

# REPORT ON THE OBSERVANCE OF HUMAN RIGHTS

including the principle of equal  
treatment in the Slovak Republic  
for the year

**2016**



FOR HUMAN RIGHTS



**REPORT**  
**ON THE OBSERVANCE OF HUMAN RIGHTS**  
**INCLUDING THE PRINCIPLE OF EQUAL**  
**TREATMENT IN THE SLOVAK REPUBLIC**  
**FOR THE YEAR 2016**

BRATISLAVA

2017

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## LIST OF ABBREVIATIONS

**Act on Complaints** – Act No. 9/2010 Coll. on Complaints as amended

**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

**Act on Financial Contributions** – Act No. 447/2008 Coll. on Financial Contributions to Compensate Severe Disability and amending and supplementing certain acts as amended

**Act on Offences** – Act No. 372/1990 Coll. on Offences as amended

**Act on Police Force** – Act No. 171/1993 Coll. on Police Force as amended

**Act on Social Services** – Act No. 448/2008 Coll. on Social Services and supplementing the Act No. 455/1991 Coll. on Trade Licensing (Trade Licensing Act) as amended

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

**Bratislava Region** – Bratislava Self-governing Region

**Centre** – Slovak National Centre for Human Rights

**Committee for PwD** – Committee for Persons with Disabilities of the Government Council of the Slovak Republic for Human Rights, National Minorities and Gender Equality

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

**Constitutional Court** – Constitutional Court of the Slovak Republic

**Coordinating Methodical Centre** – Coordinating Methodical Centre for Gender-Based and Domestic Violence

**CPPCaP** – Centre of pedagogical and psychological counselling and prevention

**CRPD** – Convention on the Rights of Persons with Disabilities

**CSPC** – Centre of special pedagogical counselling

**CVEK** – Centre for Research of Ethnicity and Culture

**CVTI SR** – Slovak Centre of Scientific and Technical Information of the Slovak Republic

**DD PF DK** – District Directorate of the Police Force, Bysterecká ul., Dolný Kubín

**ECHR** – European Convention on the Protection of Human Rights and Fundamental Freedoms

**ECtHR** – European Court for Human Rights

**EU** – European Union

**EUBA** – University of Economics in Bratislava



**Forum** – Help the Elderly Forum

**General Prosecutors** – General Prosecutors Office of the Slovak Republic

**Government Office** – Government Office of the Slovak Republic

**HR Report** – Report on the Observance of Human Rights including the Principle of Equal Treatment in the Slovak Republic

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

**Kotva** – Facility of crisis accommodation Kotva IV in Banská Bystrica

**Labour Code** – Act No. 311/2001 Coll. Labour Code as amended

**Ministry of Agriculture** – Ministry of Agriculture and Rural Development 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 Health** – Ministry of Health 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

**MRC** – marginalised Roma communities

**NAP on Violence against Women** – National Action Plan on the Prevention and Elimination of Violence against Women in the Slovak Republic for the Years 2014-2019

**National helpline** – free nonstop national helpline for women experiencing violence

**NBS** – National Bank of Slovakia

**NCCwD SR** – National Council of Citizens with Disabilities of the Slovak Republic

**NC SR** – National Council of the Slovak Republic

**NGO** – non-governmental organisation

**NP** – national project

**Police Force** – Police Force of the Slovak Republic

**PwD** – persons with disabilities

**RMB Košice** – Regional Monuments Board Košice

**Roma Community Plenipotentiary** – Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Community

**Rules of Criminal Procedure** – Act No. 301/2005 Coll. Rules of Criminal Procedure as amended

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

**SP** – Slovak Post (Slovenská Pošta, a.s.)

**SP Košice 1** – Slovak Post Košice (Slovenská pošta, a.s., na Poštovej ulici v Košiciach 1)

**SSI** – State School Inspection

**ST** – Slovak Telekom, a.s.

**STI** – Slovak Trade Inspection

**TCM** – temporary compensatory measures

**UN** – United Nations

## INTRODUCTION

Human rights are an inherent part of life of every person, including children, the elderly, foreigners, people in need, persons with disabilities or other groups of the population. Observance of human rights supports diversity in society but also creates opportunities for self-realisation and self-determination of persons belonging to vulnerable groups as well as brings about numerous benefits for the majority. Human rights are closely linked to tolerance and non-discrimination. The Slovak National Centre for Human Rights (the Centre) brings together two crucial aspects of human rights culture- protection and promotion of human rights as well as enforcement and promotion 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 (Act on Establishment of the Centre), which entered into force on the 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 Notice of the Ministry of Foreign Affairs of the Slovak Republic No. 29/1995 Coll.

The Centre works in two specific but mutually reinforcing areas. The first one is protection and promotion of human rights, which was laid down by the Act on Establishment of the Centre. The second one is linked to the Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and on Protection from Discrimination and amending and supplementing certain acts as amended (Antidiscrimination Act). Based on the Antidiscrimination Act, the Centre acts as the only Slovak equal treatment authority (i.e. equality body).

The Centre has a specific status among human rights structures in Slovakia. It is a national human rights institution accredited within the UN system. In terms of EU legal order, the Centre represents a specialised national equality body in Slovakia and is a member of EQUINET- the European Network of Equality Bodies.

Based on its mandate, the Centre monitors and evaluates the observance of human rights and fundamental freedoms, including the principle of equal treatment, in the Slovak Republic. Pursuant to Article 1 para. 4 of the Act on Establishment of the Centre, the Centre annually prepares and publishes, by 30 April, Report on the Observance of Human Rights including the Principle of Equal Treatment in the Slovak Republic (HR Report). This function

reflects point 3 a – iii of the Paris Principles<sup>2</sup> as well as tasks of equality bodies defined in provisions of antidiscrimination directives of the European Union (EU)<sup>3</sup>.

The HR Report for 2016 elaborates on selected issues of human rights and freedoms, extremism, principle of equal treatment and discrimination. It focuses on those human rights and freedoms, which were subject to public debate or showed gaps in enjoyment or challenges in protection in the previous year.

The aim of the HR Report is to provide an objective, true and current picture of the human rights situation in the Slovak Republic in the previous year with regards to the monitored areas and provide recommendations to support more effective protection and enjoyment of human rights and fundamental freedoms. The Centre addressed a wide range of relevant stakeholders, including public bodies, public institutions and non-governmental organisations (NGOs) active in the area of human rights with request for information required to evaluate accurately the human rights situation in Slovakia.

The HR Report for 2016 was discussed, in line with Article 3a para. 7 subpara. h) of the Act on Establishment of the Centre, by the Administrative Board of the Centre at its session on 28 April 2017.

The English version of this report is a translation of an abbreviated version of the original report.

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<sup>2</sup> Principles relating to the Status of National Institutions, UN General Assembly Resolution 48/134 of 20 December 1993.

<sup>3</sup> E.g. Art. 12 para. 2 subpara. c) of the Council Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services and Art. 20 para. 2 subpara. c) of the Directive of the European Parliament and of the Council 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

# LIST OF RECOMMENDATIONS

## **FREEDOM OF EXPRESSION AND EXTREMISM**

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1. The Ministry of Labour pay higher attention to the upbringing of youth within the school environment and that youth is constantly warned against the dangers and risks related to dissemination of hatred against certain groups of population within education processes at primary and secondary schools and that curricula are adapted accordingly.
2. Media sensitively inform the public on the migrant crisis and refrain from contributing to the increased occurrence of hate speech and increased radicalisation in the society.
3. NGOs and civic initiatives active in awareness raising against extremism regularly inform public on their activities.
4. Social network administrators and website providers adopt codes of ethics and good behaviour for contributors online and clearly demonstrate that their web portals are not places to spread hatred against certain groups of population.

## **PROTECTION OF THE RIGHTS OF PERSONS WITH DISABILITIES**

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1. The Ministry of Interior continues with elimination of barriers of objects belonging to the resort and allocate sufficient financial resources for this aim.
2. Competent subjects without undue delay adopt acceptable compromise solution to eliminate barriers of accessibility of the building with the seat of the Slovak Post Košice 1.
3. The Slovak Post, in case the competent stakeholders fail to agree on an acceptable solution, consider relocating the Slovak Post Košice 1 to other appropriate accessible building.
4. The Ministry of Labour prepare an amendment of the Act No. 447/2008 Coll. On Financial Contributions for Compensation of Severe Disabilities and amending and supplementing certain acts as amended, which entered into force in the amended version on 1.1.2017. The amendment should cancel the limitation of the amount of a

gift by 12-multiple of the subsistence minimum under the specific act and introduce such requirements for the contribution for nursing that would eliminate distinctions in the contribution rate based on whether a nursing person is a person in the productive age or receives some pension.

5. The Ministry of Labour, when amending regulations concerning social impacts of severe disabilities in the future, accepts requests of persons with severe disabilities and stakeholders representing their interests.

## **AMENDMENT OF THE ACT ON COMPLAINTS**

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1. Members of NC SR protect the interests of all person within access to complaints and enforce such amendment of the Act No. 9/2010 Coll. on Complaints that would provide for universal accessibility to seek rights to everyone without any direct or indirect limitations or disadvantages, duly observing the principle of equal treatment.
2. Members of NC SR, within the legislative procedure, consider preserving oral form of complaints and change the wording of Article 5 para. 7 of the government proposal of an act amending and supplementing the Act No. 9/2010 Coll. on Complaints as amended.
3. Public Bodies, irrespective of the adoption of the amendment of the Act No. 9/2010 Coll. on Complaints, secure universal accessibility to seeking rights through complaints to everyone with no direct or indirect limitations or disadvantages, duly observing the principle of equal treatment.
4. Public bodies, with regards to electronic complaints via access point, secure their operation and communication in a uniform, user-friendly, clear and understandable format that would also be readable in relation to accessibility requirement by assisting technologies for persons with disabilities.
5. Legal aid providers either financed by the state – the Legal Aid Centre and the Centre – as well as non-governmental organisations and social work service providers introduce among their services also legal aid, assistance and instruction to prepare and file written complaints with an aim to prevent and eliminate disadvantages on any ground to seek rights in this form.

## ROMA

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1. The Ministry of Labour in cooperation with the Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities implement clear housing policies aimed at elimination of segregation.
2. The Ministry of Labour improve housing conditions of Roma through social work.
3. The Ministry of Labour decrease special residential segregation of Roma.
4. The Ministry of Labour in cooperation with territorial self-governments increase the percentage of Roma houses with access to basic infrastructure.
5. The Ministry of Labour in cooperation with territorial self-governments increase the percentage of Roma citizen living in lawful settlements and on lands with legally settled ownership.
6. The Ministry of Interior seek financial means for Roma civic guards under financial dotation, grants etc.
7. Cities and municipalities, upon availability, use the so-called Roma civic guards.
8. The city of Banská Bystrica regularly monitors situation in the facility Kotva, particularly with regards to protection of the rights and interests of its clients.
9. The owners of the accommodation facility immediately refrain from discriminatory conduct based on membership of an ethnic group in access to accommodation.
10. The owners of the accommodation facility refrain from segregation caused by division of floors in the accommodation facility.

## RIGHT TO EDUCATION

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1. The Slovak Republic, through training and methodological institutions, increase level and professional abilities of pedagogues and train them to support personal growth and tolerance among all students.
2. The Slovak Republic continue with capacity and quality development of pre-school education in order to make it locally and substantively accessible for all children, including natural inclusion of children from socially disadvantaged communities.
3. The Slovak Republic increase sustainable funding of cities and municipalities according to the number of children, which is requested for capacity and quality development of schools, pre-school facilities as well as training and activities for pedagogues, school assistants and CPPCaPs.

4. The Ministry of Education specify de-segregation and inclusion, prepare relevant methodologies and explain them to schools as well as support schools in implementing related educational and pedagogical processes.
5. The Ministry of Education, schools, school facilities, municipalities and self-governing regions actively communicate and cooperate with Roma parents, adopt support educational activities for socially disadvantaged students, financially and expertly support such activities and flexibly adapt them.
6. Schools and school facilities integrate Roma children within the majority when possible, since mixed classes benefit social education of all children and can support better acceptance of diversities in adulthood.
7. Schools and school facilities realise such upbringing and educational activities for children in schools to support their ability to flexibly address diversities and differences as a natural social phenomena.
8. Schools and school facilities improve abilities to address different needs of students without their permanent categorisation.
9. Schools and school facilities, municipalities and cities create, maintain and actively offer extra-curricular and interest activities accessible for all children.
10. The Ministry of Education map and propose optimisation of available support forms for graduates of special elementary schools who show interest to gain lower secondary education (secondary education).
11. The Ministry of Education conduct a survey of a real situation concerning organisation of education to gain lower secondary education (secondary education) by elementary and secondary vocational schools and consequently propose measures to increase their accessibility.
12. The Ministry of Education conduct survey of a real situation concerning re-diagnostics in special elementary schools with intellectual disabilities.
13. The Ministry of Education allow individual adjustment of educational programme regarding increased difficulty of education in special elementary schools for children with intellectual disabilities for children who show better intellectual abilities as expected based on their diagnostics in order to achieve lower secondary education (secondary education).
14. The Ministry of Education assess options to create special classes at secondary vocational schools for selected professional education, in relation to which lower intellectual disabilities do not preclude further education.



