspects of life.

Slovakia addresses the requirement of accessibility of means of transport and transport infrastructure also in the National Programme for the Development of Living Conditions of Persons with Disabilities for the Years 2014-2020, which covers also tasks that are supposed to increase the number of accessible personal transport vehicles, equip new vehicles with information systems for PWDs (voice notification of stops) and information systems for persons with hearing impediments (screens) or systematically strengthen accessibility of bus or train stations and airports as well as maintain fare reductions in railway transport for PWDs. 108

Within information support concerning possibilities and means of transport for PWDs, the Ministry of Transport bound Železnice SR to gradually, since 1 January 2015, add into transport terms boards information on possibilities and means of transport for PWDs by including a contact for a transport operator, both in Slovak and English. This requirement stems from task 3.3.2. of the Addendum No. 2 to the Agreement on operation of rail infrastructure for the years 2014-2016 (Annex No. 3 – Railway stations standards). 109

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Ministry of Transport SR informs that this requirement was currently fulfilled at all selected 57 railway stations, at least in the Slovak language. It must, however, be stated that this is the only task concerning PWDs covered in the Agreement on operation of rail infrastructure for the years 2014-2016. With regards to a system of discounts in railway transport, ŽSSK provides a 50% discount for PWD card holders from basic fare in the second class coaches for personal transport (regulated transport fare ranks from € 0,20/1km – € 8,5 /510km). PWD card holders (owning PWD card with a red stripe) are entitled to free transport for a person accompanying him/her, his/her wheelchair and a guide dog.

Since 3 December 2009 Slovakia is also bound by the Regulation (EC) of the European Parliament and the Council No. 1371/2007 of 23 October 2007 on rail passengers’ rights and obligations (the Regulation on Rail Passengers’ Rights and Obligations). This document had an ambition to guide railway transport towards non-discrimination, adoption of various progressive innovations and gradual increase and improve of standards of provided services. The Regulation on Rail Passengers’ Rights and Obligations presupposes free assistance at railway stations to PWDs or persons with limited mobility (within transit through or arrival to the station so that a person can board or leave a train) as well as assistance on board and when boarding and leaving the train (Articles 22-24). The possibility for each Member State to grant, on transparent and non-discriminatory basis, an exception from applicability of the Regulation on Rail Passengers’ Rights and Obligations for services of national personal railway transport for maximum 5 years, which can be renewed two times always for maximum of 5 years, can be seen negatively. This exception can be granted with regards to all provisions of the Regulation on Rail Passengers’ Rights and Obligations except from Articles 9, 11, 12, 19, Article 20 para. 1 and Article 26. In practice, for customers with disabilities in majority of EU Member States it concerns provision, upon request, of information to PWDs and persons with limited mobility concerning accessibility of railway transport services and conditions for access to trains.¹¹⁰

The European Commission, already in 2013, considered the use of exception to be a significant challenge in achieving aims of the regulation. Accordingly, it highlighted that an exception under the Regulation on Rail Passengers’ Rights and Obligations can (partially) be granted only for services, however, it cannot apply to railways, especially interstate railways.¹¹¹

¹¹⁰ See Article 2 para. 3 and 4 of the Regulation on Rail Passengers’ Rights and Obligations.
The Report from the Commission to the European Parliament and the Council on Exemptions granted by Member States under the Regulation on Rail Passengers’ Rights and Obligations of 11 March 2015\textsuperscript{112} states that currently only 4 Member States have fully implemented the Regulation while 22 Member States (including Slovakia) have granted several levels of exceptions. Slovakia is one of 12 Member States intending to maintain current exceptions for the following 5 years (Slovakia until 3 December 2019).

Agreement on Transport Services in Public Interest between the Slovak Republic and Železničná spoločnosť Slovensko, a.s. as transport operator\textsuperscript{113} of 27 December 2010 (valid from 1 January 2011 for 10 years, if not terminated sooner pursuant to Article XI para. 7 therein) refers to exceptions granted to the operator from the applicability of the Regulation on Rail Passengers’ Rights and Obligations for a period of 5 years. The operator shall inform once per year on the achieved progress in implementation of the Regulation on Rail Passengers’ Rights and Obligations. The Slovak Republic commits to provide the operator with conditions for gradual achievement of a full observance of the provisions within duration of the exception in accordance with financial means of the public budget.

The aim of the Agreement on Transport Services in Public Interest for operation of personal transport at railway route Bratislava – Dunajská Streda – Komárno\textsuperscript{114} concluded between the Slovak Republic and RegioJet, a.s. as transport operator (valid from 4 March 2012 to December 2020) is provision of transport serviceability of public personal railway transport by the operator at railway routes No. 132 Bratislava Main Station – Bratislava Nové Mesto and No. 131 Bratislava Nové Mesto – Dunajská Streda – Komárno and a provision of financial compensation. RegioJet, a.s. commits to realise the order by defined rail carriers which have, \emph{inter alia}, toilets for persons with limited mobility and orientation.

\begin{itemize}
\item \textsuperscript{113} Agreement on Transport Services in Public Interest. Ministry of Transport, Construction and Regional Development of the Slovak Republic [online]. ©2015 [ref.2015-04-05]. Available at: http://www.telecom.gov.sk/index/index.php?id=153105
\end{itemize}
Transport of passengers with disabilities and with limited mobility in practice of Železničná spoločnosť Slovensko, a.s.

According to the webpage of Železničná spoločnosť Slovensko, a. s. (ŽSSK), provision of assistance and access for PWDs and persons with limited mobility to personal transport services on a non-discriminatory basis is being provided in cooperation with Železnice Slovenskej Republiky.

ŽSSK is undergoing a process of exchange of its vehicles of personal railway transport operator that will change one fifth of regional and local trains at Slovak railways. These new trains are low-floor with multifunctional space for immobile passengers at wheelchairs and are also equipped with an information system.

This was one of the reasons why the Ministry of Transport approved that ŽSSK apply in national distance transport exceptions from application of Article 21 of the Regulation on Rail Passengers’ Rights and Obligations for the period of 4 December 2014 to 3 December 2019. Accordingly, railway companies and managers of stations shall ensure that train stations, platforms, trains and other facilities are accessible to PWDs and persons with limited mobility. In terms of the rights of PWDs, it shall be noted that exceptions from obligations under Article 22 – Assistance at railway stations and Article 23 – Assistance on board also apply.115

Permanent exceptions were granted for city, local and regional railway personal transport to ŽSSK by the Ministry of Transport with regards to application of all provisions of the Regulation on Rail Passengers’ Rights and Obligations, expect from Articles 9,11,12,19, 20 paras. 1 and 26.

Currently, 14 railway stations in Slovakia have 1 or 2 platforms equipped with mobile lifting platforms.116 Elimination of barriers at train stations is ongoing and recent information on their accessibility and limitations are available at website of Železnice Slovenskej Republiky.117 14 railway stations are currently equipped with toilets for persons with physical disabilities with a universal key (the so called eurokey).118 In general, it is possible to assess

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116 See: http://www.zsr.sk/buxus/docs/Marketing/SV/2017/Priloha3_6_1_B-ZoznamZST-zdvihacieplosiny20160315.xlsx


the level of technical access to trains for persons with limited mobility in the year 2015 as insufficient and successfully managed only at a necessary level practically only at those stations that are important railway transport hubs.

