



Observations
of the Slovak National Centre for Human Rights
on the Fourth Periodic Report of the Slovak Republic
to the UN Human Rights Committee

The Slovak National Centre for Human Rights (SNCHR) is a national human rights institution established in the Slovak Republic, accredited with status B by the International Coordinating Committee of National Human Rights Institutions. As an NHRI, SNCHR is a member of the European Network of NHRIs (ENNHRI). SNCHR was established by the Act of the Slovak National Council No. 308/1993 Coll. on the Establishment of the Slovak National Centre for Human Rights. Pursuant to Act No. 365/2004 Coll. on Equal Treatment in Some Areas and on Protection from Discrimination, and on amendments and supplements of certain acts, as amended (the Anti-discrimination Act) SNCHR acts also as the only Slovak equality body. As an NHRI and Equality Body, SNCHR performs a wide range of tasks in the area of human rights and fundamental freedoms and observance of the principle of equal treatment. SNCHR among other powers:

- 1) monitors and evaluates the observance of human rights and the observance of the equal treatment principle;
- 2) conducts research and surveys to provide data in the area of human rights; gathers and distributes information in this area;
- 3) prepares educational activities and participating in information campaigns aimed at increasing tolerance of the society;
- 4) provides legal assistance to victims of discrimination a manifestations of intolerance;
- 5) issues expert opinions on matters of the observance of the equal treatment principle;
- 6) performs independent inquiries related to discrimination;
- 7) prepares and publishes reports and recommendations on issues related to discrimination;
- 8) provides library services and services in the area of human rights.

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Introduction

1. SNCHR welcomes the opportunity to submit its observations to the Human Rights Committee on compliance of the Slovak Republic with the International Covenant on Civil and Political Rights (ICCPR). This NHRI report seeks to underline the key achievements and remaining significant challenges for the implementation of ICCPR in the Slovak Republic as perceived by SNCHR.
2. SNCHR welcomes the efforts made by the Slovak Republic during the monitoring period, which led to several significant achievements advancing the protection and observance of civil and political rights as defined under ICCPR in Slovakia. These developments include *inter alia*:
 - The adoption of several significant action plans and strategies aimed at improvement of situation of different kinds of vulnerable groups in the Slovak Republic. These include e.g. the National Action Plan for the Prevention and Elimination of Violence against Women for the years 2014-2019 or National Action Plan for Children for the Years 2013-2017. Separately we would like to highlight the adoption of the National Strategy for Human Rights Protection and Promotion in Slovakia.
 - The Act on Rules of Civil Procedure is to be, as of 1 July 2016, replaced by three codes, namely: Rules of Civil Contentious Litigation, Rules of Civil Non-contentious Litigation and Code of Judicial Review of Administrative Decisions. This complex recodification in practice means higher and better protection of civil rights, among others also the rights of the child and the rights of persons with disability.
 - Adoption of the Act on the Commissioner for Children and the Commissioner for Persons with Disabilities by the National Council of the Slovak Republic. The Act entered into force on 1 September 2015 and the Commissioner for Children was already appointed.
3. SNCHR is, however, concerned about several areas, where a significant scope for improvement remains. The remaining problems in advancing the observance of ICCPR in Slovakia, further elaborated on in this NHRI report, include:
 - Problem of multiple discrimination, violence against women and adoption of temporary equalizing measures;
 - Corporal punishment of children;
 - Human trafficking;
 - Overcrowding in Slovak prisons and missing ratification of OPCAT;
 - Hate speech;
 - Unaccompanied minors and their disappearances;
 - Roma integration, segregation of Roma children in education and violence against Roma.
4. SNCHR is ready to provide any further information, clarification and assistance to the Committee any time before, during or after the session within which the state report of the Slovak Republic is to be reviewed.

Support for Gender Equality (Art. 3)

Temporary Equalizing Measures

1. One aspect related to discrimination of women in the area of employment is a higher unemployment rate of women as compared to men. This undoubtedly results also from the traditionally perceived social roles of women (i.e. to be a mother, a housewife, to care for elderly members of the family etc.).
2. SNCHR believes that the way to tackle higher unemployment rate of women as such, public bodies as well as private sector entities shall made a use of temporary equalising measures regulated under Article 8a of the Antidiscrimination Act. SNCHR regrets to state that the adoption of temporary equalizing measures by certain public bodies and by almost all requested private companies (addressed by SNCHR within preparation of its annual reports) has been realized very limitedly.
3. The 2013 amendment of the Antidiscrimination Act has broadened the institute of temporary equalizing measures. Since 1 April 2013 these can be adopted by a broaden range of legitimate subjects (all public bodies including municipalities, self-governing regions but also private entities) as well as the possible addressees of such measures. Hence, since 2013 temporary equalizing measure may also be adopted in order to eliminate all forms of social or economic advantages or disadvantages based on gender.
4. According to the first results of the research conducted by the Centre regarding temporary equalising measures, most of the towns, cities and municipalities do not know what these measures are and approximately 70% of respondents stated that they do not know about their possibility to implement temporary equalizing measures.

Recommendation 1:

That the Committee recommends the Slovak Republic support implementation of temporary equalizing measures pursuant to the Antidiscrimination Act not only by state actors but also by private actors.

Recommendation 2:

That the Committee recommends the Slovak Republic rise awareness about temporary equalizing measures within state and private actors.

Violence against Women (Art. 3, Art. 7)

5. The Slovak Republic was one of the first states to sign the Council of Europe's Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention) on 11 May 2011. The National Action Plan for Elimination and Prevention of Violence against Women in the Slovak Republic for the Years 2014-2019 declares that the ratification of the Istanbul Convention should be done by the end of the year 2013. This

Convention is, however, still not ratified by the Slovak Republic. Pursuant to the available information, the ratification was postponed until 2016.

Recommendation 3:

That the Committee recommends the Slovak Republic fully ratify and implement the Istanbul Convention without undue delay.