## **VIOLENCE AGAINST WOMEN**

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1. The Slovak Republic ratifies the Istanbul Convention in the stated deadline.
2. The Ministry of Labour and NC SR submit and adopt new legislation concerning the protection of women from violence.
3. The Ministry of Labour, the Ministry of Interior, non-governmental sector and expert public raise awareness on issues of violence against women and the fact that violence against women is absolutely unacceptable and should be punishable under law.
4. The Ministry of Interior and the Police Force train Police Force members who offer first contact to the victims of violence on the related issues and on adequate communication with the victims.
5. Self-governing regions, cities, municipalities and non-governmental sector increase number of shelter homes for abused women.

## **RIGHTS OF THE ELDERLY**

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1. The Ministry of Labour secure effective and independent evaluation of social service quality and pay due attention to assessment of fulfilment of the requirement of human rights and freedoms observance without undue delay.
2. Competent ministries within grants schemes support projects and activities focusing on active ageing and lifelong learning of the population of the Slovak Republic.
3. Competent ministries and other public bodies create and thoroughly implement measures to tackle poverty and social exclusion of vulnerable groups, including the elderly.
4. Cities, municipalities and self-governing regions organise and promote cultural, awareness raising and education events for seniors in order to support their participation in social life.

## **TEMPORARY COMPENSATORY MEASURES**

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1. The Ministry of Finance of the Slovak Republic and the NC SR allocate financial resources from the state budget to support gender equality through TCM.
2. The Ministry of Labour participate in various TCM projects aimed at equal

opportunities for women in the labour market, including their greater promotion in leading and managing positions, in technical areas and involve the Bratislava Region in such activities.

3. The Ministry of Health of the Slovak Republic and the organisation Healthy communities continue with the project Healthy communities and pay careful attention that health awareness assistants are not being missed beyond their work activities.
4. The Ministry of Education and other competent authorities support and realise TCM at all levels of education targeting the Roma minority.
5. The Roma Community Plenipotentiary launch the package Take away and pay due attention to the highest effectiveness in using the allocated financial resources.
6. All subjects adopting TCM follow up on previously implemented and realised TCM when adopting new TCM targeting the same disadvantaged group.
7. All subjects adopting TCM fulfil their reporting duty towards the Centre and notify it about adopted TCM in line with the Antidiscrimination Act.

## IMPACTS OF CHICANE

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1. The Ministry of Health in cooperation with the Slovak Medical Chamber prepare an explicit definition of a psychosocial disease based on experience of 12 EU Member States that already have done so reflecting medical knowledge in the area.
2. The Ministry of Justice legislatively regulate psychosocial diseases in Article 9 para. One of the Act No. 5/2004 Coll. on Employment Services and amending and supplementing certain acts as following: *“For the purposes of this act, a person with disability is a person found disabled under a special law and a person with a psychosocial disease under a special law”*. Such special law should be the Notice of the Ministry of Health No. 542/2007 Coll. (Article 2 para. 1 subparas. f).
3. The Ministry of Labour and the Ministry of Health support regular monitoring and proactive tracing of discrimination and chicane in workplace as well as raise awareness concerning environmental impacts on psychosocial overloads.



# 1 FREEDOM OF EXPRESSION AND EXTREMISM

## 1.1 Extremism and legal limits of the freedom of expression

Pursuant to Article 1 para. Two subparas. a) and b) of the Act on Establishment of the Centre, the Centre monitors and evaluates human rights and for this purposes gathers and upon request provides information on racism, xenophobia and anti-Semitism in Slovakia.

The Centre, thus, brings analysis of current situation concerning enjoyment of the freedom of expression and its legal limits in terms of extremist or radical expressions. Limits of the freedom of expression result not only from national legislation but they are also supported by the established jurisprudence of the European Court for Human Rights (ECtHR).

In many cases, it is quite hard to identify coherence of judicial practice of judicial authorities. It remains dependent on individual assessment by judicial bodies to decide whether a particular case presents e.g. a public expression of an opinion being in a form of constructive and substantive criticism of migration policies of EU or a publicly presented hate speech against a certain group of the population (in terms of migrant crisis the immigrants or Muslims etc.).

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In general, freedom of expression has certain limits and should not be interpreted absolutely.

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### **1.1.1 Limits of the freedom of expression under the jurisprudence of the European Court of Human Rights**

The Centre carefully analyses relevant jurisprudence and applies it to the current situation regarding the enjoyment of the freedom of expression. It underlines the established gaps and recommends clearer definition of limits of the freedom of expression.

Enjoyment of the freedom of expression is a subjective right of every individual. This right is tied to an obligation of everybody, including the state, not to preclude anybody from freely expressing his or her opinions. ECtHR has stated: “*Freedom of expression constitutes one of the essential foundations of a democratic society, which is one of the basic condition of its progress and development of every man.*”<sup>4</sup>

The freedom of expression incorporates the freedom of thought and its important part is the freedom to express opinion publicly. The Constitutional Court of the Slovak Republic (the Constitutional Court) has found that “*by the freedom of expression a person is guaranteed to express his or her feelings, thoughts and opinions or to remain silent.*”<sup>5</sup>

The freedom of expression is a basic political right. The first paragraph of Article 10 of the European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR) defines particular components of a complex understanding of the freedom of expression.

Enjoyment of the freedom of expression cannot, however, be understood as an absolute right. Limitations of this freedom are admissible and anticipated by the ECHR itself. Requirements laid down in Article 10 para. 2 ECHR must be met. This provision of ECHR as well as the case-law of ECtHR suggest that exercise of the freedom of expression, particularly expressions spread through mass communication media represent strong means of expression, and spread of thoughts, thus its use requires carefulness. Although the freedom of expression is key for democracy, uncovering unrighteousness and political, art and economic development, it is crucial to realise that freedom of expression cannot be used to incite hatred,

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<sup>4</sup> ECtHR Judgement in case [Handyside v. United Kingdom](#), application number 5493/72.

<sup>5</sup> Finding of the Constitutional Court SR, [II ÚS 28/96](#), of 12.5.1997.

violence, endanger security or intervene into personal life. Article 10 para. 2 ECHR explicitly highlights that the freedom of expression brings about the obligation and responsibility of those exercising it. Extents of the freedom of expression are also set by Article 17 ECHR pursuant to which “*nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.*” This is known as the prohibition of abuse of the right to freedom of expression.

This provision is crucial in relation to applicability of the freedom of expression in terms of incitement to violence (e.g. judgement in case *Sürek v. Turkey*<sup>6</sup>), anti-Semitism (judgement in case *Pavel Ivanov v. Russia*<sup>7</sup>), revisionism (e.g. judgement in case *Witzsch v. Germany*<sup>8</sup>) or concerning anti-immigrant or anti-Muslimism rhetoric (e.g. judgement in case *Norwood v. United Kingdom*<sup>9</sup>).

Due to the lack of established jurisprudence of Slovak courts on the limits of the freedom of establishment, the Centre focuses on the case-law of ECtHR. Article 10 ECHR case-law suggests that the freedom of expression covers expressive expressions only in a very limited scope. Regarding the content of the expression, ECtHR excluded from the protection of the freedom of expression (often with reference to Article 17 ECHR) those expressions, which contain revisionism, anti-Semitism or anti-Muslim rhetoric. In terms of the migrant crisis, it should be kept in mind that each case must be assessed individually taking into consideration its specific circumstances.

Abuse of rights defined in Article 17 ECHR has been applied in connection with Article 10 ECHR several times in relation to both right-wing and left-wing extremism. In general, anti-Semitic expressions do not enjoy protection of Article 10 ECHR. For instance, in case *Pavel Ivanov v. Russia* the applicant repeatedly called for exclusion of Jews from social life in his newspaper named “*Ziono-Fascist leadership of the Jewry*” as a source of all the bad in Russian society and questioned existence of the “*Jewish nation.*” He continued using this rhetoric also during national court proceedings. According to ECtHR, the sole aim of the applicant’s activities was to incite hatred against the Jewish population, which represents an attack on one ethnic group incompatible with ECHR values, notably tolerance,

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<sup>6</sup> ECtHR Judgement in case [Sürek v. Turkey](#), application number 26682/95.

<sup>7</sup> ECtHR Judgement in case [Ivanov v. Russia](#), application number 35222/2004.

<sup>8</sup> ECtHR Judgement in case [Witzsch v. Germany](#), application number 7485/03.

<sup>9</sup> ECtHR Judgement in case [Norwood v. United Kingdom](#), application number 23131/03.

social peace and prohibition of discrimination. Hence, ECtHR rejected the application.

In other ECtHR case, *Garaudy v. France*<sup>10</sup>, the applicant was committed for publishing a book called „*Les mythes fondateurs de la politique israélienne*“ (The Founding Myths of Modern Israel). In his book, the applicant – philosopher, writer and former politician, who converted to Islam, strongly criticises the state of Israel and the Jewish community, blames the Jewish community for the so-called “*Shoah business*” and questions the legitimacy of the Nuremberg tribunal. The French courts stated that the aim of the book was not to criticise Israel but to spread racial hatred. ECtHR agreed and found the application inadmissible.

In terms of holocaust denial, ECtHR directly applies Article 17 ECHR, notwithstanding the fact whether it has a form of unsubstantiated statement of a quasi-scientific effort to create discussion on this issue. ECtHR defines holocaust denial not only as denying the holocaust as such but also denying circumstance related to the holocaust, such as the existence of gas chambers, numbers of victims, knowledge of Adolf Hitler and the National Socialist German Workers' Party about the extermination of Jews and its organisation (see also ECtHR judgement in case *Witzsch v. Germany*).

Apart from anti-Semitic expression, ECtHR has also been handling freedom of expression cases concerning anti-immigration and anti-muslimism rhetoric.

In case *Norwood v. United Kingdom*, ECtHR applied Article 17 ECHR. The case concerned an applicant who posted a racist poster that was classified by the police and courts as an offence against public order for which a fine of £ 300 was imposed. The poster displayed by the applicant in the window of his flat pictured the World Trade Centre Twin Towers in flames with the words “*Islam out of Britain – Protect the British People*”. ECtHR ruled that such general attack on a specific religious group falls under the application of Article 17 ECHR and does not enjoy protection of the freedom of expression. ECtHR found the application inadmissible.

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In line with the jurisprudence of ECtHR, the Centre reiterates that any expressions capable to incite hatred towards a specific group (homosexuals), religious groups (Christians, Muslims etc.), nationality (Hungarian, Ukraine etc.) or ethnic group (e.g. Roma, Jewish) is not protected by the freedom of expression.

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<sup>10</sup> ECtHR Judgement in case [Garaudy v. France](#), application number 65831/01.

## 1.2 Freedom of expression and extremists expressions on the Internet

Hate speech occurs more frequently in the virtual sphere and it represents a common form of defamation of various groups of population or incitement to hatred and violence against certain groups. It often includes incitement or justifying hatred for various reasons that copy the protected grounds of discrimination listed in the Antidiscrimination Act<sup>11</sup>.

In 2016, within its monitoring activities, the Centre recorded several hate speech incidents. A majority of them was spread on the Internet. In many case it, however, did not come from supporters of the so-called ultra-right but represented radical attitudes of other people concerning issued unfounded on objective reality.

The Centre is concerned that hate speech has mass character and participants of online debates often use social networks and debate fora under false identities. The reason behind increasing radicalisation and hate speech is often a support of the so-called inclining majority that itself does not create expressions of hatred but sympathises with their content. The Centre monitors increased hate speech also in relation to the migrant crisis, which is frequently misinterpreted and linked solely to Muslim culture and terrorist attacks in Europe. This made the topic a subject to hatred and mis-information of the society, unfortunately also by media.

Authors of hate speech in the virtual world often refer to the freedom of speech. Online debaters find any limitation of the freedom of speech to cause censure, suppression of rights and efforts to keep them silent when they intend to express their opinions, attitudes or discontent in any area of debate. They see themselves as victims of persecution for expressing their opinion.

The freedom of expression protects constructive and substantiated criticism of political situation. Thus, those expressions that intend to bring founded criticism of the EU migration policies cannot be seen as unprotected by the freedom of expression. Authors of hate speech overload the Internet with opinions covered by migrant crisis issues, although their primary aim is often to spread hatred towards certain groups, such as national minorities, sexual minorities and Muslims.

Key role in creating the so-called hate virtual environment is often in the hands of the media, which have a potential to influence a huge amount of their audience. Many news are unfounded on evidence or based on unverified sources causing a high level of disinformation of people.