ŽSSK includes special coaches (partially or fully low floor and adapted for passengers in wheelchairs) to express trains and other trains for transport of immobile passengers with arranged compartments and toilets. Selected trains with special compartments also have special hydraulic lifting platforms.ŽSSK reserves priority seats in trains for PWDs, persons with limited mobility and PWD card holders. A special coach allows for a transport of two immobile passengers in wheelchairs at the same time. Based on the type of transport, transport can be arranged also in coaches that are not designed for immobile passengers in wheelchairs taking into account available means of the transport operator. A significant disadvantage is the fact that the formation of special coaches differs depending on a day of the week, hence, an individual depending on them is forced to arduously search whether, if at all, and when would a partially or fully low-floor coach arranged for passengers in wheelchairs be included to the trainset. In autumn 2015, ŽSSK partially satisfied immobile customers and provided an extended search form at its website, which upon marking the option “person in a wheelchair” shows also coaches with a compartment for transport of immobile passengers. Similarly, ŽSSK has published a rather intricate trains formation plan including pictures with lists of trains for individual stations.

Real situation can be pictured at an example of a railway transport from Bratislava (Main Station) to Košice. There is a daily option for an immobile passenger to choose at least one alternative of the journey, however, always at least with one transfer (via Ostrava- Czech Republic). The online search more often offers an alternative with three transfers, most often via Břeclav (Czech Republic), Vienna (Austria) and Budapest (Hungary). This is only possible under an assumption that the passenger manages to transfer from one train to another

122 https://ikvc.slovakrail.sk/inet-sales-web/pages/connection/search.xhtml
in 2-10 minutes. The more time is really needed for transfer, the less chances does the person have to be able to use railway transport.

In order for a railway transport of a PWD or a person with limited mobility to be able to take place, the passenger must order it in due time. Until 15 July 2015 passengers could order transport and assistance by phone or e-mail at least 48 hours prior to the planned journey. Currently, since October 2015, passengers with disabilities and immobile passengers can order transport and assistance at least 24 hours prior to the planned journey at the Contact Centre, by phone (+421 24 48 58 188), by e-mail (info@slovakrail.sk) or at cash desks. They must be present at least 30 minutes prior to the planned departure of the train and report to an authorised employee of ŽSSK. In case of transport of an immobile passenger in a wheelchair, the wheelchair must be secured with a handbrake and harnesses to fasten in the coach.\(^{124}\) If all requirements of order are met at least 24 hours prior to the planned journey, the passenger must provide the following information:

- date of the journey (inbound and outbound),
- railway station of departure and arrival,
- rail link (number of the train or time schedule of departure/arrival),
- wheelchair type (e.g. electrical, mechanical, rehabilitation carriage) or a passenger with a limited mobility (e.g. with a mechanical walker or crutches),
- information whether the passenger travels accompanied or not,
- passenger’s name and surname,
- residence,
- number of PWD card (if the individual is its holder),
- phone contact,
- ordering person’s name and surname,
- phone contact,
- requested assistance (e.g. coach with a platform, assistance at boarding and leaving the train, access assistance by a barrier-free transit to the train)\(^{125}\).

Receipt of an order does not automatically constitute acceptance of the transport. ŽSSK informs the person on approval or rejection of requested transport as soon as possible upon approval of the order. If the transport has not been approved, it can be refused by ŽSSK.


In terms of transport of PWDs, persons with limited mobility and PWD card holders, ŽSSK is obliged, pursuant to its Transport Terms, to provide, in cooperation with an infrastructure manager, free assistance during boarding and leaving the train if this transport is notified to ŽSSK at least 24 hours prior to the planned journey. ŽSSK has committed to take efforts to potentially realise orders even if the deadline is not met.\textsuperscript{126}

ŽSSK pays attention also to passengers who are accompanied PWD card holders, accompanied by a specially trained dog (guide dog, assistance dog, signal dog). ŽSSK provides them not only with free transport of a wheelchair, a stroller for an immobile child, but also for the specially trained dog. While transport of dogs and live animals is only allowed in 2\textsuperscript{nd} class coaches and in couchette coaches, transport of specially trained dogs accompanying PWD card holders is allowed also in 1\textsuperscript{st} class coaches and couchette coaches.\textsuperscript{127}

**Transport of passengers with disabilities and with limited mobility in practice of RegioJet a.s.**

RegioJet, a.s provides railway transport within Slovakia since 4 March 2012. At its website\textsuperscript{128}, the company declares that it welcomes also immobile passengers. All RegioJet a.s. trainsets at the route Praha - Ostrava - Žilina - Košice, Zvolen - Banská Bystrica - Martin - Praha and also Bratislava - Žilina - Košice have installed mobile slip platforms for safe boarding of persons in wheelchairs. In case it is necessary, mobile platforms at railway stations are used in cooperation with Železnice Slovenskej Republiky.

Platform must be ordered at least 24 hours prior to the departure of the train (mobile platforms in trains), external platforms (see below) must be ordered at least 48 hours prior to the departure. Coaches equipped with a mobile platform are marked in the reservation system with a symbol. Passengers are recommended by RegioJet a.s. to select seats 71 or 76 of any compartment (placed more or less in the middle between the two exits of the compartment).


The company has standard express trains coaches which are not low floor and have limited space for mobility inside the train.

If an immobile passenger wants to use services of RegioJet a.s., he/she must reserve the ticket for IC RegioJet train equally as other passengers and select the option PWD card holder discount. If a railway station or stop is adjusted for boarding and take off of such passengers, the transport shall be notified to RegioJet a.s. at least 2 hours prior to the planned journey by phone (+421 948 318 838). Otherwise, the transport shall be notified to RegioJet a.s. at least 24 hours prior to the planned journey by phone (+421 948 318 838). RegioJet, a.s. would always put efforts to possibly realise orders even if this deadline is not met. Transport of persons with limited mobility and orientation who do not require special assistance does not need to be notified. The passenger must then order the platform for safe boarding and leaving the train- online, by phone (+421 2 2050 2020) or at cash desk. Board staff prepares the mobile platform placed in IC RegioJet trains for boarding of an immobile passenger. The passenger is assisted by the board staff of IC RegioJet – if necessary in cooperation with check desk personal at the particular train station. Upon boarding, board staff assists the passenger to get to his/her seat. A passenger with limited mobility and orientation has priority over seats marked with a special symbol. Similarly, this applies when such passenger takes off of the train.129,130

Beside the reduced fares, RegioJet a.s. also provides discounted travel fare for parents (legal representatives) of children with physical, mental or sensual disabilities, chronic diseases and for children’s visits in facilities of social and legal protection and social guardianship. Conditions of this discount are regulated in both transport terms of the company.131 Transport of specially trained dogs is provided on similar terms as in ŽSSK trains.132

132 See Transport Terms. Public national personal railway transport (General Transport Terms) [online] ©2015. [ref.2016-04-05]. Available at: http://www.regiojet.sk/opencms/export/sites/regiojet.sk/prepravne-
Conclusion

Generally, the level of technical accessibility of persons with limited mobility to trains in 2015 can be assessed as insufficient and managed in practice at a necessary level only at stations which are the most important railway transport hubs. Readiness of trainsets themselves is also insufficient regarding the complicated and different formation of special coaches on different days. The requirement to order transport well in advance and to wait for approval also represent processes causing discomfort for immobile passengers. In these terms, fulfilment of a single task benefitting PWDs in 2015 within the current railway stations standards, in particular adding contacts in Slovak and English for information on means of transport of PWDs at transport terms information boards, is a very weak measure which only minimally supports elimination of barriers in railway transport.