6. Ratification of the Istanbul Convention in the Slovak Republic is opposed by some groups of civil society (including their representative NGOs) which consider gender equality as a threat to traditionalism. As a result they refer to the term “rodová ideológia” (gender ideology). The word ideology in the Slovak society is generally understood as something unrealistic, mostly connected with the wrong ideas. Due to this, they seek to block policy documents mentioning gender equality or gender mainstreaming as the Istanbul Conventions does.
7. SNCHR believes that a way to overcome the misrepresentation and misunderstandings related to gender equality and its mainstreaming would be a nationwide campaign explaining these concepts in order to eliminate stereotypes about dangerousness of gender equality and mainstreaming.

Recommendation 4:

That the Committee recommends the Slovak Republic increase awareness raising activities aiming to tackle misinterpretation of the concept of gender equality.

8. There are currently 52 subjects providing social services to victims of domestic violence in the Slovak Republic. SNCHR perceives this number insufficient in comparison with given standards of the Council of Europe. Slovakia still does not have enough shelters for women who experienced domestic violence. The Slovak Republic is trying to increase this number as well as the standards of such shelters; unfortunately the efforts do not have any significant effects.

Recommendation 5:

That the Committee recommends the Slovak Republic allocate adequate financial resources to improve and establish more shelters for women victims of domestic violence.

9. Most women who experienced violence from their partners, ex-partners or other men tend not to report this kind of behavior to police or relevant institutions/organizations. In March 2015, the Ministry of Labour, Social Affairs and Family of the Slovak Republic established a free nonstop helpline funded by the state for women who are experiencing violence. SNCHR welcomes the establishment of the helpline also due to increase of awareness on violence against women, not only through the medialization which followed this establishment.
10. SNCHR, however, remains concerned about the persistence of underreporting of violence against women in the Slovak Republic. Accordingly, motivation of women who are

experiencing violence by showing positive and successful cases of reporting of such violence seems necessary.

Recommendation 6:

That the Committee recommends the Slovak Republic increase awareness raising activities, campaigns and educational activities to tackle underreporting of violence against women.

Multiple Discrimination (Art.3, Art. 26)

11. One of the problematic issues of gender equality in Slovakia is related to multiple discrimination. Multiple discrimination refers to a situation, when a person is discriminated either on several grounds (intersectional multiple discrimination) or on various grounds in various areas (cumulated multiple discrimination). It can affect both genders. In Slovakia multiple discrimination often occurs with regards to gender related discrimination in situation when the ground of gender is accompanied by the ground of either age or ethnic origin.
12. A multiple discrimination on the grounds of *gender* and *age* is identified particularly with regards to young women in the age perceived as an age to raise children and in with regards to older women. This discrimination has negative impact on access to employment and in the employment area as such, including maintaining employment, pay conditions, remuneration and redundancies. Concerning older women, it is very common to inquire about the age of a woman by a potential employer already during phone invitations for a job interview.
13. A multiple discrimination on the grounds of *ethnicity* and *gender* is a problem faced particularly by Roma women. In general, although the Slovak anti-discrimination legislation prohibits discrimination on ground of membership of a national minority or ethnicity, in practice there is a wide discrimination of both Roma men and women in the area of employment resulting from the reluctance and fear of employers to employ Roma people. A high unemployment rate of Roma results from several factors, including primarily their social exclusion but also from low qualification of Roma, low work ethic and prejudices.
14. A higher unemployment rate of Roma women as compared to Roma men mirrors the issue of a multiple discrimination of Roma women on the grounds of gender and ethnicity. Roma women are perceived in the society as mothers of several children and women who get pregnant prematurely. Also within Roma communities it is expected that a woman would subordinate herself to her husband, that she would be primarily a mother, which leads to economic dependence of the woman on her husband. The listed facts are not solely related to the area of employment but are part of a more complex problem resulting to several negative aspects- bad social situation, poverty, social exclusion, increase of violence etc.
15. In 2011, SNCHR conducted a survey concerning the observance of antidiscrimination legislation targeting job advertising, which among others revealed a frequent tendency to unfoundedly request photos of job applicants. Such requirements were present in relation to e.g. a job position of a store-keeper, which can point out to a hidden discrimination against Roma

people, since a personal photo can enable an employer to identify the membership of a person to Roma minority.

16. Despite the above-mentioned facts, the Slovak legislation, in particular the Act No. 365/2004 Coll. on Equal Treatment in Some Areas and Protection from Discrimination (the Anti-discrimination Act), does not define and regulate multiple discrimination.

Recommendation 7:

That the Committee recommends the Slovak Republic adopt the necessary legislative measures in order to sanction multiple discrimination.

Violence against Children and Corporal Punishment of Children (Art. 7, Art. 24)

17. On 15 January 2014, the Government of the Slovak Republic adopted by a Resolution No. 24 a National Strategy for the Protection of Children against Violence and the establishment of a National Coordination Centre for Addressing the Issues Related to Violence against Children as organisational part of the Ministry of Labour, Social Affairs and Family of the Slovak Republic. The Strategy aims to achieve qualitative changes in perception of and addressing violence against children by thoroughly interacting and integrating partial politics into an effective mechanism complexly dealing with the issue. SNCHR itself has, pursuant to the governmental resolution, nominated a contact person for the National Coordination Centre for Addressing the Issues Related to Violence against Children, who participates in meetings concerning the rights of the child.
18. SNCHR has repeatedly underpinned the need to establish an institution that would comprehensively deal with the rights of children, monitor their observance and realisation in practice in compliance with national legislation and international treaties. SNCHR welcomes and supports all activities leading to the establishment of the Commissioner for the Rights of the Child but also activities addressing the issue of violence against children, which requires particular attention due to the vulnerability of children to become victims of such human rights abuse.

Recommendation 8:

That the Committee recommends the Slovak Republic continue with its efforts to comprehensively approach and tackle the issue of violence against children.