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<sup>11</sup> See Article 2 para. 1 of the Antidiscrimination Act.



In a democratic society, media are *de facto* not limited in spreading information. They themselves decide, which information to publish and in what context. In many cases, the media news create space for increased hate speech of their followers. This process is currently unstoppable, with due respect to the freedom of the press and the right to receive information on public matters.

The freedom of the press should primarily reflect public interest in receive information and not call for sensations. In terms of hate speech, it is crucial to distinguish its author and those spreading it. Dangerous spreading of hate speech by radical individuals on the Internet enhance artificial creation of incidents causing public defamation and incitement to hatred toward a certain group of people. In the Slovak virtual space, this would affect mainly Muslims and Roma.

The freedom of expression is an essential foundation of a democratic society. Publishing personal opinions on the Internet represent a public self-realisation of an individual. Public expression of thoughts, opinions or feelings is, however, limited by human rights and freedoms of others. Failure to respect these or their suppression can lead to criminal prosecution of individuals spreading such expressions.

This applies also in the so-called virtual space. In practice, nobody can express his or her opinions without boundaries. Otherwise, it could lead to interference into the rights of other persons or groups. Permissible exercise of the freedom of expressions hits its limits where public expressions, including those online, become forms of defamation of a race, nation, nationality of belief or hate speech inciting to ethnic, race or national hatred.



**The Centre underlines the need of prevention and appeals to administrators of debate for a and social networks to duly consider the issue and take all efforts necessary to preclude dissemination of hate speech on internet portals and websites. Such contributions and posts are unlawful and do not enjoy legal protection, hence should be deleted without due delay.**

### 1.3 Priority of prevention from repression

The Centre requested the General Prosecutors Office of the Slovak Republic (the General Prosecutors) and the Police Force of the Slovak Republic (the Police Force) to provide information concerning preventive and repressive mechanisms to tackle extremist expressions and fighting their proliferation in Slovakia.

The Centre further builds on its own findings resulting from activities and monitoring in the area of the freedom of expression. The Centre particularly welcomes the efforts of the so-called repressive bodies of the state to eliminate hate speech from public life and their efforts to achieve the most effective implementation of legal mechanisms in practice. One of the main functions of fine imposition for extremist crimes is their repressive impact to deter other potential perpetrators of these crimes.

According to the data from 2016 provided by the General Prosecutors<sup>12</sup>, 12 individuals were prosecuted for race motivated crimes and crimes with elements of extremism. Statistical data show a minor decrease in criminally prosecuted persons compared to the previous years. The General Prosecutors claim that this type of criminality has decreasing tendency.

The General Prosecutors, however, warns about the increasing criminality concerning hate speech on the Internet, through which people often declare their membership or sympathies to extremist groups. This can consequently affect human rights and freedoms of other persons.

The increased rate of radical and extremist expressions on the Internet is alarming. Although the statistical decrease of prosecuted persons for the crimes of extremism, the Centre monitors increased radicalisation in the society, *inter alia*, in relation to the migrant crisis and the attitude towards minorities.

The presence of extremist and radical attitudes against certain groups of the population is visible in the virtual space. Debating individuals, often under false identities, present opinions that are likely to incite hatred towards races, nations, nationalities, ethnicities or other groups of population. Publicly presented expressions with such content do not benefit from legal protection of the freedom of expression.

The Centre agrees with the recommendation of the General Prosecutors pursuant to

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<sup>12</sup> Statement of the General Prosecutors to the request of the Centre of 21.2.2017: supporting and promoting groups aimed at suppression of fundamental rights and freedoms – 7 persons, dissemination of extremist materials - 3 persons, possession of extremist materials - 1 person, denial and approval of holocaust, crimes of political regimes and crimes against humanity - 1 person.

which modern forms of communication shall come along with increased educational activities aimed at prevention of extremism in the society. Young people often lack natural barriers against extremist expressions and do not realise possible impacts of their conduct. In terms of prevention, education process should be supplemented by a subject aimed at sensitising legal awareness among young people. Such approach would represent a useful prevention mechanism in fighting publicly disseminated extremist expressions and attitudes.

The General Prosecutors also highlighted the potential benefits of active social work in problematic communities that tend to incline to extremism since they include persons with higher inclination to have their opinions influenced.

A development to help eliminate proliferation of extremism has also occurred in the legislative area. The amendment of the Act No. 301/2005 Coll. on Rules of Criminal Procedure as amended (the Rules of Criminal Procedure) moved the competence to adjudicate crimes of extremism to the Specialised Criminal Court. Scrutiny of legality is vested upon the Office of the Special Prosecutors and prosecution itself is led by the National Unit to Fight Terrorism and Extremism.<sup>13</sup> The amendment entered into force on 1.1.2017.

The Centre welcomes the efforts of the state to fight extremisms in Slovakia. However, it calls for much higher prevention activities. It is also crucial that parents carefully debate current social and political issues with their young children, since family is a basic unit of the society.

It is also crucial that schools contribute to formation of the youth within education process in order to mitigate possible pressure of extremist groups, which frequently use unfounded and partial media appearances to influence young people and to attract their support.

The Centre also welcomes the development of educational activities by repressive state bodies. These units mutually cooperate, which is a positive development in fighting dissemination of extremist expressions. Such close cooperation can be seen for example in the cooperation of the mandated prosecutor of the criminal unit of the General Prosecutors being a member of an inter-resort integrated group at the Presidium of the Police Force, and his participation in a lecture at the Judicial Academy. The lecture covered the Act No. 316/2016 Coll. on Recognition and Execution of Property Decision Issued in Criminal Procedure in the EU, which amended the Act No. 300/2005 Coll. the Criminal Code as amended and the Rules of Criminal Procedure.

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<sup>13</sup> Statement of the General Prosecutors to the request of the Centre of 21.2.2017 – National Unit to Fight Terrorism and Extremism is a unit of the National Criminal Agency of the Police Force.

The Centre welcomes organisation of similar trainings that can support better implementation of legislation. Experts of the Centre regularly deliver trainings to members of the Police Force. These trainings cover mainly the limits of the freedom of expression in terms of radical or extremist expressions. The Centre positively assesses the efforts of the Police Force and its active approach to resolve the issues of extremism in Slovakia.

The Centre commits to continue with its training activities and to contribute to forming a society based on tolerance, rejecting any hatred towards certain groups of population or their exclusion from public affairs. The main target group in terms of extremism prevention should be the youth who can be easily influenced and is also the most active in self-realisation via social networks. It is crucial to warn young people against the dangers of dissemination of hate speech against various groups of population through online communication.

It is also important that young people realise their responsibility for their expressions disseminated in the virtual space and social impact of those expressions that can incite hatred against certain groups of population.

Finally, the Centre reminds that a major role in fighting extremism vests upon the media, which shall not focus on supporting passions and environment of hate but on the contrary, they should contribute to correct implementation of preventive mechanisms. Correct implementation of preventive mechanisms should help to decrease hate comments, contributions or statements, particularly on the Internet.

## RECOMMENDATIONS

The Centre recommends that:

1. The Ministry of Labour pay higher attention to the upbringing of youth within the school environment and that youth is constantly warned against the dangers and risks related to dissemination of hatred against certain groups of population within education processes at primary and secondary schools and that curricula are adapted accordingly.
2. Media sensitively inform the public on the migrant crisis and refrain from contributing to the increased occurrence of hate speech and increased radicalisation in the society.

3. NGOs and civic initiatives active in awareness raising against extremism regularly inform public on their activities.
4. Social network administrators and website providers adopt codes of ethics and good behaviour for contributors online and clearly demonstrate that their web portals are not places to spread hatred against certain groups of population.



## 2 PROTECTION OF THE RIGHTS OF PERSONS WITH DISABILITIES

The fundamental instrument for protection of the rights of persons with disabilities (PwD) is the Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol adopted by the UN on 1.12.2006. CRPD and its Optional Protocol entered into force in Slovakia on 25.6.2010. Pursuant to Article 7 para. 5 of the Constitution, CRPD is an international treaty that has precedence over national laws.

CRPD states that *“Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”*

The issues related to the rights of PwD are constantly developing and must be properly addressed since PwD are one of the most vulnerable groups of society and they keep facing obstacles and challenges in everyday life impeding their inclusion in social life.

It is crucial that the society pays closer attention to the rights of PwD, which cannot remain at a theoretical level but should fully be implemented in practice.

## **2.1 Elimination of barriers**

The requirement of accessibility stems from Article 9 CRPD. Within the Slovak legislation, the regulation of accessible environment and access to constructions is provided by the Act No. 50/1976 Coll. on Land-Use Planning and Building (the Building Act) and the Notice of the Ministry of Environment of the Slovak Republic No. 532/2002 Coll. on General Technical Requirements for Building and General Technical Requirements for Constructions Used by Persons with Limited Mobility and Orientation.

The Centre is concerned by the persistent challenges and levels of the accessibility of the physical environment. In this report, the Centre aims to point at concrete examples of failures to provide accessible entrance to public institutions: a building of the District Directorate of the Police Force, Bystetecká ul., Dolný Kubín (DD PF DK) and a building of the Slovak Post (SP) in Košice.

### **District Directorate of the Police Force in Dolný Kubín**

In 2016, the Control and Inspection Section at the Ministry of Interior requested the Centre to issue a written statement concerning the violation of rights of PwD in relation to the lack of accessible entrance to the building of DD PF DK and the lack of technical equipment allowing PwD (with limited mobility) to move within its premises. The Control and Inspection Section at the Ministry of Interior based its request on a complaint by a PwD in a wheelchair.

The regional representative of the Centre in Žilina initiated a meeting with the director of DD PF DK. In cooperation with the director of DD PF DK, the Centre's representative inspected the premises of DD PF DK building.

DD PF DK is located in a three-floor building. The main entrance to the building has stairs and there are stairs also between each floor. The main challenge is, hence, caused by the lack of technical equipment allowing PwD to enter the building and the lack of technical equipment allowing them to move from one floor to another.

According to DD PF DK, the offices mostly visited by people are located on the first floor. There is also the department of (identification) documents. PwD can reach the first floor with the help of other person or employees of DD PF DK. Employees of the Ministry of Interior mainly use other two floors. In case PwD need to contact employees located on the second or

third floor, they can do so on the first floor of the building.<sup>14</sup>

As an interim measure until full elimination of barriers, several alternative measures have been adopted to mitigate the situation.

The first measure allows the employees at the department of (identification) documents at DD PF DK to use mobile technological equipment to address requests of PwD directly at their permanent residence. As a second alternative measure, there is a possibility to borrow, upon agreement, a stair climber machine for PwD from the Municipal Office of Dolný Kubín. Finally, a notice has been placed at entry doors to DD PF DK and other publicly accessible places with information for PwD and persons accompanying them concerning the possibility to contact employees of DD PF DK by phone to request assistance to move within the building.<sup>15</sup>

In order to raise awareness among PwD until the complete elimination of barriers in the building, the Centre recommended that DD PF DK summarise information regarding the alternative measures in a document published at DD PF DK website, on the entrance doors to DD PF DK and other publicly available places. The Centre also recommended that DD PF DK enable that first contact employees are able to provide complex information on the implemented alternative measures.

The Centre appreciates implementation of its recommendations by DD PF DK. DD PF DK also stated that it has also *“adopted and implemented internal measures to increase quality of provided services by police to citizens with limited mobility.”*<sup>16</sup>

Within the process of elimination of barriers in the building of DD PF DK, the Support Centre Žilina informed that the Ministry of Interior contracted in 2014 an elaboration of energetic audit within a project financed from the structural funds to optimise measures in the area of energetic effectivity of public buildings. This project also includes also the DD PF DK building. The Support Centre Žilina also informed that, according to a decision of the Section of property and real estate at the Ministry of Interior, adopted measures would also address technical accessibility and social facility for persons with limited mobility and orientation, including the related construction work. The construction works are covered by the project documentation, which was a basis for construction permit. According to the Support Centre Žilina, the next step is to declare public tender for a provider of construction works.<sup>17</sup>

The Ministry of Interior informed that the public tender for construction works

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<sup>14</sup> Statement of DD PF DK of 18.2.2016.

<sup>15</sup> Statement of DD PF DK of 18.2.2016.

<sup>16</sup> Statement of DD PF DK regarding the Centre's request of 24.2.2017.

<sup>17</sup> Statement of the Support Centre Žilina of 19.2.2016.



concerning the DD PF DK building was opened on 12.4.2016. Deadline for reconstruction and modernisation of the building is 6 months since the construction side is made available to the provider. The Ministry of Interior stated that since the construction works would be financed from the Operation Programme Quality of Environment, this would happen upon signature of an annex to contract on provision of irreversible financial contribution. The Ministry of Interior further stated that *“until today, the Ministry of Interior has not been submitted a contract for provision of irreversible financial contribution by the provider of this contribution, the contract is being prepared.”*

In its expert opinion, the Centre concluded that the current situation establishes violation of Article 9 CRPD. Despite this, the Centre welcomes efforts of DD PF DK to address the needs of PwD by implementing alternative measures.