Furthermore, the granted exception from fulfilment of obligations under certain articles of the Regulation on Rail Passengers’ Rights and Obligations within national distant transport terminates on 4 December 2019 and since that moment Slovakia will have to be ready to provide railway transport without the abovementioned limitations.

On the other hand, the Centre welcomes all activities initiated by both railway transport companies for PWDs. The Centre also acknowledges the system of reduced fares and free transport for PWDs provided in 2015 by both ŽSSK and RegioJet, a.s.

The Centre welcomes that several railway stations maintained toilets of the so called eurokeys system also in 2015. The Centre believes that the network of providers would increase and expand to all regions of Slovakia and that the project would enjoy a long-term sustainability and would become a reliable standard service for PWDs.

Despite the granted exception, both transport operators - ŽSSK and RegioJet, a.s. could show more will and efforts and use for instance the institute of temporary compensatory measures until elimination of barriers that preclude them to provide full access to their services for PWDs. In case of their interest, the Centre would be pleased to provide them with consultations in this area.
Recommendations

In terms of accessibility and personal mobility of PWDs by railway transport, the Centre recommends that:

1. Relevant subjects of public administration and contractual transport operators providing services in railway transport in Slovakia create measures, including allocation of financial resources, aimed at elimination of barriers in railway stations objects and in railway transport itself. In terms of adopted railway station standards, it would be useful to introduce specific minimum standards of accessibility and at the same time set time limits for their realisation.

2. Activities motivating elimination of barriers in railway transport are realised in cooperation of central bodies of public administration and territorial self-governments, including possible philanthropic participation of a business sector.

3. Železnice Slovenskej Republiky support, increase and maintain nationwide introduction of the so called eurokeys which would provide persons with disabilities with individual access to sanitary facilities, buildings, ramps and platforms.

4. Transport operators (providers of railway transport services) in cooperation with the Ministry of Transport, Construction and Regional Development of the Slovak Republic and territorial self-governance bodies standardise services and unify all provided tariff reductions in railway transport through Slovakia and at local level for the benefit of persons with disabilities.

5. The Slovak Republic in cooperation with contracted transporters include more trains with barrier-free access into railway transport and provide more seats reserved for persons with disabilities in train coaches.

6. Both railway transport operators adopt, until elimination of barriers in providing full accessibility of their services to persons with disabilities, targeted temporary compensatory measures with an aim to eliminate barriers in access to railway transport services.

7. The Ministry of Transport, Construction and Regional Development of the Slovak Republic and transport operators continuously improve quality of transport of persons with disabilities and continuously reach the standards that are, until 2019, subject to exceptions in the Slovak Republic, in order to fully observe all obligations when a time limit of the exceptions expires.
3rd year of the competition of the Slovak National Centre for Human Rights called “My Human Rights”
Elementary School Nižná Brána, Eva Kovaříková, class 5.A
8 Provision of Goods and Services

The Antidiscrimination Act lays down an obligation to observe the principle of equal treatment also in the area of access to and provision of goods and services (including housing) provided to public by legal entities and natural persons. The principle of equal treatment is laid down also in other, mostly public-law regulations, governing the relationship between a consumer and a provider of services or a seller of goods. In 2015, the Centre identified some limitations in access to particular financial services and prepared limitations of public parking in the City of Bratislava within provision of goods and services and access to them due to prepared conception of regulated parking.

8.1 Provision of financial services in the bank sector

The Centre currently registers products at the Slovak financial market, a provision of which is limited by age of a natural person – client in a position of a financial consumer. Financial consumer is a person who acts at the financial market and a person with who a supervised subject or a person acting on behalf of the supervised subject acts when offering a financial service or when concluding or fulfilling consumer agreement on provision of a financial service.133

This concerns mainly products of bank sector provided by commercial banks or branches of foreign banks. Such products can be divided into compulsory products (the so called basic bank product134, standard account135) and voluntary products (the so called newlyweds’ loan136, mortgage loan for young recipients137) based on whether legislation establishes an obligation of a bank to provide such product limited by age (compulsory provision) or it is provided voluntarily (based on fulfilment of legislatively stated conditions).

Compulsory bank products are claimable by a consumer if the established conditions are fulfilled, hence, the bank cannot refuse their provision to the consumer.

134 Article 27c of the Act No. 483/2001 Coll. on Banks and amending and supplementing certain laws as amended.
135 Article 27d of the Act No. 483/2001 Coll. on Banks and amending and supplementing certain laws as amended.
136 Article 88a of the Act No. 483/2001 Coll. on Banks and amending and supplementing certain laws as amended.
137 Article 85a of the Act No. 483/2001 Coll. on Banks and amending and supplementing certain laws as amended.
Provision of a basic bank product is cumulatively linked to achievement of 18 years of age, net income up to the € 400 when filing application for provision of a basic financial product and non-existence of another payment account. Its advantage is that it secures minimal standard of provided bank services within absence of a product’s fee.

Payment account with basic functions (the so called standard account) is based on transposition of the Directive the European Parliament and the Council No. 2014/92/EU. Authorised subjects of this product can be consumers with permanent residence in the EU including consumers without residence in the territory of Slovakia, applicants for asylum and consumers without granted permission for residence but whose expulsion is impossible. Bank and a branch of a foreign bank are obliged to treat the consumer, who is a person with residence in some of the EU Member States, in accordance with the principle of equal treatment within process of filing application for a payment account. It is important to realise that the Act No. 483/2001 Coll. on Banks and amending and supplementing certain laws directly establishes a normative prohibition of discrimination on the ground of consumer’s nationality and place of residence in the EU (new provision of Article 27e effective from 1 January 2016). Overseeing the observance of this statement is in the mandate of the National Bank of Slovakia (NBS), a public body for supervising the observance of that principle in relation to the banks.

NBS stated that it did not receive any submission regarding violation of the principle of equal treatment by any of the supervised subjects, including commercial banks, in the year 2015. This information is based on the NBS’ s complaints handling activity concerning financial consumers and other clients of supervised subjects and submissions of consumers’ organisations. Accordingly, the Centre states that the body of supervision should increasingly focus on supervising the observance of the principle of equal treatment in provision of financial services with regards to the growing competences of NBS in supervision of public protection of financial consumers138 and in the future particularly in the area concerning provision of payment accounts’ services. In these terms, it should be mainly recommended that the so called mystery shopping especially with regards to bank products and focusing at grounds of discrimination are used.

In accordance with the published news, a redemption of mortgage loans by persons older than 65 is perceived as problematic. Only two banks allowed redemption of mortgage loans by persons over 65. In terms of other banks, the applicant had to finish redemption of a

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loan until reaching this age. Hence, higher monthly instalment in a shorter time period of payments applies to persons who are granted a mortgage loan in a higher age. Mortgage loan is, thus, considered to be a product for younger persons.139

Provision of a loan to older persons cannot be in conflict with quantitative rules of prudential bank business, since in such case the bank faces a higher level of risk and at the same time this could violate public regulation of performance of bank activities. Establishment of conditions for provision of loans is part of a business policy of each bank. Provision of loan is not legally claimable, so its provision cannot be enforced. It is only up to the bank’s consideration whether it enters into a contractual relationship and provides loan. However, the reason to refuse provision of this financial service cannot be an age of the applicant. On the other hand, subsequent application of different amounts of instalments can be considered as an objectively justified different treatment pursuing fulfilment of regulatory requirements for managing loan risks by the bank.