19. Corporal punishment of children is unlawful in the Slovak Republic almost in all settings, leaving the prohibition in the home the last, but very important, area to be subjected to zero tolerance. As proclaimed, the Slovak Republic is considering the introduction of prohibition of corporal punishment of children by parents in the new Civil Code.ⁱ
20. The current legislation continues to lack the explicit prohibition of corporal punishment of children in the provisions of family law. Concerning the home settings, the Act No. 36/2005 Coll. the Family Act does not explicitly include total prohibition of corporal punishment and

leaves the choice of upbringing means and methods to the parents. The choice is limited by the boundaries of adequacy. Under Article 30(3) of the Family Act, parents are given the right to educate children according to their own religious and philosophical beliefs and also the right to use suitable educational procedures, unless the child's health, dignity, mental, physical and emotional development are endangered.

21. In line with General Comment No. 8(2008) of the Committee on the Rights of the Child, SNCHR highlights that the right to use suitable or appropriate educational procedures and forms of disciplining shall not be interpreted as leaving room for justification of violent, cruel or degrading forms of discipline. While it is undoubtedly not only a parental right but also a responsibility for raising a child, SNCHR underpins that parental direction and guidance shall be free from any forms of violence.
22. Despite the protection established by the Act No. 305/2005 Coll. on Social and Legal Protection of Children and Social Curatorship, it is difficult and many times impossible to see behind the doors of households. Hence, it seems desirable to encompass the zero tolerance principle into the Family Act. It is also important to give a child a chance to protect itself when violent, cruel or degrading forms of discipline are used. Thus, it is necessary for the child to have a chance to express his/her opinions and experiences before the court.ⁱⁱ
23. Definition and the illegality of corporal punishment of children shall be also explicitly included into the Act No. 300/2005 Coll. Criminal Code by incorporating specific provisions enabling to solve the problem of corporal punishment before courts in order to impose strict disciplinary actions.

Recommendation 9:

That the Committee recommends the Slovak Republic explicitly prohibit by law corporal punishment of children in all settings, including home.

24. SNCHR believes that the adoption of necessary legislative measures as described above needs to be in practice supported by effective reporting and referral mechanisms. Effective response to all actions incompatible with the prohibition of corporal punishment in the home is required in order to enhance children's rights and to prevent reoccurrences of similar cases in future.
25. While it seems reasonable to apply the so called *de minimus* principle, according to which minor assaults only appear before court in very exceptional circumstances, it is desirable that parents use other forms of disciplinary or educating measures than corporal punishments even if minor. SNCHR believes that awareness raising campaigns represent an effective tool to motivate the parents and change their mindset in this regard. Moreover, the importance to talk not only about the danger of punishments but also about the necessity to reward good behavior of children must also be highlighted.

Recommendation 10:

That the Committee recommends the Slovak Republic intensify awareness raising campaigns promoting the use of alternative non-violent forms of discipline.

Human Trafficking (Art. 8)

26. SNCHR considers existing measures embodied in the Act No. 300/2005 Coll. the Criminal Code as amended and in the Act No. 301/2005 Coll. the Code of Criminal Procedure as amended, as sufficient for ensuring effective investigations and prosecutions of human trafficking in the Slovak Republic.
27. Increasing percentage of clarified cases is the evidence of an effective legal procedures against perpetrators of human trafficking. The statistics of the Ministry of Interior of the Slovak Republic reveals the following:

Cases clear-up rate in the Slovak Republic – Human trafficking						
Year	2009	2010	2011	2012	2013	2014
Detected offenses	9	9	19	23	11	15
Clear-up rate	3	1	1	2	1	10
i.e. %	33,33	11,11	5,26	8,7	9,09	66,67

In 2009 there were clarified 2 more cases subsequently, in 2010- 2 cases, in 2011- 4 cases, in 2012- 6 cases, in 2013- 4 cases and in 2014- 6 cases.

Data on persons prosecuted and investigated in the Slovak Republic						
Year	2009	2010	2011	2012	2013	2014
Total number of persons (male/female)	6 (5/1)	5 (3/2)	14 (12/2)	16 (12/4)	12 (10/2)	29 (25/4)
Primary education	4	3	5	11	3	25
Secondary education	1	-	-	-	4	1
Higher education	-	-	-	-	-	2
Alien	-	-	-	-	-	1
Recidivist	4	2	4	7	4	-
Unemployed	1	2	1	5	2	15
Entrepreneur	-	-	4	1	-	1
Workman	-	-	-	-	-	1
Operation worker	-	-	-	-	-	-

Data on victims of human trafficking included in the Programme for support and protection of human trafficking victims						
Year	2009	2010	2011	2012	2013	2014
Number of included victims – total	25	28	31	22	30	34
Female	15	13	17	13	19	22
Male	9	13	13	6	9	12
Children	1	2	1	3	2	-
Purpose of exploitation	SE – 16	FL – 11	SE – 12	SE – 15	SE – 15	SE – 13

	FL – 7 FB – 2	SE – 11 FB – 2 EE – 4	FL – 12 EE – 6 FC – 4 FM – 2 FB – 2	FB – 5 FL – 3 FM – 3	FL – 10 FM – 7 FB – 2	FL – 12 FM – 9 FB – 6 FC – 1 S – 1
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Explanatory notes: SE- sexual exploitation, FL- forced labour, FB- forced begging, EE- economic exploitation, FC- forced criminality, FM- forced marriage, S- slavery or practices similar to slavery

28. The legislative and policy measures for combating human trafficking adopted by the Slovak government are indeed important tools for preventing its occurrence and protecting victims. It is crucial that they are effectively implemented in practice and all possible challenges are adequately addressed. However, further practical measures need to be implemented in order to give sufficient protection to the potential victims and give them access to appropriate assistance, and particularly to those who are members of the most vulnerable groups (e.g. Roma, children and women).

Recommendation 11:

That the Committee recommends the Slovak Republic continue with its efforts to tackle and prevent human trafficking and protect its potential victims.

Recommendation 12:

That the Committee recommends the Slovak Republic cooperate with social workers, medical social workers and other stakeholders directly involved in fighting against human trafficking with an aim to prevent human trafficking and protect its potential victims.