The Centre, however, remains concerned that certain processes could interfere into the personal dignity of PwD. This could happen in cases when persons in wheelchairs are carried upstairs by employees of DD PF DK.

**Respect for inherent dignity, personal independence, freedom of choice and independence, non-discrimination as well as full and effective integration and engagement in society, equal opportunities and accessibility are fundamental principles of CRPD.**

## Post Office in Košice

The process of elimination of barriers can sometimes be challenged also by the fact that some buildings are considered national cultural heritage. Therefore, it is more difficult to find appropriate and suitable solutions for accessibility of their entrances and premises, particularly with due respect to the interest to preserve their monumental value.

Such issue has arisen in relation to a building, which is a seat of the SP at Poštová Street in Košice (SP Košice 1). The building is a national cultural heritage and an integral part of the original Post and Telegraphic Office in Košice from 1927 - 1928. This building remains problematic in terms of accessibility for PwD. The situation is even more complicated, since SP Košice 1 is located in rented premises owned by a company Slovak Telekom, a.s. (ST).

The Centre already informed about the situation in its 2015 HR Report. In the material time, the situation was influenced by the fact that ST was offering the building for sale, hence SP was not interested in spending financial resources in securing accessibility.

According to SP, negotiations initiated by SP aimed at assessing possible alternatives to move SP Košice 1 are ongoing since the second half of 2016.<sup>18</sup>

With regards to issues related to the ownership of the building and the related land, the locality within the city, i.e. in a monument reservation area, and the fact that the building is a national cultural heritage, it is evident that there is need for compromise and adequate solution to be agreed among SP, ST (the owner of the building), the Regional Monuments Board Košice (RMB Košice) and the Magistrate of the City of Košice.

There are 14 stairs to the main public entrance to the building from the Poštová Street.

As an alternative solution to mitigate the negative situation, SP has introduced the so-called special regime of service available publicly to costumers of SP Košice 1 during office hours. An information plate has been places on the building of SP Košice 1, right next to the stairs, informing costumers who face difficulties to enter the building due to the lack of accessible entrance about phone contact to an employee of SP Košice 1. Upon contact, this employee comes outside to serve the costumer.

The Centre welcomes adoption of the alternative measure. However, the Centre warns that it can very likely lead to unacceptable interference into the human dignity caused by handling personal issues directly in the street.

SP stated that upon agreement with the director of the Post Office, it is possible to

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<sup>18</sup> Statement of SP regarding the Centre's request of 22.2.2017.

provide post services by post deliverers. In terms of elimination of barriers, several measures have been proposed concerning the entrance both from the Poštová Street and from the backyard. ST, unfortunately, rejected the proposal concerning the backyard due to security risks, which must be taken into account by the owner of the building.<sup>19</sup>

ST further informed that it agreed with SP and got approval from RMB Košice to secure accessibility from the Poštová Street by constructing a “lift”.<sup>20</sup> Based on the project documentation, the lift was supposed to be placed in the area of the main stairs to SP Košice 1. It should be available for persons in wheelchairs with limited mobility, parents with pushchairs as well as for seniors.<sup>21</sup>

SP stated that this mutually agreed technical solution proposed by RMB Košice was not approved by the department of the Chief Architect of the City of Košice claiming that such interference into the building is unacceptable, inappropriately destructive and overly modifying the overall look of the building. Due to this, the Magistrate of the City of Košice rejected the application of SP for sale of the area of 1 m<sup>2</sup> for the purposes of construction of the proposed accessible entrance.<sup>22</sup>

RMB Košice has a completely different opinion concerning the construction of the lift. In its binding opinion, RMB Košice stated that the proposed vertical platform in the shaft would be placed in the area of the main staircase with a minimum interference into the material of the national cultural heritage. It also stated that it is in the interest of the monument protection of the building that the building serves its original purposes with the aim of preserving its monumental value.<sup>23</sup>

According to SP, the city proposes a sloping hydraulic platform, which it believes would not assist all individuals who may face challenges to enter the building. Such platform could only be served by persons trained to do so, which could cause challenges to seniors or parents with pushchairs.

Due to contradictory opinions regarding the appropriateness of individual measures to eliminate barriers in the building, a compromise has not been reached between ST, SP, RMB Košice and the Magistrate of the City of Košice.

The pertaining negative situation caused by the lack of accessibility causes unacceptable barrier for persons dependent on accessibility, despite there would be

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<sup>19</sup> Statement of ST regarding the Centre’s request of 2.2.2017.

<sup>20</sup> Statement of ST the Centre’s request of 2.2.2017.

<sup>21</sup> Decision of RMB Košice of 11.9.2015.

<sup>22</sup> Statement of SP the Centre’s request of 22.2.2017.

<sup>23</sup> Binding opinion of the RMB Košice of 8.4.2016.

opportunities to use various technologic measures available for such situation. The Centre recognises the need and importance of preserving cultural values of objects of this type as well as the efforts to maintain the original function of the building while preserving its monumental value. It remains questionable, what is the price of these efforts and who are those most affected in the end.

The Centre requests the competent stakeholders to pay due attention to those persons who would be forced to keep handling their personal issues outside in the street due to obstacles caused by 14 stairs precluding their access to the premises of SP Košice 1. The situation does not concern solely PwD but the “monumental” staircase causes problems also to older persons with limited mobility and parents with pushchairs.

## RECOMMENDATIONS

The Centre recommends that:

1. The Ministry of Interior continues with elimination of barriers of objects belonging to the resort and allocate sufficient financial resources for this aim.
2. Competent subjects without undue delay adopt acceptable compromise solution to eliminate barriers of accessibility of the building with the seat of the Slovak Post Košice 1.
3. The Slovak Post, in case the competent stakeholders fail to agree on an acceptable solution, consider relocating the Slovak Post Košice 1 to other appropriate accessible building.

## 2.2 Amendment of the Act on Financial Contributions to Compensate Severe Disability

In terms of the rights of PwD, the year 2016 was marked by the amendment of the Act No. 447/2008 Coll. on Financial Contributions to Compensate Severe Disability and amending and supplementing certain acts as amended (Act on Financial Contributions). The Ministry of Labour, Social Affairs and Family of the Slovak Republic (the Ministry of Labour) informed that it prepared the amendment in 2016 based on the Plan of Legislative

Tasks of the Government of the Slovak Republic for the period of June – December 2016.<sup>24</sup>

Pursuant to Article 1 para. 1 of the Act on Financial Contributions *“this act regulates provision of financial contributions to compensate social impacts of severe disabilities, issuing cards of person with severe disability, issuing cards of accompanied person with severe disability (PwD card), parking card of a person with severe disability (PwD parking card) and assesment of the special care need provided under special act.”*

Under Article 1 para. 2, the aim of this regulation is to support social inclusion of persons with severe disabilities in the society with his or her active participation and due protection of human dignity in the areas covered.

The Ministry of Labour stated that the most important changes introduced by the amendment concern, *inter alia*, *“regulation of requirements for provision of financial contribution for nursing aimed at stabilisation of a group of recipients in productive age as one of the most vulnerable recipients of this contribution (increased base rate of the contribution from 220,52 € to 247,62 € and protection of the income balance from 1,4 to 1,7 multiple of the subsistence minimum)”* and extension of *“the exception in counting in income and property acquired by gift.”*<sup>25</sup>

The Centre participated in the comment procedure concerning the amendment and commented the above-mentioned changes. The Centre requested further information from the Ministry of Labour, the National Council of Citizens with Disabilities of the Slovak Republic (NCCwD SR) and the Office of the Commissioner for Persons with Disabilities.

The amendment specifies the types and amounts of gifts in relation to assessing income and property of persons claiming contributions. As a result of the legislative procedure, the current regulation does not consider financial gifts provided in the calendar year in the total amount of 12-multiple of the subsistence minimum for one adult person under special act as an income for the purposes of provision of financial contributions to compensate severe disabilities<sup>26</sup>, while covering gifts from any subjects. The only applicable criterion is the amount of the financial gift.

The amendment also extended the list of subjects whose gifts are not provided as financial gifts for the purposes of the act. This concerns gifts from churches and religious societies, foundations, civic associations, NGOs providing generally beneficial services or non-investment funds.

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<sup>24</sup> Statement of the Ministry of Labour regarding the Centre’s request of 3.3.2017.

<sup>25</sup> Statement of the Ministry of Labour regarding the Centre’s request of 3.3.2017.

<sup>26</sup> Act No. 601/2003 Coll. on Subsistence Minimum and amending and supplementing certain acts.

The amendment also included those financial gifts that were provided to compensate, maintain or improve health, irrespective of their amount. The sole criterion is their aim, i. e. whether it serves the prescribed purpose.<sup>27</sup>

In terms of property assessment of persons with severe disabilities, this does not include, *inter alia*, moveable property and real estate acquired from a financial gift (excluded under the above-mentioned regulation) or from financial gifts provided within the calendar year if they did not exceed 12-multiple of the subsistence minimum. The same applies for financial gifts provided by foundations, NGOs providing generally beneficial services, non-investment funds, churches or religious communities as well as non-pecuniary gifts for compensation, maintenance or improvement of health condition.<sup>28</sup>

Within the comment procedure, the Centre proposed exclusion of the provision limiting the amount of gifts (both financial and non-pecuniary) by 12-multiple of the subsistence minimum. The Centre believes that the introduction of this limit can disadvantage those persons with severe disabilities who receive or have received a gift exceeding the stated amount compared to those persons with severe disabilities who do not or have not received a financial gift or receive a gift in the amount lower than 12-multiple of the subsistence minimum.

NCCwD SR also addressed this issue: *“Excluding gifts exceeding the amount of 12-multiple of the subsistence minimum causes a breach of the principle of equal treatment. We believe that it is not in compliance with good manners to lower contributions for a person with severe disability due to accepting a gift from other sources than a state budget.”*<sup>29</sup> According to the Office of the Commissioner for Persons with Disabilities, *“the Commissioner proposed within the comment procedure to exclude all gifts received by persons with severe disabilities, irrespective of their amount and provider, from property assessment of a person with disability for the purposes of compensation of severe disabilities.”*<sup>30</sup>

The second comment raised by the Centre concerned the base amount of contribution for nursing. The amount of this contribution is differentiated with regards to whether a person with severe disability is dependent on nursing, is nursed by a person in the productive age or a person receiving a pension.

The Ministry of Labour stated that the contribution for nursing is a contribution for those who nurse a person with severe disability. This means that the contribution shall not

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<sup>27</sup> Article 18 para. 3 subpara. p) of the Act on Financial Contributions.

<sup>28</sup> Article 18 para. 19 subpara. c) of the Act on Financial Contributions.

<sup>29</sup> Statement of the NCCwD SR regarding the Centre’s request of 24.2.2017.

<sup>30</sup> Statement of the Office of the Commissioner for Persons with Disabilities regarding the Centre’s request of 23.2.2017.

fully compensate income of a nursing person but represent a contribution from public budget. The Ministry of Labour added that the contribution is a facultative benefit, which is not a direct entitlement. The Ministry of Labour also stated that a principle of solidarity applies with regards to compensation contributions and that these contributions are provided only to dependent persons based on their property and income. An underlying principle is that persons with the lowest income receive help in the biggest amount.<sup>31</sup>

Beside the fact that the amount of financial contribution depends on whether a nursing person is in the productive age or receives a pension, the amendment proposal also proposed increased amount of the financial contribution to those nursing persons who do not receive other contribution under the law.

The Ministry of Labour justified this proposal by claiming that regulation of requirements for a provision of financial contribution for nursing regarding a selected group (persons not receiving any other contribution) has taken into account the fact that this group of nursing concerns the most vulnerable persons who are in risk of poverty and social exclusion. The Ministry of Labour further stated that this group of nursing persons faces decreased average amount of financial contribution for nursing due to non-valorisation of the subsistence minimum, while for the majority or recipients it remains the sole income. Based on this, the Ministry of Labour does not consider this regulation discriminatory.<sup>32</sup>

The Centre contested the proposal and required that this differentiation be cancelled. It reasoned this by the fact that the criterion of social status of a nursing person cannot be a decisive factor for differentiating the amount of the financial contribution for nursing since persons in the productive age and persons receiving pensions equally provide nursing care to dependent persons with severe disabilities.

The Centre referred to the fact that the contribution is directly linked to the provision of nursing care to a person with severe disability and remunerates this activity. The Centre believes that the differentiation is unjustified since pension benefits are unrelated to the provision of nursing care to a person with severe disability.

The Centre requested that equal amount of the financial contribution for nursing both for nursing persons in the productive age and those receiving some pension is introduced. It further proposed that the provision applies to nursing persons receiving some pension under the law.