The Centre addressed individual commercial banks with registered offices in Slovakia registered in the public list of NBS140 in order to screen the published information and identify cases of provision of a financial service in the bank sector conditioned by achievement of a particular age. In its survey, the Centre focused on non-bank providers of consumer loans. In total, 13 banks were addressed, 9 of which responded. Only 3 banks provide loans irrespective of client’s age. 2 banks did not provide the needed information for evaluation of their answers. 4 banks provide loans based on client’s age (differently until between 65-70 years).

8.2 Access to other goods and services

The Centre also approached the State Trade Inspection (STI) as a body of control over the observance of the prohibition of discrimination in access to goods and services except from financial services with an intention to evaluate observance of the principle of equal treatment in access to the goods and services. STI is authorized control the observance of laws


regulating the area of consumer protection and to impose sanctions over providers of services or sellers of goods in cases of violation of the equal treatment legislation.

In 2015, STI registered 25 complaints related to violation of the principle of equal treatment of consumers in provision of goods and services. STI found 15 of them ill-founded. Within its control activities, STI identified 3 violations of the principle of equal treatment: 1) an operator of summer pools required lower all-day entrance fee for adults with permanently residence in the area where the pool is located; 2) different charges for entry to a recreational facility divided into 3 groups (adult entry: € 6/day, regional entry for adult from selected districts: € 4.50/day, entry for inhabitants with permanent residence in the area where the facility was located: € 3/day); 3) refusal to sell a drink and to provide service to a consumer. Accordingly, three administrative proceedings were initiated in a total value of sanctions imposed € 1 640, which were yet not effective when STI provided its statement. In 2015, STI did not register any complaint regarding discrimination based on sex, ethnic origin, disability or other ground explicitly stated in the Antidiscrimination Act. According to the above mentioned information, it can be concluded that violations of the principle of equal treatment mainly occurs on the ground of other status. STI does not use the method of testing focusing on unequal treatment when solving received complaints but it uses the method of purchase with a confidential identity (the so called mystery shopping). STI cooperates with CCHR in handling complaints concerning discrimination of Roma.

Accordingly, the Centre also addressed the civil association CCHR. In 2015, CCHR registered complaints concerning also discrimination in access to the goods and services. These complaints were verified by field monitoring in Roma communities. Accurate statistics have, however, not been registered. In cooperation with STI, four complaints regarding possible discrimination in this area were submitted. Three of them concerned discriminatory practice against Roma consumers in provision of services in pubs and restaurants. One complaint alleged non-delivery of post dispatches by a courier service to the Roma community. Besides that, the CCHR actively provided services of legal representation (8 continuing anti-discrimination court proceedings concerning discrimination of members of the Roma minority, in 2015; 2 proceedings based on actio popularis were initiated which were however not related to the area of provision of goods and services). CCHR did not conduct situation testing. Based on the provided information, it can be concluded that within its activities CCHR focused mainly on investigating complaints alleging discrimination based on ethnic origin.
Conclusion

Based on the answers of the addressed subjects, the Centre evaluated the situation on the market of bank products as non-unified. Despite existing prudential requirements for banks, individual commercial banks provide loan products differently with regards to the condition of age of a client – applicant for a loan. Accordingly, a general statement of some banks that they observe legislation in the area of banking and consumer protection should be considered as underestimating the problem of potential discrimination of loans’ receivers. Moreover, there are other subjects active in the bank market, which limit the provision and payment of loans by a minimal interest in achievement of a particular age, respectively the age limit is stated relatively high or they require additional security of loans. A client can, thus, choose those institutions which would individually assess his/her payment ability also in a higher age. Paying due regards to public regulation of bank activities, the Centre recommends banks to evaluate also introduction of such loan products that would be addressed to natural persons in the age above the pension age.

Recommendations

The Centre recommends that:

1. Banks, which have not yet done so, assess provision of facultative bank products aimed at elimination of inequality of certain groups of population and strengthening competitive environment, while observing prudential requirements.

2. Bankám pri súčasnom dodržiavaní pravidiel obozretného podnikania prehodnotiť súčasné kritériá pre čerpanie úverov obyvateľmi vo veku nad 62 (resp. aj 65) rokov veku a pristúpiť k poskytovaniu špecializovaných úverových produktov pre túto skupinu obyvateľstva tak, aby bolo možné minimalizovať jej diskriminačné zaobchádzanie (v tejto súvislosti možno odporučiť v úverových vzťahoch viac využívať nástroje zabezpečenia).

3. Bank consider increasing the age limit for maturity of a loan to a statistical average lifetime age in the Slovak Republic with in order to make loan offer more attractive for persons of higher age and to increase their accessibility.

4. Banks publish products particularly for a target group of clients over 62 and older in order to secure transparency of criteria of their loan policies.
5. The National Bank of Slovakia particularly focus on unequal treatment in the area of provision of bank loans based on other than objectively justified circumstances within realization of protection of financial consumer through control purchase of financial services.

8.3 Prepared proposal of public parking regulation in the Capital City of the Slovak Republic Bratislava

Regulation of public parking in the capital city and its districts is a hot topic since 2015. A lack of uniform opinion among Bratislava inhabitants was confirmed also by an unsuccessful local referendum in the district Karlova Ves. In the local referendum, only 55.72% of participated voters agreed with residential parking (7,238) and 41.12% of voters disagreed (5,342). Individual metropolitan districts coordinate their procedure with the prepared regulation of public parking by the capital city of the Slovak Republic Bratislava.

The proposal of a binding regulation of the City of Bratislava concerning temporary parking of motor vehicles on the local communications regulates temporary parking of motor vehicles on the local communications and their components and on the territory of the City of Bratislava. The proposal regulates payments for parking on determined parts of local communications and on their components in particular zones. Individual districts of Bratislava are divided into zones. The proposal differs the amount of payment and availability of parking in accordance to residents and non-residents. Resident is a physical person with a driving license who has a permanent residence in Bratislava and is a holder of a motor vehicle or has a motor vehicle registered to his trade or uses a motor vehicle of a legal entity which is his employer and the employer permits him to use that motor vehicle also for personal use or has rented a motor vehicle which is owned by a legal entity authorised for renting motor vehicles for a term no shorter than 12 months continuously. The resident is entitled to acquire a residential parking card with a particular zone marked based on which he/she does not need to pay for parking within the zone where he/she has a permanent residence, except from the fee for issuing the parking card. In other zones, the resident pays 50% of the price stated for other drivers (non-residents). Non-residents are subjected to pay for any parking place operated by the City of Bratislava, metropolitan district or their established legal entities. A maximum

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hour fee is determined for every individual district in accordance with its lucrative (area 1 – the centre – Metropolitan district – Staré mesto: max. € 5/hour, area 2 – centre – Metropolitan district Ružinov, Nové mesto, Petržalka: max. € 5/hour, area 3 – lucrative zones – Metropolitan district Dúbravka, Karlova Ves: max. € 4/hour, area 4 – others zones – Metropolitan district Lamač, Záhorská Bystrica, Devínska Nová Ves, Devín, Jarovce, Rusovce, Čunovo, Vrakuňa, Podunajské Biskupice, Vajnory, Rača: max. € 2/ hour).