29. Being concerned by the importance of prevention and awareness raising in the most vulnerable communities, SNCHR has issued official leaflets on human trafficking with recommended steps to follow in order to prevent becoming a victim. These leaflets were primarily distributed within the trainings organized by SNCHR at the end of 2014 and beginning of 2015 in Roma communities.

30. SNCHR appreciates activities of the International Organization for Migration in the Slovak Republic (IOM) on education of law enforcement officials focused on identification of potential victims of human trafficking, with whom they come into contact in their scope of work. IOM also operated a National Help Desk for Victims of Human Trafficking from 1 July 2008 to 15 December 2014. Now the help desk is operated by the Slovak Crisis Centre Dotyk. IOM continues to provide preventive information in helping people to protect themselves against human trafficking.

Recommendation 13:

That the Committee recommends the Slovak Republic intensify awareness raising activities concerning human trafficking in order to prevent and eliminate its occurrence in the society as well as to strengthen effectiveness of detecting human trafficking by law enforcement officials.

Recommendation 14:

That the Committee recommends the Slovak Republic allocate adequate financial resources to improve situation of victims of human trafficking seeking rehabilitation and reintegration.

Protection of the rights of persons deprived of their liberty (*Art.10*)

Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

31. The Slovak Republic has neither signed nor ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP CAT). Consequently, it does not have sufficient mechanisms to perform unannounced periodic checks where people are deprived of their liberty, which could help to monitor, prevent, or report misconducts under the CAT.
32. When asked about the ratification of OP CAT within UPR, the Slovak Republic stated that it was analysing the OP CAT to identify necessary legislative changes required for its ratification. However, when collecting information for the Report on the Observance of the Human Rights including Principle of Equal Treatment and the Rights of the Child in the Slovak Republic for the year 2013, SNCHR inquired the Ministry of Interior (a guarantor of the ratification) whether there were any changes in the attitude of the Slovak Republic towards ratification of OP CAT. The Ministry stated that a possible ratification of OP CAT remained under consideration and that the Slovak Republic did not, in the material time, intend to become a signatory party.

Recommendation 15:

That the Committee recommends the Slovak Republic sign and ratify OP CAT without undue delay.

33. With regards the preventive mechanisms the need to sign and ratify OP CAT needs to be further highlighted. The current legislation provides for the following. The Public Defender of Rights of the Slovak Republic is, under Article 17(1d) of the Act No. 564/2001 Coll. on the Public Defender of Rights, allowed to speak also in the absence of other persons to persons detained at places of custody, imprisonment, disciplinary sanctions of soldiers, protective treatment, protective reform, institutional treatment or institutional reform, or in a police detention cell. A prosecutor, under the law, conducts inspections of compliance with the law in places where persons are deprived of their liberty.
34. Nevertheless, none of the mentioned bodies has been designated to be a national preventive mechanism under Article 17 of OPCAT. Their independence and establishment pursuant to the Paris Principles are one of the obstacles.

Recommendation 16:

That the Committee recommends the Slovak Republic establish or support existing national independent institution/organization, which would regularly conduct unannounced visits and help to monitor, prevent or report misconducts under CAT and hence observe the protection of the rights under Article 10 ICCPR.

Overcrowding in Prisons

35. SNCHR underpins the impact that overcrowding of prisons and over-incarceration have on human rights of individuals. In terms of legislation, the Act No. 221/2006 Coll. on Serving Detention and the Act No. 68/2014 Coll. on Serving the Sentence of Imprisonment regulate accommodation of charged/imprisoned persons. A charged person is accommodated in cells while an area for one person placed in cell is at least 3,5 m². In case a number of charged or convicted persons rises excessively, the minimum area can be temporarily set lower (until it is necessary in order to accommodate every convicted and charged person).
36. In practice, the overall capacity of prison and detention facilities in Slovakia is currently 11 184 places. The available statistics show that by the end of November 2015, there were 10 007 detained and imprisoned persons in Slovakia. This number means that the capacity of the prison facilities and facilities for serving detention were used at 89,5%. Several facilities have exceeded 100% usage of their capacities.ⁱⁱⁱ
37. SNCHR believes that in order to diminish the negative impact of detention and imprisonment on human rights of individuals, possibilities of applying alternative forms of punishment should be carefully assessed in all individual cases.
38. In terms of alternative forms of punishment, SNCHR welcomes the adoption of the new Act No. 78/2015 Coll. on Execution of Certain Rulings by Technical Means, which focuses on creation of controlling mechanism of inmates by technical means in cases of alternative sentences.^{iv}
39. The Act brings technology of a creditworthy and reliable control of execution of alternative sentence. The sentence of a house arrest is legislatively grounded in Slovakia from January 2006. However, the number of such convicts is still very small (for the years 2006-2012 it was executed with regards to 222 convicts), as compared to about 2 500 inmates, who are currently serving their sentence in prisons and who could, with regards to the nature and seriousness of the crimes, serve a sentence under the house arrest.
40. The Ministry of Justice of the Slovak Republic launched a project of Electronic monitoring system of detainees and convicts in 2013. The project is funded by the European Union from the European Regional Development Fund through the Operational programme Information society. Expansion of alternative sentences is intended to strengthen the principle that an unconditional custodial sentence is *ultima ratio* to be applied only when other, less serious means combating crime, including penalties without custodial sentence, have failed.

41. Indisputably, the project, as it includes effective execution of other types of court decisions, will also benefit to prevention of domestic violence and stadium criminality by more effective control of the sentence of ban of participation in public events and other forms of limits including the ban to approach a specific person as well as banning a violent person to enter house.
42. SNCHR welcomes the introduction of electronic bracelets and believes that the number of convicts sentenced with alternative sentences would respectively increase in order to decrease the number of persons in prisons, prevent overcrowding of prisons and in the long-term aspect also save public resources that can be spent in improving standards in prisons.

Recommendation 17:

That the Committee recommends the Slovak Republic promote the use of alternative sentences in appropriate cases in order to prevent over-incarceration and overcrowding of prisons and hence eliminate its impacts on human rights of individuals.