NCCwD SR also addressed the issue: *“We consider provision of different rate of financial contribution for nursing, based on whether a nursing person receives a pension*

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<sup>31</sup> Statement of the Ministry of Labour regarding the Centre’s request of 3.3.2017.

<sup>32</sup> Statement of the Ministry of Labour regarding the Centre’s request of 3.3.2017.



*under the law or not, to be a violation of the principle of equal treatment... Moreover, the nursing persons with significantly lower contribution claim that they receive senior pension thanks to their own activities since it is not a social benefit, thus, that they should be entitled to the same contributions as persons who do not receive any pension.*"<sup>33</sup>

The Office of the Commissioner for Persons with Disabilities also stated that it found the regulation in breach of the principle of equal treatment. It finds the contribution discriminatory against persons receiving some pension under the law. The Office of the Commissioner for Persons with Disabilities further informed that the Commissioner for Persons with Disabilities proposed equal rate of the contribution for both groups. In case the legislator did not accept the proposal, the Commissioner proposed an alternative to increase rate of the contribution for nursing persons receiving some pension by an equal coefficient as applies for persons in the productive age.<sup>34</sup>

The regulation contested by various subjects was not modified. Moreover, the amount of the contribution was only increased with regard to a selected group of nursing persons.

According to the Ministry of Labour: *"The Ministry of Labour plans to continue to increase effectivity of integration measures for persons with severe disabilities in the upcoming future in order to achieve optimisation and directness of financial contributions to compensate social impacts of severe disabilities. Changes should concern also conditions of provision of the contribution for nursing. It must be noted that within preparation of any legislative regulation of compensation issues, the Ministry would cooperate also with PwD through their representative organisations as required under Article 4 para. 3 CRPD."*<sup>35</sup>

The Centre hopes that the proclaimed commitment of the Ministry of Labour would be implemented as soon as possible.

To conclude, the Centre underlines the fact that several stakeholders contested the discriminatory nature of the proposed regulation within the comment procedure. Despite this, their requests were not addressed in the final version of the amendment. The Centre highlights that within legislative procedures concerning the interests of persons with severe disabilities it should be made a priority to pay due attention to requests and commentaries of this group and stakeholders representing its interest. These subjects are the best to know the unfavourable situation faced by PwD and steps that should be taken to mitigate it.

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<sup>33</sup> Statement of the NCCwD SR regarding the Centre's request of 24.2.2017.

<sup>34</sup> Statement of the Office of the Commissioner for Persons with Disabilities regarding the Centre's request of 23.2.2017.

<sup>35</sup> Statement of the Ministry of Labour regarding the Centre's request of 3.3.2017.

## RECOMMENDATIONS

The Centre recommends that:

1. The Ministry of Labour prepare an amendment of the Act No. 447/2008 Coll. On Financial Contributions for Compensation of Severe Disabilities and amending and supplementing certain acts as amended, which entered into force in the amended version on 1.1.2017. The amendment should cancel the limitation of the amount of a gift by 12-multiple of the subsistence minimum under the specific act and introduce such requirements for the contribution for nursing that would eliminate distinctions in the contribution rate based on whether a nursing person is a person in the productive age or receives some pension.
2. The Ministry of Labour, when amending regulations concerning social impacts of severe disabilities in the future, accepts requests of persons with severe disabilities and stakeholders representing their interests.



# 3

## AMENDMENT OF THE ACT ON COMPLAINTS

Article 46 para. 1 of the Slovak Constitution guarantees everyone's right to claim his or her right by procedures laid down by law before an independent and impartial court or, in cases provided by law, at other public authority of the Slovak Republic. In terms of conduct or omissions of public bodies, the law providing protection of individual rights of persons and legal entities is the Act on Complaints.

In autumn 2016, the Government Office of the Slovak Republic (the Government Office) opened legislative procedure concerning the amendment of the Act No. 9/2010 Coll. on Complaints as amended (the Act on Complaints). The proposal raised a criticism among commenting stakeholders, media and concerned public. The inter-resort comment procedure ended on 4.10.2016. The proposed entry into force of the amendment is 1.4.2017.

The Act on Complaints guarantees protection of individual rights of natural persons and legal entities in case of their breach or violation by conduct or omission of public bodies. It provides an option to turn to public bodies with complaints and point out deficiencies in the work of these bodies. It covers the general public as well as all public bodies and represents a measure of public control.

According to the general part of the Explanatory Memorandum to the amendment<sup>36</sup>, the need to amend the Act on Complaints has arisen from the request to eliminate systemic and content deficiencies uncovered by implementation practice. It should also reflect legislative developments, which could affect the procedure or ways of investigating and handling complaints. It also addresses the need to cover new issues related to the informatisation of the society and adopt modifications leading to more effective complaints handling.

The major criticism by NCCwD SR concerned the significant modification of submission procedure, which proposes to eliminate the option to submit complaints orally<sup>37</sup>.

The amendment proposal entered into the inter-resort comment procedure on 12.9.2016<sup>38</sup> and recognised only written complaints (written or electronic). As a certain compensation for oral complaints, it proposed the obligation of public bodies to create conditions for preparation of written complaints by complainants, who come in person and do not have the complaint prepared in writing, by establishing necessary material conditions.

Within the inter-resort comment procedure, the National Bank of Slovakia (NBS) expressed concerns over this regulation. It raised a general comment that such regulation could deny the right to complain to a certain group of persons – “*e. g. persons with disabilities who cannot file a complaint in written or electronic form or cannot sign it and would prefer to submit it in person (visually impaired persons, persons with disabilities etc.)*”. NBS further claimed that neither the amendment proposal (Article 5 para. 7) nor the Explanatory Memorandum made it clear what should be understood under the “establishment of necessary material conditions”. Both comments were rejected.

Similarly, the Ministry of Justice of the Slovak Republic (the Ministry of Justice)

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<sup>36</sup> Available at: [www.nrsr.sk/web/Dynamic/Download.aspx?DocID=434001](http://www.nrsr.sk/web/Dynamic/Download.aspx?DocID=434001) (quoted on 7.3.2017).

<sup>37</sup> Pursuant to the current wording of Article 5 para. 1 of the Act on Complaints, a complaint can be submitted in written form, orally or by telefax. If a public body accepts electronic complaints also in other forms than electronic mail, this information must be published at its website. Under Article 5 para. 4, the public body prepares a written report of an oral complaint that cannot be directly resolved when submitted. This report includes, *inter alia*, date and time of submission, name and contact of the public body, names and surnames of employees who prepared it and those that were present at its submission. If the complainant refuses to cooperate or requests conduct of the public body unlawfully, the public body is not obliged to prepare the report. If the complainant rejects the preparation of report, the public body rejects the complaint. If the complainant refuses to sign the report, the public body notes this in the report and closes the report (Article 5 para. 6).

<sup>38</sup> Amendment proposal of 12.9.2016, available in Slovak at: [https://www.slov-lex.sk/legislativne-procesy?p\\_p\\_id=processDetail\\_WAR\\_portlet&p\\_p\\_lifecycle=2&p\\_p\\_state=normal&p\\_p\\_mode=view&p\\_p\\_cacheability=cacheLevelPage&p\\_p\\_col\\_id=column-2&p\\_p\\_col\\_count=1&processDetail\\_WAR\\_portlet&fileCooaddr=COO.2145.1000.3.1610890&processDetail\\_WAR\\_portlet&file=Dolo%C5%BEka-vybran%C3%BDch-vplyvov-12-09-2016.docx&processDetail\\_WAR\\_portlet&action=getFile](https://www.slov-lex.sk/legislativne-procesy?p_p_id=processDetail_WAR_portlet&p_p_lifecycle=2&p_p_state=normal&p_p_mode=view&p_p_cacheability=cacheLevelPage&p_p_col_id=column-2&p_p_col_count=1&processDetail_WAR_portlet&fileCooaddr=COO.2145.1000.3.1610890&processDetail_WAR_portlet&file=Dolo%C5%BEka-vybran%C3%BDch-vplyvov-12-09-2016.docx&processDetail_WAR_portlet&action=getFile) (quoted on 7.3.2017).

raised a substantive comment concerning the removal of oral complaints and lack of clarity of Article 5 para. 7. This comment was not accepted either.

According the Government Office, the proposed amendment was designed to “maintain the option to submit oral complaints with the only difference that the public body would accept such complainant and if the complaint cannot be resolved directly, the complainant would be allowed to prepare the complaint alone at the public body with the presence of an employee of this body. If a PwD appears before the public body to file a complaint and his or her health condition precludes this person to prepare a written complaint alone, the public body would provide this person with a reasonable form of assistance and support. This was reflected in the Explanatory Memorandum.”<sup>39</sup>

Debate on the submitted comments was closed on 31.11.2016 without accepting any of the above-mentioned comments and requests.

The Committee for Persons with Disabilities of the Government Council of the Slovak Republic for Human Rights, National Minorities and Gender Equality (Committee for PwD) on 2.12.2016 unanimously adopted a resolution of the Committee for PwD No. 71, which was proposed by NCCwD stating that: *The Committee for PwD underlines the legally unbinding nature of the solution proposed by the Government Office concerning the point no. 5 of the amendment of the provision of Article 5 para. 7 of the Act on Complaints as resulted from the inter-resort comment procedure, which leaves regulation of conditions for PwDs affected by the exclusion of oral complaints to the Explanatory Memorandum. The Committee for PwD is concerned by the impacts of the proposed solution that impede access and execution of special conditions for the concerned PwDs. The Committee for PwD recommends that the wording of Article 5 para. 7 of the amendment of the Act on Complaints includes the following: If a public body is approached by a person with disability whose health condition precludes him or her to prepare a written complain alone, the public body provides this person with appropriate assistance and support.* The Committee for PwD requested the Government Council of the Slovak Republic for Human Rights, National Minorities and Gender Equality for support and articulation of its statement within debate of the proposal of

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<sup>39</sup> Evaluation of the inter-resort comment procedure, available in Slovak at: [https://www.slov-lex.sk/legislativne-procesy?p\\_p\\_id=processDetail\\_WAR\\_portlet&p\\_p\\_lifecycle=2&p\\_p\\_state=normal&p\\_p\\_mode=view&p\\_p\\_cacheability=cacheLevelPage&p\\_p\\_col\\_id=column-2&p\\_p\\_col\\_count=1&processDetail\\_WAR\\_portlet&fileCooaddr=COO.2145.1000.3.1718301&processDetail\\_WAR\\_portlet&file=Vyhodnotenie+medzirezortn%C3%A9ho+pripomienkov%C3%A9ho+konania.docx&processDetail\\_WAR\\_portlet&action=getFile](https://www.slov-lex.sk/legislativne-procesy?p_p_id=processDetail_WAR_portlet&p_p_lifecycle=2&p_p_state=normal&p_p_mode=view&p_p_cacheability=cacheLevelPage&p_p_col_id=column-2&p_p_col_count=1&processDetail_WAR_portlet&fileCooaddr=COO.2145.1000.3.1718301&processDetail_WAR_portlet&file=Vyhodnotenie+medzirezortn%C3%A9ho+pripomienkov%C3%A9ho+konania.docx&processDetail_WAR_portlet&action=getFile) (quoted on 7.3.2017).

the amendment of the Act on Complaints.<sup>40</sup>

The Government Council of the Slovak Republic for Human Rights, National Minorities and Gender Equality supported the statement of the Committee for PwD No. 71 of 2.12.2016 at its session held on 9.12.2016 by a resolution No. 156 and delegated the chair of the Government Council of the Slovak Republic for Human Rights, National Minorities and Gender Equality to articulate the Committee's for PwD statement to the Government of the Slovak Republic.<sup>41</sup>

The initiative communicated at the session of the Committee for PwD on 2.12.2016 was consequently enforced on the governmental level in December 2016 within the legislative procedure. According to the new proposal of Article 5 of the Act on Complaints, complaints are admissible only in written form either written or electronic.<sup>42</sup> A written complaint must include a signature. It must be clear and readable. The complaint must make it clear who is it addressed against, which deficiencies it contests and what does the complainant seek. Under the proposed wording of Article 5 para. 7, if the complainant approaches a public body without a written complaint, the public body allows him or her to prepare the written complaint. In case the health condition of the complainant prohibits him or her to prepare a written complaint, an employee of the public body does so on his or her behalf. The obligation of the complainant to provide all the required information is not affected. The Explanatory Memorandum was respectively consolidated.<sup>43</sup>

The draft amendment was debated on the 12th session of the National Council of the Slovak Republic (NC SR) and was moved (by resolution No. 416 of 1.2.2017) to the committees at NC SR, in particular the Committee for Human Rights and National Minorities, the Constitutional Committee and the Committee for Public Administration and Regional Development. The last one was appointed as a gestor committee with a deadline to submit its resolution by 20.3.2017.