The Centre addressed the City of Bratislava with an intention to evaluate current situation in this area. In its answer, the City of Bratislava stated important facts which according to the Centre establish discrimination. It also stated that consultations regarding technical management of the parking politics are ongoing and that the supposed term for adopting the proposal of the generally binding regulation by the Bratislava City Council should be during the year 2016.142

Provision of temporary public parking on selected places of local communications is a provision of public service by legal entities in accordance with Article 5 para. 2 of the Antidiscrimination Act.143 In provision of this service and in access to it, the principle of equal treatment applies, according to which discrimination based on the listed reasons is prohibited. Conditions of regulation of the paid parking in the City of Bratislava must be established in compliance with the principle of equal treatment.

Prohibition of discrimination applies to, *inter alia*, the ground of the so called other status. Permanent residence can be identified as a ground for discrimination if other legislative conditions of discrimination are fulfilled. This reason was stated as ground of discrimination also in the decision of the Supreme Court (Judgement No. Svzn 1/2010 of 9 November 2010). The Supreme Court declared that some inhabitants are prioritised and on the other side some inhabitants are disadvantaged based on permanent residence or its duration, based on other status. Permanent residence was, thus, subsumed under the ground of other status capable to induce unlawful differentiation or discrimination.

In accordance with the prepared regulation of the public parking, a provider of public parking services gives unlawful advantage in payments for parking to citizens with permanent residence in Bratislava. The Centre believes that by applying a significantly higher tariff fee for the services as compared to citizens with permanent residence in Bratislava, access to this

services gets significantly more difficult and limited. The Centre does not see any objective justification of such disadvantage causing a different treatment of citizens who do not have permanent residence in Bratislava as compared to those who do have it.

The proposal of regulation of public parking in the capital city has a clear aim to make access to parking easier for residence close to their place of residence. The above mentioned half price (of a fee stated for non-resident drivers) for resident parking in other districts of Bratislava apart from the one where they reside, however, also puts in disadvantage the residents among themselves. Taking into account the dislocation of public bodies, hospitals, real estates administrated by residents (if they do not have a permanent residence registered therein, i.e. an apartment, garage etc.), family visits and other regular situations cannot be limited to regular parking in certain areas. Apart from ownership, many people possess other rights with regards to real estates (i.e. lease relationship, easement). The accommodation need (of non-residents) or administration of a real estate (by residents or non-residents) and the related parking need in the area are considered by the Centre to be equivalent to the parking need of residents in the particular city district. Moreover, the parking need related to e.g. hospital visits, visits of public bodies located in Bratislava etc. is, according to the Centre, equal in terms of both residents and non-residents. Incomes to the city’s budget also comprise of local taxes, which are not linked to the permanent residence. Furthermore, a positive impact of non-residents on businesses resulting from the increased consumption of goods and services benefitting provides and sellers located in Bratislava should also be mentioned. Hence, the Centre believes that differentiation based on permanent residence constitutes a breach of the principle of equal treatment. Discrimination can be seen in the proposed regulation also with regards to a criterion of time, in terms of persons who have a permanent residence in Bratislava for less than 12 months. The preferential parking tariffs should accordingly not apply to persons who own a property in Bratislava, persons permanently living in Bratislava without registered permanent residence or persons who have permanent residence Bratislava for less than 12 months.

Conclusion

The Centre believes that natural persons living, working or visiting institutions and health facilities in Bratislava, carrying functions in public interest in a body located in Bratislava etc. have the same right to non-discriminatory conditions of access to services
provided in the capital city regardless their permanent residence. This objective requirement is based on uniqueness of Bratislava as the capital city of Slovakia, which concentrates all the ministries, other central bodies of public administration, significant nationwide health and scientific facilities as well as headquarters of other important public bodies. Based on the abovementioned, the Centre considers the proposed regulation of temporary parking in Bratislava to be incompatible with the principle of equal treatment laid down in the Antidiscrimination Act. It must be emphasised that a violation of the principle of equal treatment with regards to the regulation of public parking cannot be legalised neither in a local referendum (as was the case in the metropolitan district Karlova Ves), regardless the ballot turnout of authorised voters.

Recommendations

The Centre recommends that:

1. The Capital City of the Slovak Republic Bratislava observe principle of equal treatment in access to public parking in its territory within preparation of draft regulation of public parking.

2. The Capital City of the Slovak Republic Bratislava, in case it maintains the criterion of residency in determining the parking fee, consider extending the definition of a resident to cover at least also persons who own a real estate in the territory of Bratislava and persons who have permanent residence in Bratislava for less than 12 months.

3. The Capital City of the Slovak Republic Bratislava, in case it maintains the criterion of residency in determining the parking fee, apply the same amount of parking fee for all residents in Bratislava and with regards to non-residents do not apply different amount of parking fee near public institutions, health facilities etc.

4. The Capital City of the Slovak Republic Bratislava look for other ways of solving the current situation in public parking (e.g. construction of public parking houses).
3rd year of the competition of the Slovak National Centre for Human Rights called “My Human Rights”
Elementary School and Kindergarten Poproč, Radka Timková, class 7.A
9 Working Conditions of Employees – Workplace Bullying

Mobbing and bossing are two types of employees bullying in the area of employment, i.e. inappropriate and unwanted behaviour in workplace, which unfortunately recently occurs in higher numbers. The victims of bullying often face humiliation, violence, harassment or other forms of discrimination in workplace. Chicane creates unfriendly and humiliating environment which can cause fear, uncertainty or terror and which leads to determined adverse impact on the health of a victim.

Inappropriate treatment by employers or other co-workers is even more frequent, despite the fact that this area is recently discussed and awareness on the means of protection against it increases.

Since the issue of chicane in workplace was very extended in 2015, the Centre decided to address it in an individual chapter and to point at the legislation and also the most important events related to mobbing and bossing.

9.1 Legislation and stages of workplace bullying

Bossing can be considered as an excessive control over fulfilment of work duties, or arrival in workplace, unreasonable (repeated) disapproval with taking a day off for recovery or holidays, arrogant behaviour of a superior employee, verbal insults, devaluation of work or unjustified criticism, alleging minor mistakes which are overlooked with regards to other workers, mocking in front of other colleagues at work, assigning very difficult tasks (for which the employee does not have the right qualification or time) or unmanageable tasks, contentious prevention of access to information, which makes it impossible to fulfil work duties, impossibility to give an opinion, present proposals for solving a problem, appropriating the work tasks of a colleague or a subordinated worker, some sources also include sexual harassment, threats or termination of employment (police and army) by the employer, different tricks (taking away and not giving back the office equipment), forcing inappropriate overtime work etc.

Equal treatment of employees is regulated, inter alia, mostly in the Labour Code and the Antidiscrimination Act. The Centre finds it insufficient that these two acts in their provisions do not address the terms mobbing, bossing or chicane in workplace. The
Antidiscrimination Act covers this behaviour within harassment and the Labour Code does not have a term for such behaviour.

The beginning of chicane is mostly unobtrusive, includes a smaller conflict, tense without a concrete reason, an opinion exchange or different opinions. In case of a non-constructive solution of this conflict or situation, the aggressor starts with bullying activities, individual expressions of chicane at this level seem harmless and for this reason these expressions are in most of the cases underestimated and accordingly mobbing enters the third stage. The case is becoming public, official – the failure to solve the situation by superior colleagues is causes that the situation becomes visible to others. The work performance of the victim deteriorates, while the aggressor has time and energy for another attacks. The last stage exclusion of the victim from the collective – efforts to get rid of the employee by relocating him/her to other workplace, to enforce agreement on termination of employment or to give notice on termination, subsequent physical illnesses joined with problems to seek a job.