Hate speech (Art. 20 para. 2)

43. Slovak legislation does not explicitly define hate speech. The Act No. 300/2005 Coll. the Criminal Code, in Article 140 lists the so called special motives which constitute aggravating circumstances applicable to specific crimes. These motives include, *inter alia*, the intent to publicly incite violence or hatred against a group of persons or an individual because of their race, nation, nationality, skin colour, ethnicity, gender or origin and religion, and the intent to commit a crime because of ethnic or racial hatred or hatred based on skin colour. In 2013, this list was extended by sexual orientation. The Criminal Code, moreover, defines crimes of incitement to national, racial and ethnic hatred and incitement, defamation and threats against persons because of their race, nation, nationality, colour, or ethnic origin, which can also be classified as hate crimes or hate speech crimes.
44. Manifestations of intolerance and hate speech are mostly visible with regards to Roma, migrants and LGBTI people. It is increasingly present on internet, either in online debates or on social networks.
45. With regards to Roma people there has been several marches and protests^v against Roma organized in Slovakia. Anti-Roma hate speech is result of general perception of Roma by a majority society in Slovakia, their stereotyping and discrimination. It is visible not only in terms of the organized marches and protests but also within political discourse and campaign of some parties and mainly in debates in online media and social media.^{vi}
46. Hate speech against LGBTI people aggravated with regards to the referendum on the protection of family held in February 2015, which aimed to prohibit register partnerships or other forms of cohabitation between same-sex partners to be recognised as marriage, prohibit adoptions by same-sex couples and condition participation in classes on sexual behaviour or euthanasia by

parents' or children's consent.^{vii} The preparation of the referendum was accompanied by extensive public debate, which led, *inter alia*, to hate speech against LGBTI people.

47. Furthermore, in terms of the current migration crisis in Europe, the Slovak society showed a lack of will to welcome the refugees and asylum seekers, among others, due to the fear of Islam, terrorism and massive influx of refugees. This led to several initiatives against migration, including the Protest against Islamisation, which took place on 20 June 2015 and was announced and organised by anti-Islamic group Stop Islamisation of Europe. The public debate regarding the adoption of quota system by the EU in order to distribute the migrants within the EU and the migrant crisis as such was also characterised by increasing level of hate speech targeting the refugees and migrants particularly on internet and in social media. In many cases, expressions of intolerance seem liable to establish a crime of incitement to national, racial and ethnic hatred and incitement, defamation and threats against persons because of their race, nation, nationality, colour, or ethnic origin, which can also be classified as hate crimes or hate speech crimes.
48. Notwithstanding the above mentioned the reporting of hate speech and hate speech crimes remains low. Hence, SNCHR welcomes all activities aimed at raising awareness on the issue of hate speech and at tackling under reporting in this field. SNCHR particularly welcomes the establishment of the online portal www.stopline.sk, which is an outcome of the project of a national centre for reporting unlawful contents or activities on internet including, *inter alia*, racism and xenophobia. SNCHR believes that further activities are crucially important in this area in order to effectively tackle and prevent hate speech and particularly hate speech on internet.

Recommendation 18:

That the Committee recommends the Slovak Republic further enhance efforts aimed at eradicating intolerance and racism as such and particularly with regards to hate speech targeting Roma, migrants and LGBTI persons.

Recommendation 19:

That the Committee recommends the Slovak Republic intensify its initiatives aimed at fighting hate speech on internet and increase awareness raising activities in this area in order support reporting of hate speech on internet.

Recommendation 20:

That the Committee recommends the Slovak Republic ensure adequate training for law enforcement officials responsible for investigating and sanctioning hate speech.

Unaccompanied Minors (*Art. 24*)

49. According to statistical data the number of unaccompanied minors (UAMs) in the Slovak Republic is decreasing. While in 2013 there were five asylum proceedings with UAMs and in 2014 eleven, the number of UAMs who did not apply for asylum decreased from 70 in 2013 to 10 in 2014. In 2014, there were only 20 UAMs who unlawfully crossed the borders, which is less than in 2013.^{viii}
50. In May 2015, an amendment to the Act No. 480/2002 Coll. on Asylum was adopted. One of the major changes that the amendment introduces concerns the placement of UAMs whose guardians submitted an application for asylum. Accordingly, UAMs shall remain in facilities of child protection and social guardianship during the asylum procedure, which means that they will not be moved to asylum facilities of the Ministry of Interior of the Slovak Republic. Moreover, UAMs who reach full legal capacity during the asylum procedure can, under the agreement, remain in the facility of child protection and social guardianship. The amendment is welcomed by SNCHR, since it takes into account respect for the child's best interests and ensures compliance also with the relevant EU directives.
51. Despite the positive legislative changes SNCHR wants to highlight the persisting problem of disappearances of UAMs from foster homes. According to data from the Offices of Labour, Social Affairs and Family, from 2009 to 2013 there were 522 UAMs not being subject to the asylum procedure and 14 in asylum procedure who disappeared from foster home.^{ix}
52. The phenomenon of disappearances of UAMs can be also caused by the fact that these children are rarely appointed a guardian or a caregiver who cares for their individual needs. The appointment of a caregiver takes a long time – it may take over a month after placing an UAM to a foster home. Without a guardian, an UAM faces several obstacles, e.g. he/she cannot apply for asylum or for a tolerated stay or begin the formal process of searching for a family etc.^x
53. In 2013, the number of UAMs who disappeared from foster homes was 41 and only one of them was found. These numbers implicate the inefficiency of a search for missing UAMs, which can be caused by insufficient support services, missing helpdesk for such children or lack of recording disappearance in Schengen information system.^{xi}

Recommendation 21:

That the Committee recommends the Slovak Republic make appointment of a guardian or a caregiver more effective to ensure individual approach to UAMs and prevent disappearances of UAMs from foster homes.

Recommendation 22:

That the Committee recommends the Slovak Republic make search for missing UAMs from foster homes more effective by implementing necessary measures and services.