Oral complaints have a relatively long tradition in Slovakia and have been beneficial

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<sup>40</sup> Minutes from the session of the Committee for PwD of 2.12.2016, available in Slovak at: [https://www.employment.gov.sk/files/slovensky/ministerstvo/konzultacne-organy/rada-vlady-sr-ludske-prava-narodnostne-mensiny-rodovu-rovnost/vybor-osoby-so-zdravotnym-postihnutim/zasadnutia/na-web\\_zaznam\\_vozp-02-12-2016.pdf](https://www.employment.gov.sk/files/slovensky/ministerstvo/konzultacne-organy/rada-vlady-sr-ludske-prava-narodnostne-mensiny-rodovu-rovnost/vybor-osoby-so-zdravotnym-postihnutim/zasadnutia/na-web_zaznam_vozp-02-12-2016.pdf) (quoted on 7.3.2017). Information from the session available in Slovak at: <https://www.employment.gov.sk/files/slovensky/ministerstvo/konzultacne-organy/rada-vlady-sr-ludske-prava-narodnostne-mensiny-rodovu-rovnost/vybor-osoby-so-zdravotnym-postihnutim/zasadnutia/informacia-zaveroch-vozp-02-12-2016.pdf> (quoted on 7.3.2017).

<sup>41</sup> [http://www.radavladyp.gov.sk/data/files/6782\\_zavery-z-25-zasadnutia-rvlp.pdf](http://www.radavladyp.gov.sk/data/files/6782_zavery-z-25-zasadnutia-rvlp.pdf) (quoted on 7.3.2017).

<sup>42</sup> [www.nrsr.sk/web/Dynamic/Download.aspx?DocID=434000](http://www.nrsr.sk/web/Dynamic/Download.aspx?DocID=434000) (quoted on 7.3.2017).

<sup>43</sup> Explanatory Memorandum, point 5, available in Slovak at: <http://www.nrsr.sk/web/Dynamic/Download.aspx?DocID=434001> (quoted on 7.3.2017).

for those complainants who are unable to submit written complaints from objective or subjective reasons. It was never investigated why the complainant had opted for an oral complaint. The reasons could be based on timeframe, health disadvantages, illiteracy, lack of administration skills, special dysfunctions such as dyslexia, dysgraphia or dysortographia, temporary or permanent health condition, low knowledge of language or grammar, insufficient material conditions or origin in socially disadvantaged environment.

The draft amendment makes oral complaints inadmissible. Complainant is thus facing certain minimum requirements – i. e. he or she would either need to be able to prepare a written complaint or seek legal aid.

Different situation concern complainants whose health condition makes them unable to prepare written complaints by themselves. On behalf of such person, the written complaint would be prepared by an employee of the public body. Health condition is defined quite widely. It is clear that obvious handicaps caused by health condition that negatively affect mobility or vision of the complainant would be understood as a situation requesting help of the public body's employee. The Centre is, however, concerned whether employees of public bodies are capable and erudite enough to assess ad hoc a health condition of the complainant that would adversely affect the ability to submit a written complaint e.g. brain abilities. It is questionable whether they would be able to identify and accept dyslexia, dysgraphia or dysortographia and based on this prepare the written complaint together with the complainant.

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The Centre finds it unacceptable that a complainant whose health condition precludes him or her to prepare a written complaint alone would anyhow have to identify himself or herself to an employee of any public body with a PWD card, medical confirmation or detail information of his or her health condition. Such situation could be a base for further discrimination.

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Besides that, the Centre believes that the draft amendment of the Act on Complaints failed to take into account persons unable to file or prepare a written complaint e. g. due to social disadvantages (poverty or culture), illiteracy, lack of administrative skills, low knowledge of language or grammar, lack of education or insufficient material resources. The current wording of the Act on Complaints allows oral complaints that are recorded, while the report is prepared in cooperation between the complainant and an employee of a public body. It requests the observance of requirements under Articles 3 and 4 of the Act on Complaints. In general, it is prevented that somebody would be impeded in seeking his or her rights by using complaints to public bodies. The draft amendment does not recognise such option.

**In case the complainant faces other obstacles than those caused by his or her health condition, he or she must resolve them alone in order to be able to prepare a written complaint. Another option would be to empower his or her legal representative. The Centre, thus, contests that the draft amendment of the Act on Complaints is liable to create situations that would disadvantage certain groups of persons (e.g. persons from socially disadvantaged environment, asylum seekers etc.) in seeking their rights.**



According to the author of the amendment proposal, one of the reasons behind the amendment is the regulation of electronic complaints filed via electronic mails or access points. In practice, the complainant can file the complaint without authorisation by a qualified electronic signature or qualified electronic seal via a general e-mail. Any complaint submitted this way will have to be confirmed and duly signed within five working days upon submission, otherwise it would be closed. It is expected that this would support wider implementation in practice of electronic communication secured by qualified electronic signature or qualified electronic seal, which is so far used in practice very limitedly.<sup>44</sup>

The Centre welcomes the drafting process of the governmental proposal of the Act amending and supplementing the Act No. 9/2010 Coll. on Complaints as amended. Despite the non-involvement of representatives of PwD in the inter-resort comment procedure, the Government Office accepted the comments raised by the Committee for PwD and subsequently by the Government Council of the Slovak Republic for Human Rights, National Minorities and Gender Equality.

The Centre is disturbed by the fact that, with the exception of the Ministry of Justice and NBS, none of the commenting stakeholders<sup>45</sup> has pointed at the need of such regulation of complaints with regards to Article 5, which would secure universal accessibility to seek rights to everybody with no direct or indirect limitations and disadvantages.

The Centre is even more concerned by the fact that none of the commenting stakeholders has taken into account Article 46 para. 1 of the Constitution, obligations under the CRDP and the Antidiscrimination Act.

## RECOMMENDATIONS

The Centre recommends that:

1. Members of NC SR protect the interests of all person within access to complaints and enforce such amendment of the Act No. 9/2010 Coll. on Complaints that would

<sup>44</sup> Act No. 272/2016 Coll. on Reliable Services for Electronic Transactions at Internal Market and amending and supplementing certain acts (Act on Reliable Services), which entered into force on 18.10.2016.

<sup>45</sup> See the list of commenting subjects, available in Slovak at: [https://www.slov-lex.sk/legislativne-procesy?p\\_p\\_id=processDetail\\_WAR\\_portlet&p\\_p\\_lifecycle=2&p\\_p\\_state=normal&p\\_p\\_mode=view&p\\_p\\_cacheability=cacheLevelPage&p\\_p\\_col\\_id=column-2&p\\_p\\_col\\_count=1&processDetail\\_WAR\\_portlet&fileCooaddr=COO.2145.1000.3.1718301&processDetail\\_WAR\\_portlet&file=Vyhodnotenie+medzirezortn%C3%A9ho+pripomienkov%C3%A9ho+konania.docx&processDetail\\_WAR\\_portlet&action=getFile](https://www.slov-lex.sk/legislativne-procesy?p_p_id=processDetail_WAR_portlet&p_p_lifecycle=2&p_p_state=normal&p_p_mode=view&p_p_cacheability=cacheLevelPage&p_p_col_id=column-2&p_p_col_count=1&processDetail_WAR_portlet&fileCooaddr=COO.2145.1000.3.1718301&processDetail_WAR_portlet&file=Vyhodnotenie+medzirezortn%C3%A9ho+pripomienkov%C3%A9ho+konania.docx&processDetail_WAR_portlet&action=getFile) (quoted on 7.3.2017).

provide for universal accessibility to seek rights to everyone without any direct or indirect limitations or disadvantages, duly observing the principle of equal treatment.

2. Members of NC SR, within the legislative procedure, consider preserving oral form of complaints and change the wording of Article 5 para. 7 of the government proposal of an act amending and supplementing the Act No. 9/2010 Coll. on Complaints as amended.
3. Public Bodies, irrespective of the adoption of the amendment of the Act No. 9/2010 Coll. on Complaints, secure universal accessibility to seeking rights through complaints to everyone with no direct or indirect limitations or disadvantages, duly observing the principle of equal treatment.
4. Public bodies, with regards to electronic complaints via access point, secure their operation and communication in a uniform, user-friendly, clear and understandable format that would also be readable in relation to accessibility requirement by assisting technologies for persons with disabilities.
5. Legal aid providers either financed by the state – the Legal Aid Centre and the Centre – as well as non-governmental organisations and social work service providers introduce among their services also legal aid, assistance and instruction to prepare and file written complaints with an aim to prevent and eliminate disadvantages on any ground to seek rights in this form.



## 4 RIGHTS OF ROMA

### 4.1 Anti-Roma fences

For a long time, the Centre has been addressing the issue of the construction of the so-called anti-Roma fences in Slovakia. Already in its 2013 HR Report, the Centre warned against the increasing tendency of their construction. The Centre has decided to investigate the situation in those cities and municipalities where such fences or walls were constructed. Mayors of municipalities and cities of Košice, Michalovce, Ostrovany, Partizánske, Plavecký Štvrtok, Prešov, Sereď, Veľká Ida, Vrútky and Zlaté Moravce were approached by the Centre's requests for information in summer 2016.

Based on their statements, it can be concluded that the segregation of Roma population from the majority by walls or fences persists in 8 cities or municipalities. The city of Prešov was the only one to remove the wall. The city of Košice did not answer the request of the Centre.



Generally, all statements uniformly informed that upon construction of the walls or fences the situation has improved in relation to cleanness and environment and that the cities and municipalities were planning to keep the walls or fences at their territory not considering their removal.

The fence constructed in Partizánske was covered in the Centre's 2012 HR Report. Based on media information from August 2016, the Centre conducted an inspection and found out that a 3-meter tall fence with a barbed wire on the top was additionally strengthened by the city.

The mayor of Partizánske claims that the fence represents improvement of the situation, increased protection of the surrounding of the houses and property of the majority population against unacceptable behaviour of the Roma population. In his statement, he accents wide field social work activities concerning consultancy and support.<sup>46</sup>

To the contrary, the city of Prešov decided to remove the wall already in 2015 and dedicated its efforts to improvement of the situation through a National Project Field Social Work in Municipalities and to improve mutual cohabitation between Roma and the majority.

From other statements of the requested subjects, the Centre selects the following.

The City of Michalovce claims that the wall in its territory has multiple purposes. It provides protection and prevention but it is also used for games and sport activities as well as artistic activities for children in forms of graffiti.

The city of Zlaté Moravce stated that it aimed to support the Roma population in

<sup>46</sup> Statement of the city of Partizánske regarding the Centre's request of 22.8.2016.

various areas and the results are visible.<sup>47</sup> The wall between the Roma and the majority population is not contested by anybody and it does not create a real barrier in provision of any services. Hence, the city does not consider its elimination.

Two 2-meter tall fences were constructed in Plavecký Štvrtok to protect private property. They were built by land owners whose land was polluted by trespassing Roma. The situation and relations between the Roma and the majority remain unchanged.

The city of Vrútky stated that the situation improved upon the construction of the wall. The number of complaints and conflicts among the population decreased as well as the level of damage on surrounded houses. The city finds the wall meaningful and fulfilling its purpose. Thus, its removal is not being considered.

The city of Sered' provided the Centre with a wide photo documentation showing extreme pollution in the area of Cukrovarská Street 181.<sup>48</sup> It stated that the local population did not respect repeated calls from the municipal police to maintain order and did not pay commission for waste liquidation. Hence, the city replaced the trash containers with a large capacity container, closed the space next to the backyard gate and constructed a wall from the dam. The only positive aspect was that the had city consulted its steps with a local Roma leader prior their realisation.

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The Centre believes that construction of anti-Roma walls is only an apparent solution while in practice barriers between neighbouring populations only deepen. Decisions of cities and municipalities to construct walls, fences or other barriers do not solve the issues and do not give raise to integration of Roma into the majority society. The Centre criticises the self-governments for creating barriers instead of using all lawful measures available.

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Construction of walls and fences is closely related to the issue of housing. Discrimination of Roma appears in various areas but it is mostly obvious in the area of housing. Roma housing is a persisting problem in Slovakia. Roma often live in settlements, which in large parts do not fulfil technical, and hygienic standards. The Centre warns against the fact that social exclusion is mostly visible in the area of housing and that this area is one of the areas with increasing gaps between Roma and the majority. Territorial segregation has impacts on social, economic and living conditions of the community.

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<sup>47</sup> Statement of the city of Zlaté Moravce regarding the Centre's request of 22.8.2016.

<sup>48</sup> Statement of the city of Sered' regarding the Centre's request of 13.9.2016.