The most common outcomes of bullying are health problems (headache, stomach problems, insomnia, decrease of immunity, physical problems), deteriorated performance, more frequent mistakes at work, working under stress, fear of going to work and subsequent negative influence on private and family life.

**9.2 Practical guide to protect the rights of a pedagogical employee and a professional employee**

In November 2015, the Ministry of Education published a “Practical guide to protect the rights of a pedagogical employee and a professional employee”, which was prepared by the Ministry of Education and professionals from non-governmental management with the help of the Centre. The guide describes cases of breaching the employee’s rights and it includes model examples as well as concrete practical examples. The Centre evaluates the guide as a positive income in this area, since it also provides instructions for solving existing negative behaviours and ways of their prevention. The guide is intended for teachers, directors, founders, but also employees of school offices. The material is available at the website of the Ministry of Education. “Facing labour problems is not possible if we do not know our rights and we do not know, who can we ask for help when applying these rights,” Juraj Draxler, the Minister of Education, said.
9.3 Published cases of workplace bullying

One of the workplace bullying cases, which was addressed by various media, was a case of a director of the Sibírska Elementary School in Prešov. The Labour Inspectorate in Prešov spotted chicane in a specific form of mobbing (physical terror in workplace) and bossing (systematic attack and harassment of an employee by a boss) already in 2012. The protocol from this year stated “the employer breached the duty in labour relations to treat the employees in accordance with the principle of equal treatment in the area of employment”, hence it did not comply with the Antidiscrimination Act. In addition, “it did not adopt any measures for protection of the employees against discrimination, which is present at the workplace in the form of mobbing.” The investigator accused the director also from the crime of extortion regarding the alleged threats of losing their jobs addressed to four teachers in order to force them to give her a part of their salary, which happened from June 2012 till March 2015. Police said that the teachers approved this request under the fear from losing their jobs. The money was given to her either directly or by account transfer.

The Centre was contacted by the employees of the Sibírska Elementary School who requested an expert opinion concerning discriminatory behaviour of their director. Consequently, a survey of social climate in workplace was conducted in this school by the Labour Inspectorate with the participation of the Centre, which showed the presence of mobbing and bossing in workplace. The School’s Board eventually proposed and unanimously accepted the dismissal of the director and the Mayor of Prešov had her appealed on 9 November 2015. The main reason for releasing was not the criminal procedure. According to the School’s Board, a crucial moment was when chicane of teachers was shown. The School’s Board based its decision on a petition, which was signed by 41 employees of the school. 

The Centre handled another case of workplace bullying in the Pedagogical and psychological advice and prevention Center “Zuzkin park in Košice” (Zuzkin park in Košice) published by the employees of the Zuzkin park in Košice. The employees of the Zuzkin park in Košice joined forces and requested dismissal of the director for bullying them. The employees of the Zuzkin park in Košice said that since the beginning of her office, the director was breaching the legislation in management, economical, divisional areas and breaking labour relations. The director’s representative confirmed the pressure and

intimidation of employees and said for media: “*The atmosphere in the workplace became so tense, that one third of the employees is recently unable to work.*” The founder and the Labour Inspectorate made an inspection in the Zuzkin park in Košice based on two complaints of the employees. A petition with 274 signatures was another step for supporting the employees.\(^{145}\)

The Centre contacted the director in a written form and her answer did not show any relevant defence evidence, which could demonstrate that the accusations were false. Consequently, the director asked to be released from the office.

Among cases of bullying in workplace, which were presented to public, there was also a case of an employee of the Central Office of Labour, Social Affairs and Family in Dolný Kubín. On 25 April 2014, the employee published on social media a status about bullying in the office and on 5 May 2014 and she got fired. The employee pointed on negative relations at work, mobbing and bossing. The employee did not agree with the notice of termination and filed legal action. The court agreed with the employee and decided that the termination of employment was invalid. The Central Office of Labour, Social Affairs and Family in Dolný Kubín appealed against this decision, but the Regional Court decided on 10 June 2015 that the immediate termination of the employment relationship was invalid.\(^{146}\)

**Conclusion**

The Centre constantly focuses on the issue of workplace bullying, because it represents a very substantial intervention into individual rights and since the Centre is also regularly contacted by clients who believe to be victims of breaches of the equal treatment principle by an employer or a superior.

The Centre considered it important to further support the protection of employees, and for this reason it decided to increase its educational activities by introducing educational activities concerning bullying in workplace (mobbing, bossing) and the Antidiscrimination Act and prepared a material in which it summarised basic information about bullying in workplace. Many trade union organisations, employers and employees in 2015 used the


opportunity to be trained by the Centre and the Centre is planning to continue organising these activities.

The Centre states that there is a high latency and many unlawful other tendencies in this area, apart from those cases which have been shown in television or press, in terms of bullying and unequal treatment in workplaces in Slovakia. Not every victim decides to actively seek protection of his/her rights or to publish his/her case. The main reason is the fear from losing a job. The same behaviour is demonstrated also by the colleagues of the victim, who witness bullying, breaches of the Antidiscrimination Act, the Labour Act and good manners and cannot support the victim of mobbing with a testimony. They cannot support the victims of mobbing with testimonies because of the fear from losing the employment or a consequent bullying against them. Unfortunately, the persisting negative economic situation and a high level of unemployment, mostly in some areas of Slovakia, gives employers the opportunity to infringe labour legislation and the binding principle of equal treatment, since they know that a demand for work is higher than offers at the labour market. This conduct, which is in a conflict with good manners, mostly affects members of marginalised, socially and economically disadvantaged groups, such as older employees, PWDs, women and people with lower work qualifications.

**Recommendations**

The Centre recommends that:

1. Employees, in cases with allegations of bullying in workplace, solve the problem primarily by a personal interview with a mobber or an employer or use a work meeting for this purpose.
2. Employees, in cases of unsatisfactory solution of the situation in workplace, contact bodies which can help them (the Labour Inspectorate, the Centre, trade unions, control bodies, the School Ombudsman etc.).
3. Employers ensure control of a work climate in their workplaces through anonymous questionnaires, regular working meetings and providing employees the opportunity to give opinions about social climate in workplace.
4. Employers ensure trainings concerning bullying in workplace (mobbing, bossing) and the Antidiscrimination Act, which can serve prevention from this negative phenomenon.
5. Employers qualify bullying in workplace as a serious infringement of work discipline and a potential reason for immediate termination of employment relationship in their internal legislation.

6. Labour inspectorates, in case of identifying bullying in workplace, state infringement of Article 13 para. 1 of the Labour Code, which implements that employer is in labour relations obligated to treat the employees in accordance with the principle of equal treatment regulated in the area of employment in the Antidiscrimination Act, and that the infringement of Article 13 para.1 of the Labour Code also constituted an infringement of work discipline.

7. Trade unions consistently deal with workplace bullying and provide employees with help within area of their mandate.

8. Bodies mandated to dismiss chief executive workers draw personal consequences in cases of proven adverse social climate and bullying in workplace.