Roma Integration (*Art. 2, Art. 26, Art. 27*)

Segregation of Roma Children in Education (*Art. 26, Art. 27*)

54. Discrimination and segregation in schools on the ground of ethnicity is prohibited in Slovakia by national law, EU legislation and international conventions. The Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and on the Prohibition of Discrimination, and on amendments and supplements of certain acts, as amended (the Antidiscrimination Act) prohibits discrimination in access to education on the ground of ethnicity, while the Act No. 245/2008 Coll. on Upbringing and Education (the School Act) explicitly prohibits segregation in education. The term segregation is not defined in the national legislation.
55. Despite legislative prohibition, allegations of segregation of Roma children in schools either by establishing purely Roma classes or over-placing Roma children in special schools are voiced more and more frequently in Slovakia. These allegations have been supported by a court ruling confirming segregation of Roma children in the primary school in Šarišské Michalany.^{xii}
56. The situation has been addressed also by the Slovak Government, public bodies and NGOs^{xiii}. In April 2013, the Slovak Government prepared a Report on the Situation of Slovak Education. The report recommends, *inter alia*, to monitor segregation and desegregation processes in schools and their impact on children from socially disadvantaged environment. The Government committed itself to prepare a methodology for monitoring segregation in schools.^{xiv}
57. The Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities addressed the issue of education and segregation of Roma children in the Strategy of the Slovak Republic of Roma Integration until 2020. The Strategy sets a goal to improve access to quality education with a special accent on eliminating segregation at schools, preventing early drop-outs and securing successful move from school to employment.^{xv}
58. Currently, the European Commission has initiated an infringement procedure against the Slovak Republic for infringing the EU antidiscrimination law. The decision was announced on 29 April 2015. It reacts to the doubts concerning the observance of Article 21(1) of the Charter of Fundamental Rights of the EU, which prohibits discrimination, *inter alia*, on the ground of race or ethnic origin, as well as of the Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin prohibiting discrimination on the ground of race or ethnicity in education.^{xvi}
59. SNCHR has been monitoring the situation and addressed the issue of Roma segregation in education in its annual reports on the observance of human rights including the observance of the principle of equal treatment and the rights of the child for the years 2012^{xvii}, 2013^{xviii} and 2014^{xix}. All of these reports include SNCHR's recommendations.
60. SNCHR believes that the issue of segregation of Roma children in education must be addressed by adopting appropriate measures, which is contestable in terms of the establishment of the so called module schools. These schools are being built in Roma settlements and areas with high percentage of Roma population. On the one hand it is undoubtable that they provide for better

accessibility, but on the other hand their location causes that their students are almost entirely of Roma origin, which leads in practice to further segregation.

61. In order to eliminate segregation of Roma children in education it is first and foremost crucial to adopt preventing measures capable to ensure integration of Roma children in all phases of education. In these terms, SNCHR believes that it is important that municipalities increase attendance of Roma children in pre-school education.
62. As the problem is also caused by general prejudice and stereotypes towards Roma people by the Slovak society, parents of non-Roma children often create a pressure to directors of primary schools not to place their children in classes with Roma children. SNCHR finds it necessary that representatives of primary schools lead a sufficient discussion with parents concerning the organisation of education in order to prevent evolution of tense situations. Similarly, it is crucial that primary schools implement multicultural approach within the educational procedure seeking to eliminate prejudice and stereotypes, hence preventing discrimination.
63. In order to achieve the abovementioned goals it is required that schools receive effective support and resources to successfully tackle all aspects and causes of segregation in order to secure access of all children in Slovakia irrespective their ethnicity to quality education.

Recommendation 23:

That the Committee recommends the Slovak Republic adopt effective measures preventing discrimination of Roma children in education linked to the establishment of special classes for Roma children.

Recommendation 24:

That the Committee recommends the Slovak Republic desegregate education at all levels and at primary schools in particular in order to eliminate discrimination of Roma children.

Anti-Roma Walls

64. According to information that has been collected by the Centre throughout the years 2013 and 2014 the municipalities or other administrative authorities were independently deciding on building the so called Anti-Roma walls. The exhaustive list of specific cases is provided in the 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 2012^{xx} and in the 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 2013^{xxi}.
65. The Long-term concept of housing for marginalised groups of population prohibits territorial segregation. Localization of constructions cannot decrease space and social segregations but it can be a tool for integration of members of the Roma community. The most common problematic issues are distance to municipality and availability of services used commonly by Roma and non-Roma citizens. As many of new cases (such as was the case in Lunik IX, where the Roma population was cut off by 2 meters-high concrete wall) repeatedly demonstrate,

reasoning of the inhabitants or local authorities stems from the necessity to protect property of other citizens.

66. This situation clearly points to the lack of will from the local authorities to solve the problem or to give the basis for the integration of Roma communities. SNCHR believes that the core of the problem does not lay solely in the problems of relations between State and local authorities but it is deeply rooted in the mind-sets of the majority population. Relationships and attitudes of the majority towards the Roma are significantly worse than towards any other group. Different culture of the Roma minority and their way of life are perceived negatively by the majority of population. A comprehensive reform is needed in Slovakia, which will target both sides of problems and not only Roma themselves.

Recommendation 25:

That the Committee recommends the Slovak Republic enshrine in all relevant provisions of the Construction Act of the Slovak Republic the explicit prohibition of spatial and social segregation with respect to the distance of and access to public services.

Recommendation 26:

That the Committee recommends the Slovak Republic establish or strengthen cooperation and communication between Roma and non-Roma citizens mostly in cases when the threat of anti-Roma wall is present.