**Under Article 3 of the International Convention on Elimination of All Forms of Racial Discrimination, states condemn racial segregation and apartheid and commit to prevent, prohibit and eliminate all related practices in their territories. The Centre contests the fact that despite this commitment the Slovak practice still reveals territorial residential segregation of Roma.**



## RECOMMENDATIONS

The Centre (repeatedly) recommends that:

1. The Ministry of Labour in cooperation with the Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities implement clear housing policies aimed at elimination of segregation.
2. The Ministry of Labour improve housing conditions of Roma through social work.
3. The Ministry of Labour decrease special residential segregation of Roma.
4. The Ministry of Labour in cooperation with territorial self-governments increase the percentage of Roma houses with access to basic infrastructure.
5. The Ministry of Labour in cooperation with territorial self-governments increase the percentage of Roma citizen living in lawful settlements and on lands with legally settled ownership.
6. The Ministry of Interior seek financial means for Roma civic guards under financial dotation, grants etc.
7. Cities and municipalities, upon availability, use the so-called Roma civic guards.

### 4.2 Independent investigation in the crisis accommodation facility Kotva

A crisis accommodation facility Kotva IV (Kotva) in Banská Bystrica is designed for families or single parents with dependent child/children who face adverse social situation. It was established by the city of Banská Bystrica.

On the International Roma Day (8.4.2016), clients of Kotva and Roma activists gathered in front of the City Hall in Banská Bystrica and presented a *“Petition for human dignity of Banská Bystrica citizens accommodated in Kotva facilities”*. The petition was initiated upon a suicide of a former client of Kotva, which caused tension among the clients of Kotva. The petition was addressed to the mayor and members of parliament of Banská Bystrica.<sup>49</sup>

Upon monitoring media information, the regional representative of the Centre in Banská Bystrica met in May 2016 with clients of Kotva who informed her about the petition

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<sup>49</sup> bystricoviny.sk [online].©2016. [quoted 2017-03-01].

filed to the city of Banská Bystrica. Based on communication with the clients of Kotva and negotiations at the City Hall in Banská Bystrica, the Centre requested that the city allow its independent investigation in Kotva.

The Centre conducted an independent investigation on 13.7.2016 in the presence of the city's representatives. On 9.8.2016, the regional representative met again with the clients of Kotva to discuss current issues in the facility. The Centre consequently formulated recommendations to the city of Banská Bystrica aimed at amending the Operation and Accommodation Rules of Kotva, which regulate conditions in the facilities.

One of the problems concerned doing the laundry. The clients of Kotva contested in the petition that they could not do their laundry after 5 p.m. The provider informed the Centre that in later hours, there is an issue with non-removal of the laundry from the machines.

Within its independent investigation, the Centre proposed that the Accommodation Rules are modified to allow doing the laundry until 6 p.m. The clients stated that the commission for doing laundry was 30 euro cents per one laundry. They claimed that they did not receive any confirmation of the payment. Thus, the Centre recommended that a payment confirmation for the laundry is introduced. The Centre welcomes that the amended Accommodation Rules, effective as of 1.11.2016, supplemented the relevant provision in line with its recommendations.

The most critical part of the petition was the prohibition of visits. Visits have been prohibited in Kotva since December 2013 due to an incident. The independent investigation did not identify negative attitude of providers concerning the visits. The communication between the regional representative and clients of Kotva on 9.8.2016 showed that at the material time visits were allowed.

The Centre proposed amendment of the relevant provision of the Accommodation Rules. It suggested that visits are allowed not only to a closest family but to whoever (family, relatives, colleagues, friends etc.) under certain conditions and in the defined area for visits. In case of a serious reason for inadmissibility of a visit, the Centre recommended that such decisions be reported together with the reasons. In case the visit did not behave in line with good manners, the Centre proposed that such person could be expelled.

The Centre welcomes that the visits were permitted again, which was witnessed by the regional representative herself. However, they are only allowed for direct relatives (brothers, sisters, parents, grandparents and children). Visits of more distant relatives are exceptionally allowed upon written permission of a social worker.

The statement of the city of Banská Bystrica suggests that situation in Kotva is



currently standard and the city finds it adequate with regards to the composition of clients. The clients abide to the amended Operation and Accommodation Rules. Social climate in the facilities is adequate to the resources, abilities and human factors of both parties involved.<sup>50</sup>

## RECOMMENDATIONS



The Centre recommends that:

1. The city of Banská Bystrica regularly monitors situation in the facility Kotva, particularly with regards to protection of the rights and interests of its clients.

### 4.3 Discrimination of Roma in provision of accommodation services

Based on media monitoring focused on observance of the principle of equal treatment, the Centre addressed a case of discrimination in provision of accommodation services.

A dormitory in Bratislava refused to prolong accommodation of two Roma due to their ethnicity. The owner of the facility claimed that one of the floors, which was intended for Roma people, was fully booked. Despite availability of rooms on other floors, the dormitory refused to prolong accommodation of these persons. The co-owner stated that they separated Roma from other clients due to the fear of losing non-Roma clients. In the past, non-Roma clients rejected accommodation services, since the dormitory used to provide the so-called mixed accommodation, i.e. Roma and non-Roma shared rooms and floors. Non-Roma clients were refusing to share rooms or even the same floor with Roma.

Refusal to provide accommodation and the related practice cause a violation of the principle of equal treatment for several reasons. The co-owners of the facility engaged in direct discrimination based on ethnicity, in particular against two Roma persons. Their established practice concerning provision of accommodation services is segregation and causes indirect discrimination of Roma.

The contested conduct of the co-owners motivated by higher profits is unacceptable under the antidiscrimination legislation and is based on stereotypes and prejudice. By their

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<sup>50</sup> Statement of the city of Banská Bystrica regarding the Centre's request of 3.2.2017.

conduct, the co-owners excluded the two Roma concerned from receiving accommodation services. Justification concerning the fear of losing clients would only be acceptable under strict requirements and if it was not based on prejudice. Hence, the conduct of the co-owners was unacceptable and unlawful in terms of the antidiscrimination legislation.

The Centre was interested to provide its legal aid to the discriminated Roma. It contacted a responsible person of a company that employed the Roma in construction works and through this person the Centre sought to obtain a written power of attorney to represent them. Since the Centre did not succeed, it was not entitled to represent the victims of discrimination. The Centre also requested cooperation from the Slovak Trade Inspection (STI) and asked to be informed in case of a subsequent inspection in the dormitory.

However, the representative of STI stated that the result of the initial control with a written statement of the co-owners should be sufficient to adopt inspection conclusions. The Centre closed the case by its expert opinion, which has been published at its website.<sup>51</sup>

## RECOMMENDATIONS



The Centre recommends that:

1. The owners of the accommodation facility immediately refrain from discriminatory conduct based on membership of an ethnic group in access to accommodation.
2. The owners of the accommodation facility refrain from segregation caused by division of floors in the accommodation facility.

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<sup>51</sup> [http://www.snslp.sk/CCMS/files/2016\\_-\\_anonymizovan%C3%A9\\_odborn%C3%A9\\_stanovisko\\_-\\_diskrimin%C3%A1cia\\_z\\_d%C3%B4vodu\\_pr%C3%ADslu%C5%A1nosti\\_k\\_etnickej\\_skupine1.pdf](http://www.snslp.sk/CCMS/files/2016_-_anonymizovan%C3%A9_odborn%C3%A9_stanovisko_-_diskrimin%C3%A1cia_z_d%C3%B4vodu_pr%C3%ADslu%C5%A1nosti_k_etnickej_skupine1.pdf)



## 5 RIGHT TO EDUCATION

### 5.1 Segregated schools in Eastern Slovakia

The majority population in Slovakia very emotionally perceives issues concerning persons from socially excluded communities, in particular Roma people. Among the most sensitive issue are naturally those linked to the social area. Another, less visible but even more sensitive area is the upbringing and education of children from marginalised Roma communities (MRC). Low or inferior education hinders the chances of young people to find employment and succeed in the labour market.

Despite the prohibition of discrimination and segregation in the area of education under the Act No. 245/2008 Coll. on Upbringing and Education and amending and supplementing certain acts (the School Act), this area remains problematic and there is very slow progress in its improvement. Children from MRC who are subjected to segregation practices are even more challenged in achieving good quality education, succeeding in labour market but also in enjoying chances for personal development, achieving their personal self-respect and respected of their peers. Segregation practices also negatively impact children from the majority, who face and can incline to stereotypes and intolerance. This causes

obstacles to address the most sensitive issues already towards the youngest generation since the society is affected by social inconsistency, intolerance and discrimination sometimes leading to extremism.

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It is a Slovak reality that students from socially excluded communities do not have comparable opportunities when entering into educational process, often due to family conditions and poverty. If their adverse situation is only deepened within the education process, they do not enjoy chances to education equal to their classmates. Segregation occurs not only within the education process itself, but also with regards to other school educational and upbringing activities.

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School attendance is compulsory. Discrimination and segregation practices can affect all children. Victims of these practices are minor children who cannot effectively protect themselves.

### **Concrete cases of segregation**

The Centre cooperates with the State School Inspection (SSI) in the area of human rights protection and promotion, particularly regarding the rights of the child. Within this cooperation, SSI informed the Centre about relevant results of state school inspections.

Found cases of segregation in education were based on real or symbolic separation of particular groups of students from the majority.

In the academic year 2015/2016, SSI found segregation practices in two inspected schools regarding education of Roma students and in two schools in terms of enrolment of students from MRC into special classes without prior diagnostics.

#### **Elementary School with Kindergarten, Hlavná 267, Kuzmice**

Documentation of elementary school students with special upbringing and educational needs was incomplete. Certain files missed reports from special pedagogical examination and a re-diagnostics recommended by counselling facilities was not realised. Based on written requests of legal representatives, conclusions of psychological examination and without special pedagogical examination, the students concerned were unlawfully enrolled in special classes by decision of a headmaster upon debate in the pedagogical council.

### **Elementary School, Víťaz 263**

Within inspection of documentation of 1<sup>st</sup> grade students enrolled in a special class for pupils with low level of mental disability, SSI found that 4 pupils from MRC were enrolled in such class upon special pedagogical examination in the Centre of special pedagogical counselling (CSPC), which diagnosed them with psychosocial deprivation as well as emotional and social immaturity, but not with retardation. These examinations were not preceded by any examinations in the Centre of pedagogical and psychological counselling and prevention (CPPCaP).

The situation was redressed by examination of these students in CPPCaP Prešov. Two pupils were relocated to a standard 1<sup>st</sup> grade class in the academic year 2016/2017.

### **Church Elementary School of St. Michal, Kendice 424**

Education process in the church elementary school was realised in 13 classrooms located in two buildings distant from each other by 800 meters. 8 classrooms were located in the main building and a lower number of pupils from MRC was enrolled in these classes with an exception of the 1<sup>st</sup> grade that was solely attended by pupils from MRC. 4 classrooms were located in the distant building and were attended solely by pupils from MRC.

The school's headmaster informed the Centre that he has decided to relocate pupils or enrol new children in classes in such a way to decrease a percentage of pupils from MRC. He also stated that the school reassessed enrolment of pupils from MRC based on dialogues with their legal representatives and a questionnaire. The measure was implemented by 2.9.2016.

SSI conducted a subsequent inspection in the school on 13.9.2016 in order to monitor elimination of the established deficiencies and found out that the recommendation to eliminate segregation has been fulfilled.

### **Elementary School, Komenského 135/6, Medzilaborce**

In this school, a class (5.B) was established purely for pupils from MRC despite the fact that the school could enrol them in a parallel 5<sup>th</sup> grade class. At the time of the inspection, Roma students from the upper grade classes were eating in separated classrooms.

The elementary school submitted the Centre a report on implementation of imposed measures. In order to eliminate found deficiencies, the school accepted 3 recommendations and adopted 14 measures that are gradually being implemented within the academic year 2016/2017. Since 5.9.2016, all students have been eating together in the canteen.

In the academic year 2015/2016, the school was attended by 340 students and had 12

mixed classes. Four special classes (2.C, 4.C, 6. B, 9.B) were attended solely by Roma students. Only one standard class 5.B with 15 Roma students provided continual education for students who had passed the so-called zero class. These students, upon approval of their legal representatives, were diagnosed in CPPCaP and CSPC. Based on the diagnostics, the school opened a special class for these students in the academic year 2016/2017. Thus, a special class was established upon recommendation of consultancy facilities. Nine students remained in a special class and others were integrated into a parallel class.

The elementary school stated that under the previous management certain Roma children ate meals separately. The underlying reason was an aim to partially compensate deficits in insufficient hygiene and lack of eating habits. Neither Roma nor non-Roma community found it to cause segregation. No other activities were realised separately for Roma and non-Roma children, including the education.