9. The National Council of the Slovak Republic legally regulate the term workplace bullying and adopt a complex regulation of this issue.

10. The National Council of the Slovak Republic legislate individual responsibility for bullying conduct in workplace, i.e. draw real consequences for this conduct at all levels of manage.
3rd year of the competition of the Slovak National Centre for Human Rights called “My Human Rights”
Elementary School J. Švermu, Laura Frenáková, class 1.C
10 Temporary Compensatory Measures

Temporary compensatory measures (TCM) represent an exception from the prohibition of discrimination with an aim to provide equal chances in practice. TCM can only be adopted if there is a proven inequality and they are characterised by temporality, i.e. TCM should be realised only until their aim, leading to elimination of inequality, is reached.\footnote{For general information on TCM see chapter 7 of the 2014 HR Report, available at: http://www.snslp.sk/CCMS/files/komplet_prekald_spravy_AJ_final.pdf}

In terms of elimination of discrimination, TCM represent an important institute. Thus, information on adopted TCM in the previous year are always covered in the Centre’s annual reports on the observance of human rights including the principle of equal treatment.

10.1 Projects and programmes showing characteristics of TCM implemented in 2015

Under the Antidiscrimination Act, the Centre is a recipient of reports on adopted TCM by authorised subjects. Since these subjects repeatedly fail to fulfil their legal reporting obligation, the Centre draws information on TCM projects and programmes from information acquired within its activities and from statements of selected institutions (mainly central administrative authorities) approached by the Centre annually with regards to implementation of TCM in the previous year.

10.1.1 Project Healthy Communities

The Project Healthy Communities covered in the Centre’s 2014 HR Report continued also in 2015. The main aim of the project is to support access to health care and public health, including preventive health care and health awareness, and to reduce differences in health status between Roma and the majority society.\footnote{Report on realisation of the project Healthy Communities and its outcomes [online], In: Statement of the Ministry of Health of the Slovak Republic concerning TCM implemented in 2015 [ref.2016-03-09].}

According to the Report on realisation of the Project Healthy Communities and its results, the project succeeds to fulfil its partial aims such as: improving hygiene in settlements and concentrations in cities; monitoring the level of contamination and risks of living in certain areas; providing accessibility and quality of drinking water; providing accessibility of
heath care services; reducing contagious diseases; raising awareness concerning education to parenthood, reproductive health, maternity and child care; preventing drug addictions and social and pathologic phenomena, including violence against women, domestic violence, sexual violence and human trafficking.

A specific aim of the project is targeted creation, training and personal and professional development of human resources. Fulfilment of this aim is particularly important since the trained health awareness assistants are selected from the concerned communities. There were 24 educational activities in 2015 for this purpose.149

The Centre evaluates the project Healthy Communities as a necessary project with appropriate goals and well prepared structure. The Centre believes that the project fulfils characteristics of TCM and is implemented in the area with proven inequality of marginalised Roma communities. However, the project also brings certain risks, especially for the members of Roma communities who are actively involved as health awareness assistants. The Centre, thus, finds its crucial to thoroughly monitor activities of health awareness assistants in terms of their possible abuse beyond the scope of their work activities, e.g. refusal of doctors to provide treatment and referring members of Roma communities to health awareness assistants etc.

10.1.2 Housing Development Programme

Contributions for acquisition of rental flats, technical equipment and removal of system failures of apartment houses were provided also in 2015 within the long-term ongoing Housing Development Programme. Acquisition of altogether 1900 rental flats for socially disadvantaged groups was supported in 2015.

This project cannot be identified as a typical TCM. The Housing Development Programme does not specifically focus on any TCM addressees group, however, it cannot be denied that its target group would largely comprise the TCM addresses listed in the Antidiscrimination Act.

10.1.3 National Programme Family and Work

In 2015, the Ministry of Labour continued in realisation of a project Family and Work.

149 Report on realisation of the project Healthy Communities and its outcomes [online], In: Statement of the Ministry of Health of the Slovak Republic concerning TCM implemented in 2015 [ref.2016-03-09].
The project falls under the programme Employment and Social Inclusion which was implemented in all Slovakia excluding the Bratislava Region. It comprises financial support of flexible work arrangements for persons with parental duties and for creation of temporary care areas.

According to data provided by the Ministry of Labour, a total number of participating employees was 765 since the beginning of 2015 and 1406 job positions for persons with parental duties were supported. It included support for flexible work arrangements such as part-time working, shared work positions and teleworking. This support comprised provision of reimbursement of labour cost of employees up to 90% of total labour cost, in average € 880 per month. The work positions were provided to persons at parental leave or persons taking care of children younger than 6 years of age. Among the most frequently supported positions were general administrative worker, accountant, business representative or HR.¹⁵⁰

Another activity within the programme Family and Work aimed at facilitating return to work particularly to mothers with parental duties during or upon termination of parental leave concerned creation of areas for temporary care for children. These areas have been created by employers at workplace, at their premises or by using existing facilities. Support was provided to 33 facilities throughout Slovakia.¹⁵¹

The Centre indeed welcomes implementation of this project, despite acknowledging certain gaps. A major shortcoming of the project is exclusion of employers from the Bratislava Region since the issue of work-life balance of women only concerns regions with lower rates of employment. In the Bratislava Region women have chances to build a carrier and reach higher positions. The unemployment rate, however, does not mirror the issue of discrimination of women in the area of employment. This disadvantage could be overcome by the project Family and Work II., which should, according to the Ministry of Labour, cover also the Bratislava Region.

The Centre finds another risk factor of the project in it temporal realisation. Measures to support employees with little children should be adopted as systematic measures of a permanent nature, otherwise, doubts concerning permanent sustainability of the opened or supported work positions arise. Employers should provide work arrangements people with little children within their social policy and a need to open a work position should result from

¹⁵⁰ Statement of the Ministry of Labour, Social Affairs and Family of the Slovak Republic concerning TCM implemented in 2015 [ref.2016-03-10].
¹⁵¹ Statement of the Ministry of Labour, Social Affairs and Family of the Slovak Republic concerning TCM implemented in 2015 [ref.2016-03-11].
the real labour needs of the employer. Only in such case a sustainability of the created work position can be guaranteed.

10.1.4 National Programme Involvement of the Unemployed in the Restoration of Cultural Heritage

The National Programme Involvement of the Unemployed in the Restoration of Cultural Heritage realised by the Ministry of Culture, the Ministry of Labour and the Central Office of Labour, Social Affairs and Family continued also in 2015 (ongoing since 2012).

The idea behind the project is gradual restoration of castle ruins by the unemployed people under supervision of expert coordinators. Participation of the unemployed in restoration of cultural heritage is a measure for a short-term reduction of unemployment rates as well as a measure for restoration of cultural heritage using a relatively low financial resources as compared to a final effect achieved. Hence, the project helps to create work opportunities for marginalised groups in the area of culture and supports the social inclusion process.\(^\text{152}\)

The Centre believes that the project is capable to positively impact employment at national or regional level. Although unemployed persons gain only a temporary employment, they get labour experience and labour habits. The Centre also acknowledges the need of restoration of national cultural heritage. Nevertheless, the national programme does not have characteristics of a TCM since it does not target any specific group of TCM addressees, notwithstanding the fact that the Ministry of Culture regularly proclaims it to be a TCM.