Housing

67. Forced evictions, still present in the Slovak society, are viewed by SNCHR as critical solutions and interference into the rights of citizens who were living in demolished houses.
68. The problem remains in the area of financial resources of municipalities to provide the families who do not pay rent with adequate supplement housing. These families are forced to become homeless or establish illegal settlements in isolated areas. Therefore, it is crucial for municipalities to develop specific concept to guarantee adequate housing for marginalised or low-income families (which are in majority of cases Roma families).
69. SNCHR believes that by relocating the users of apartment blocks the city will not eliminate the problems of people in unfavourable social situation but it will just move the problem to other locality. SNCHR has monitored four cases of forced evictions (namely in Žilina, Košice, Snina and Prešov) in course of the year 2014.^{xxii}
70. Roma communities themselves are creating settlements with different types of non-standard houses which do not fulfil technical nor hygienic norms; they are built on parcels without building permissions, made from wood, sheet metal and clay. The problem is also unavailability of electricity, drinking water, roads and sidewalks, public lighting, gas and sewerage.

Recommendation 27:

That the Committee recommends the Slovak Republic involve members of marginalised groups of ethnic minorities to participate in housing project construction and maintenance by themselves or through associations or organizations.

Recommendation 28:

That the Committee recommends the Slovak Republic create financial and legislative measures to settle the built-up lands and to construct rental social houses.

Violence against Roma (Art. 20 para. 2)

71. Extremism is one of the most dangerous anti-social phenomenon of modern democratic society. Slovakia addresses the need to combat extremism in the Strategy for the Fight against Extremism for 2015-2019, which follows the Strategy adopted for the years 2011-2014. The Strategy defines the priorities of the Slovak Republic in prevention and elimination of radicalization, extremism and associated anti-social activities, which threaten fundamental rights and freedoms. SNCHR considers the Strategy as the sign of long-term effort to remove this unwanted social phenomenon from our society.^{xxiii}
72. According to the Report on Implementation of the Strategy for Roma Integration up to 2020 and the reviewed National Action Plan for the Decade of Roma Inclusion for the Years 2011-2015 and the Strategy for the Fight against Extremism for the Years 2011-2014, new working groups for evaluation of the achieved results were established. SNCHR considers areas to be evaluated by the working groups as important for improving situation of Roma in Slovakia. Unfortunately, the Report does not address the issue of violence against Roma people, because of their ethnicity.
73. Violence against Roma is caused by several factors, including their marginalization in the society, prejudice, stereotypes and negative perception of Roma by members of the majority society. One of the major challenges in tackling violence against Roma is also underreporting of cases by Roma, who often do not trust authorities. It is therefore crucial that the issue is addressed comprehensively from the perspective of tackling discrimination, stereotypes, marginalization of Roma as well as extremism as such. Particular focus should be put on use of force by police in Roma communities.

Recommendation 29:

That the Committee recommends the Slovak Republic adopt effective measures to prevent violence against Roma people, mainly by training, educational and awareness raising activities.

Recommendation 30:

That the Committee recommends the Slovak Republic improve cooperation and communication in communities between the subjects concerned with an aim to integrate

Roma people. Moreover, a long term strategy for coexistence in municipalities in terms of Roma inclusion in parallel with mutual active non-confrontational communication regarding the current problems shall be implemented with the utmost seriousness.

74. The existing legislative framework seems sufficient to address the issue of violence against Roma. It must be, however, emphasised that there is a need for its careful application in cases of violence against Roma people based on their ethnicity. It is necessary that the Ministry of Interior of the Slovak Republic effectively monitor and prosecute all incidents of violence against Roma people. Undoubtedly, effective investigation of reported cases would also enhance trust of Roma people towards authorities, which is traditionally very low.

Recommendation 31:

That the Committee recommends the Slovak Republic thoroughly investigate and address cases of violence against Roma based on their ethnicity.

List of Recommendations

SNCHR advises that the Committee should recommend that the Slovak Republic:

1. **support implementation of temporary equalizing measures pursuant to the Antidiscrimination Act not only by state actors but also by private actors;**
2. **rise awareness about temporary equalizing measures within state and private actors;**
3. **fully ratify and implement the Istanbul Convention without undue delay;**
4. **increase awareness raising activities aiming to tackle misinterpretation of the concept of gender equality;**
5. **allocate adequate financial resources to improve and establish more shelters for women victims of domestic violence;**
6. **increase awareness raising activities, campaigns and educational activities to tackle underreporting of violence against women;**
7. **adopt the necessary legislative measures in order to sanction multiple discrimination;**
8. **continue with its efforts to comprehensively approach and tackle the issue of violence against children;**
9. **explicitly prohibit by law corporal punishment of children in all settings, including home;**
10. **intensify awareness raising campaigns promoting the use of alternative non-violent forms of discipline;**
11. **continue with its efforts to tackle and prevent human trafficking and protect its potential victims;**
12. **cooperate with social workers, medical social workers and other stakeholders directly involved in fighting against human trafficking with an aim to prevent human trafficking and protect its potential victims;**
13. **intensify awareness raising activities concerning human trafficking in order to prevent and eliminate its occurrence in the society as well as to strengthen effectiveness of detecting human trafficking by law enforcement officials;**
14. **allocate adequate financial resources to improve situation of victims of human trafficking seeking rehabilitation and reintegration;**
15. **sign and ratify OP CAT without undue delay;**
16. **establish or support existing national independent institution/organization, which would regularly conduct unannounced visits and help to monitor, prevent or report misconducts under CAT and hence observe the protection of the rights under Article 10 ICCPR;**
17. **promote the use of alternative sentences in appropriate cases in order to prevent over-incarceration and overcrowding of prisons and hence eliminate its impacts on human rights of individuals;**