10.1.5 Project “You also have a chance!” (Aj ty máš šancu!)

Information campaign at the end of 2014 launched a TCM project “You also have a chance!”. The Centre informed on the launch in the 2014 HR Report. The project can be identified as a TCM fulfilling all criteria and substance of TCM.

The idea of the project is to support Roma high school students by providing them with free preparation courses. The applicants must meet all requirements for admission to study at the University of Economics in Bratislava (EUBA) including the entry exams.

\(^{152}\) Statement of the Ministry of Culture of the Slovak Republic concerning TCM implemented in 2015 [ref.2016-03-16].
Successful Roma applicants are provided with orientation assistance and assistance during the studies. The final aim of the project is that the students successfully complete their studies at EUBA and find a job afterwards.

The project is organised by a civic association the Centre for the Research of Ethnicity and Culture (CVEK) in cooperation with EUBA. The first meeting with the interested students was held at the end of January 2015 with an aim to evaluate the level of knowledge in mathematics in order to appropriately design the preparation course.

The preparation courses were organised during weekends in six cycles. Since the interested students participating in the courses had to travel from the Eastern Slovakia, EUBA provided them with free accommodation in its facilities. All students come from socially disadvantaged families. 5 Roma students were enrolled in the programme. One of the students did not complete the preparatory course for health reasons. The preparation was, thus, successfully completed by 4 students, two girls and one boy. All 4 of them successfully passed application exams. Implementation of the project keeps running in a form of support for the accepted students and preparation of other students for application in the next period.\(^{153}\)

The Centre finds TCM adopted in the area of education and targeting Roma minority to be of a key importance with a high potential. It would be vital to implement a complex package of TCM in this area covering all levels of education. The Centre supports the ongoing project. A support of such projects by the state and their longer and patient implementation is crucial in order to reach the stated aims.

10.2 Research concerning the knowledge and use of TCM by territorial self-government authorities

In 2015, the Centre launched the first phase of a research focusing on adoption of TCM by units of territorial self-government. The research reacted to the 2013 amendment of the Antidiscrimination Act, which allowed the adoption of TCM by any legal entities. The Centre sees a big potential in adoption of TCM at the level of territorial self-government and, hence, focused on these subjects.

The aim of the research was to find out the level of awareness concerning the

possibility to adopt TCM by territorial self-government units, collect opinions of cities, municipalities and self-governing regions on this issue as well as raise awareness on TCM and opportunities for their adoption. The research was launched in 2015 and the subsequent quantitative part will be realised in 2016.

The Centre prepared an electronic survey which was distributed via e-mails to all municipalities, cities and self-governing regions. The survey was filled out by 1198 respondents, i.e. 40,78% of the addressed cities and municipalities in Slovakia.

A negative answer to the question whether the respondents know TCM slightly prevailed as it was selected by 55,18% of the respondents (537 respondents). A more significant difference resulted from the question whether cities and municipalities registered the option to adopt TCM, where the percentage of negative answers rises to 78,87%.

Another question proposed several short examples and asked the participants to select which options represent TCM. The correct combination of two answers was only selected by 3,67% of respondents, i.e. by 44 in total.

The Centre also researched a level of knowledge on a reporting duty concerning adopted TCM. The correct answer, i.e. a subject adopting TCM has this duty towards the Centre, was chosen in 68,20% (by 817 respondents).

With regards to the question “Has your municipality/self-governing region adopted or is currently adopting at least one TCM?”, 8,93% of respondents answered in affirmative, i.e. only 107 in total. Despite this number, up to this day the Centre has not received a single report on the adopted TCM.

Those respondent that have adopted or are currently adopting TCM do so mostly with regards to target groups disadvantaged due to their racial or ethnic origin or membership of a national or ethnic group. This option was chosen by 44,79% respondents. The second most common answer was the ground of disability.

The most frequently selected area of adoption of TCM by respondents was the area of employment. This area was marked by 41,14% of the respondents.

The respondents mostly used own resources to adopt TCM (41,36%), followed by resources from the public budget (29,84%).

The most common reason why the respondents have yet not adopted any TCM was a lack of knowledge concerning TCM. This option was picked by 33,43% of respondents. The second most common reason was that the respondents do not find TCM necessary (23,06%).
The biggest barrier in adopting TCM identified by 27.65% of respondents was the lack of basic information concerning TCM, followed by insufficient financial resources of municipalities (25.37%) and low financial support (17.44%).

On the contrary, the respondents would become motivated to adopt TCM mostly by a financial support by the state or from abroad. This option was marked 864 times, i.e. by 35.54% of respondents. The respondents would also get motivated by expert advice in adoption of TCM, in particular 23.12% indicated this option. Trainings for the municipality staff would motivate 17.98% of the respondents.

According to the research, the respondents find sources from the public budget (including local tax) to be the most suitable form of financing TCM (49.28%). Almost equally, 44.15% of respondents picked the option “funds from EU or other sources from abroad”. Other answers are far behind, own resources were marked only by 4.09% of respondents and the option “other” only by 2.48%.

**Conclusion**

Several of the abovementioned projects do not fully meet characteristics of TCM although they are related to TCM and have similar goals. In terms of some addressee groups, there is a need to rather adopt durable measures, e.g. with regards to support of persons with parental duties at work environment or regarding persons with disabilities. The Centre believes that the goals and impacts of adopted measures on disadvantaged groups are more important than their formal qualification as TCM, permanent measures or active measures at labour market etc.

According to the Centre, TCM as such represent a necessary and efficient measure to eliminate inequality in the society and have potential in terms of addressing comprehensively issues of discrimination and social exclusion of Roma minority. The awareness level on TCM in Slovakia is low, while TCM are perceived mostly negatively due to their repeated focus on Roma. The society fails to realise that successful and systematic implementation of TCM with regards to Roma minority would in the end have a significantly positive impact on the majority. Low level of awareness on TCM can also by indicated from the results of the survey focusing on units of territorial self-government.

Another problematic issue concerning TCM is that they are not being adopted as conceptual solutions with systematically stated goals, achievement of which would lead to
termination of TCM. The Centre has an ambition to give methodological and expert guidance for adoption of TCM in Slovakia. It is, however, vital that the subjects adopting them observe their legal reporting obligation towards the Centre. Under the Antidiscrimination Act, the Centre is a recipient of reports on TCM and subjects adopting TCM are obliged to submit these reports to the Centre. However, in 2015, the Centre did not receive any report on adopted TCM from initiative of subjects adopting them.

Recommendations

The Centre recommends that:
1. The Ministry of Health of the Slovak Republic and non-profit organisation Zdravé komunity, n. o. continue with the project Healthy Communities and that it is strictly observed that the health awareness assistants are only used within the scope of their work activities.
2. The Ministry of Labour, Social Affairs and Family of the Slovak Republic continue with the project Work and Family and extend its scope to the Bratislava Self-Governing Region.
3. The Ministry of Education, Science, Research and Sport of the Slovak Republic support TCM projects at all levels of education focusing on the Roma minority.
4. State authorities of the Slovak Republic design structures for funding various projects in such a way to allow support of TCM projects purposely targeting particular addressees conceptually and systematically.
5. Subjects adopting TCM and the Government of the Slovak Republic build on undertaken or ongoing TCM in development of new TCM targeting the same TCM addressees.
6. Subjects adopting TCM fulfil their legal reporting obligation towards the Centre and submit the Centre reports on adopted TCM in line with the Antidiscrimination Act.
Bratislava 2016