18. further enhance efforts aimed at eradicating intolerance and racism as such and particularly with regards to hate speech targeting Roma, migrants and LGBTI persons;
19. intensify its initiatives aimed at fighting hate speech on internet and increase awareness raising activities in this area in order support reporting of hate speech on internet;
20. ensure adequate training for law enforcement officials responsible for investigating and sanctioning hate speech;
21. make appointment of a guardian or a caregiver more effective to ensure individual approach to UAMs and prevent disappearances of UAMs from foster homes;
22. make search for missing UAMs from foster homes more effective by implementing necessary measures and services;
23. adopt effective measures preventing discrimination of Roma children in education linked to the establishment of special classes for Roma children;
24. desegregate education at all levels and at primary schools in particular in order to eliminate discrimination of Roma children;
25. enshrine in all relevant provisions of the Construction Act of the Slovak Republic the explicit prohibition of spatial and social segregation with respect to the distance of and access to public services;
26. establish or strengthen cooperation and communication between Roma and non-Roma citizens mostly in cases when the threat of anti-Roma wall is present;
27. involve members of marginalised groups of ethnic minorities to participate in housing project construction and maintenance by themselves or through associations or organizations;
28. create financial and legislative measures to settle the built-up lands and to construct rental social houses;
29. adopt effective measures to prevent violence against Roma people, mainly by training, educational and awareness raising activities;
30. improve cooperation and communication in communities between the subjects concerned with an aim to integrate Roma people. Moreover, a long term strategy for coexistence in municipalities in terms of Roma inclusion in parallel with mutual active non-confrontational communication regarding the current problems shall be implemented with the utmost seriousness;
31. thoroughly investigate and address cases of violence against Roma based on their ethnicity.

References

- ⁱ Global Initiative to End All Corporal Punishment of Children: Country Report for Slovakia (last update June 2015), available at: <http://www.endcorporalpunishment.org/progress/country-reports/slovakia.html>;
- ⁱⁱ Slovak National Centre for Human Rights: Observations of the Slovak National Centre for Human Rights on the Third, Fourth and Fifth Periodic Reports of the Slovak Republic to the UN Committee on the Rights of the Child, paras. 16-20, available at: <http://snslp.sk/?locale=en#page=2441>;
- ⁱⁱⁱ Corps of Prison and Justice Guard of the Slovak Republic. Monthly statistics of the number of detained and imprisoned persons in Slovakia. Available in Slovak at: http://www.zvjs.sk/index.php?po%E8ty_obvinen%FDch_a_ods%FAden%FDch;
- ^{iv} The National Council of the Slovak Republic. Deputies agreed rules for monitoring bracelets of inmates. Available in Slovak at: <http://www.nrsr.sk/web/Default.aspx?sid=udalosti/udalost&MasterID=53511>;
- ^v See e.g. Slovak National Centre for Human Rights: 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 2012, pp. 106-107, available at: snslp.sk/CCMS/files/REPORT_HR_2012_PRINT_final-email.pdf;
- ^{vi} See e.g.: Slovak National Centre for Human Rights: 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, pp. 74-76, available at: snslp.sk/CCMS/files/komplet_prekald_spravy_AJ_final.pdf;
- ^{vii} For more information on the preparation of the referendum see supra vi, pp. 35-39;
- ^{viii} Bureau of Border and Alien Police of the Presidium of the Police Force: Annual statistical overview of legal and illegal migration in the Slovak Republic, 2014, available in Slovak at: http://www.minv.sk/swift_data/source/policia/hranicna_a_cudzinecka_policia/rocnky/rok_2014/2014-rocnka-UHCP-SK.pdf;
- ^{ix} Miroslava Mittelmánová: Policies, practices and data on unaccompanied minors in 2014 in the Slovak Republic, 2014. EMN National Contact Point in the Slovak Republic, available at: http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CB8QFjAA&url=http%3A%2F%2Fwww.emn.sk%2Fsk%2Fstudie-emn%2Fitem%2Fdownload%2F1418_d40bd2725398a50e4aafde2b31a79d06.html&ei=JVqJVfVnANMe6ygP7IL6oAQ&usq=AFQjCNFri-IibPbRzNLF-mXASyhVVbE9ow&sig2=FHBIoaghsWFM4zUQvvUIQQ&bvm=bv.96339352.d.bGQ;
- ^x Alexandra Malangone: Unaccompanied children – little refugees in the Slovak Republic. Human Rights League, available in Slovak at: <http://www.integration.sk/?p=1037>;
- ^{xi} Supra ix;
- ^{xii} Judgment of the District Court in Prešov of 5 December 2011; Judgment of the Regional Court in Prešov of 30 October 2012; See also supra v, pp. 60-62;
- ^{xiii} Amnesty International, Broken Promises: Incompetence to Stop Segregation of Roma Pupils in Slovakia (Nesplnené sľuby. Neschopnosť ukončiť segregáciu rómskych žiakov na Slovensku), 2013, available in Slovak at: http://www.amnesty.sk/wp-content/uploads/2013/09/4121_Slovakia_CD_Nesplnen%C3%A9-s%C4%BEuby-2013.pdf;
- ^{xiv} Report on the Situation of Slovak Education, available in Slovak at: <https://www.minedu.sk/sprava-o-stave-skolstva-na-slovensku/>;
- ^{xv} Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities: Strategy of the Slovak Republic for Roma Integration until 2020;
- ^{xvi} European Roma Rights Centre: Commission Takes Tougher Stance on Member States Discriminating Roma, available at: <http://www.errc.org/article/commission-takes-tougher-stance-on-member-states-discriminating-roma/4359>;
- ^{xvii} Supra v, pp.54-88;
- ^{xviii} Slovak National Centre for Human Rights: 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 2013, pp. 52-68, available at: http://snslp.sk/CCMS/files/REPORT_ON_THE_OBSERVANCE_OF_HUMAN_RIGHTS_INCLUDING_THE_PRINCIPLE_OF_EQUAL_TREATMENT_AND_THE_RIGHTS_OF_THE_CHILD_IN_THE_SLOVAK_REPUBLIC_FOR_THE_YEAR_2013.pdf;
- ^{xix} Supra vi, pp. 60-70;
- ^{xx} Supra v, pp. 105-106;
- ^{xxi} Supra xviii, pp. 97-10;
- ^{xxii} For further information on individual cases see supra vi, pp. 66-70;
- ^{xxiii} Ministry of Interior of the Slovak Republic. The current government's concept of fight against extremism taking the advice of European experts. Available in Slovak at: <http://www.minv.sk/?tlacove-spravy&sprava=aktualna-vladna-koncepcia-boja-proti-extremizmu-zohladnuje-aj-odporucania-europskych-expertov>.