In a letter addressed to the Centre, the headmaster stated: *“Since 2013, the new management has been seeking to introduce certain organisation changes to promote inclusion of students from marginalised Roma communities. We respect diversity of opinions in the school and aim to comprehensively address all factors that contribute to eliminate segregation. We seek to implement de-segregation strategies and become a pro-inclusion school. We pay due attention to equal opportunities to access good quality education. Our efforts aim to gain support of all parents and stabilise the situation. We use various integration tools (teacher assistants, all day upbringing system, students’ parliament, participation in projects and training programmes for teachers, interest facilities for students from socially disadvantaged environment, school trips, monthly events and quizzes upon auspices of a special pedagogue).*

*We accent multicultural elements in education processes. These activities have been mirrored in reduced number of missed school hours by students from socially disadvantaged environment and slight increase of Roma parents’ participation at school reunions of parents as well as improved communication between Roma parents and class teachers. We managed to partially resolve the issue with separated eating of school meals. After negative media portrayal, we gave all students the opportunity to eat together. A part of Roma students started to eat together with non-Roma students in the academic year 2015/2016, the rest of them did not use this opportunity and continued eating separately with assistants.”*<sup>52</sup>

The elementary school stated that despite enormous efforts to integrate students from

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<sup>52</sup> Report of the elementary school on implementation of measures to eliminated deficits found by SSI, submitted to the Centre on 24.1.2017.

socially disadvantaged environments it was still facing constant problems concerning the skipped classes, behaviour and learning disorders and insufficient parental care and interest.

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The Centre believes that discrimination and segregation in education fundamentally determines social, economic, moral and legal success of Slovakia and its population in future decades. It is part of a wider issue resulting from the constantly postponed reorganisation and reform of education system in Slovakia, particularly elementary school education.

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Upbringing and education in schools must reflect social situation and at the same time be progressive, e.g. lead to modern, effective and practical educational methods accessible to everybody, thus building and strengthening civil society from childhood. Upbringing and education must take into account individual opportunities and needs of each student while the educational process must be able to provide the best standard of education to everybody. This is currently not a reality in relation to groups and generations of students of certain social status, ethnicity or based on locality where they live.

## RECOMMENDATIONS

The Centre recommends that:

1. The Slovak Republic, through training and methodological institutions, increase level and professional abilities of pedagogues and train them to support personal growth and tolerance among all students.
2. The Slovak Republic continue with capacity and quality development of pre-school education in order to make it locally and substantively accessible for all children, including natural inclusion of children from socially disadvantaged communities.
3. The Slovak Republic increase sustainable funding of cities and municipalities according to the number of children, which is requested for capacity and quality development of schools, pre-school facilities as well as training and activities for pedagogues, school assistants and CPPCaPs.
4. The Ministry of Education specify de-segregation and inclusion, prepare relevant methodologies and explain them to schools as well as support schools in implementing related educational and pedagogical processes.

5. The Ministry of Education, schools, school facilities, municipalities and self-governing regions actively communicate and cooperate with Roma parents, adopt support educational activities for socially disadvantaged students, financially and expertly support such activities and flexibly adapt them.
6. Schools and school facilities integrate Roma children within the majority when possible, since mixed classes benefit social education of all children and can support better acceptance of diversities in adulthood.
7. Schools and school facilities realise such upbringing and educational activities for children in schools to support their ability to flexibly address diversities and differences as a natural social phenomena.
8. Schools and school facilities improve abilities to address different needs of students without their permanent categorisation.
9. Schools and school facilities, municipalities and cities create, maintain and actively offer extra-curricular and interest activities accessible for all children.

## 5.2 Diagnostics within enrolment into primary schools

In the past, enrolment of children in specific types of elementary schools disadvantaged mainly children from socially disadvantaged environment, particularly Roma children. Their enrolment in special classes or special elementary schools without further assessment of their ability to follow more difficult curricula impeded their access to standard and good quality education.

This practice was partially caused by the interest to maintain family ties of children in orphanages and partially by wrong diagnostics. In terms of diagnostics failures, the Centre underlines the increased risk of children facing barriers in further education caused by attending special elementary schools for children with intellectual disabilities.

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Wrong diagnostics can determine education and upbringing as well as overall development of a child in an inappropriate environment. A person can hardly escape from the impacts of such environment to achieve at least elementary standards in education. Naturally, this is linked to other practical issues.

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According to the Research Institute for Child Psychology and Pathopsychology, records of those diagnostics requested by parents of Roma children are limited in terms of ethnic data collection. The number of diagnostics upon parental request is not recorded. In 2015 and 2016, the Research Institute for Child Psychology and Pathopsychology within its activities recorded requests for psychological re-diagnostics by three parents from socially disadvantaged environment with Roma mother tongue whose children attended special classes of elementary schools with education programme for students with intellectual disabilities. These requests were based on doubts concerning the accuracy of placement of their children within such educational programme.<sup>53</sup>

Exact number of Roma population in specific types of schools cannot be established. Statistical data of the Slovak Centre of Scientific and Technical Information of the Slovak Republic (CVTI SR) include information on nationality composition of students, this number however does not indicate the real number of Roma students in specific types of schools. Since part of Roma population claim Slovak or other nationality, the number is very misleading.

Data provided by CVTI SR<sup>54</sup> provide at least an approximate picture of Roma children percentage in schools by type in 2016 (graph no. 1). In total, the proportion of Roma population in schools in 2016 was 1 911 of a total number of 836 671 students and children in all types of schools, i.e. 0,23 %. The number of students and children with Slovak nationality is 769 198.

Comparison of percentual representation of children with Roma nationality and children with Slovak nationality in schools by types can be seen in graph no. 2. With regards to prevailing proportion in certain schools (except from kindergartens), Roma children are significantly represented in elementary and special elementary schools (together with special classes in elementary schools it represents 17,1 %).

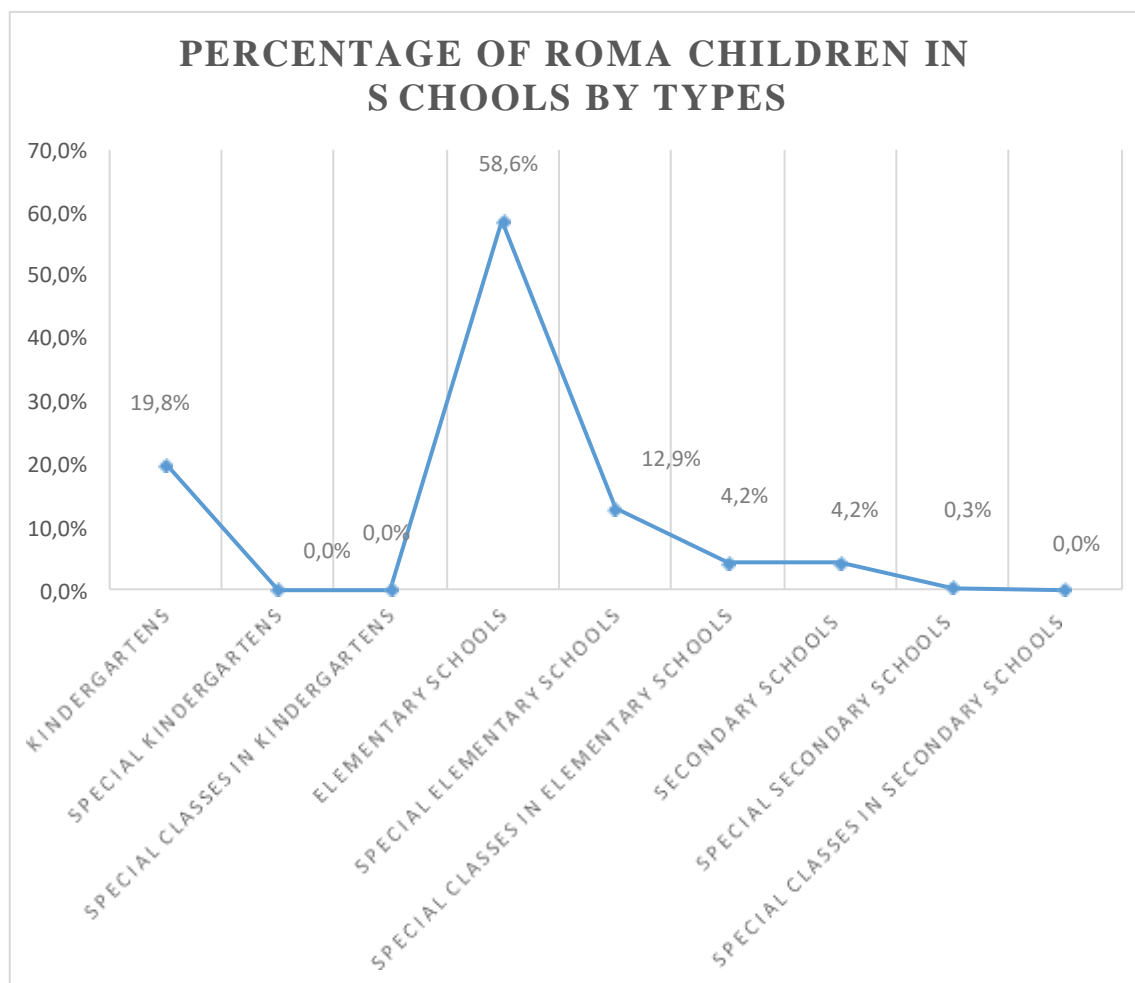
In these terms, it is particularly important to research relatively high percentual proportion in elementary schools and special elementary schools including special classes in elementary schools (graph no. 3).

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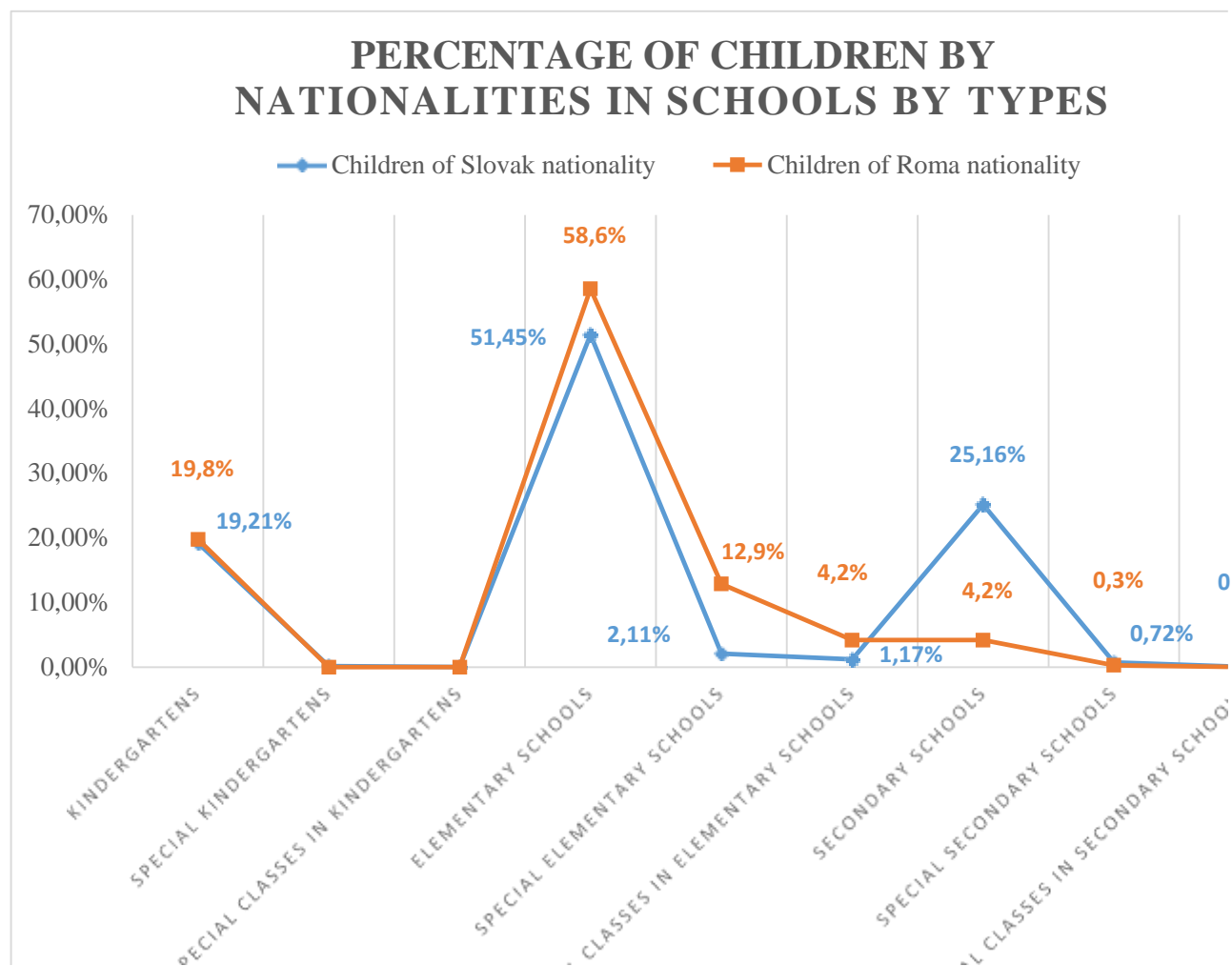
<sup>53</sup> Statement of the Research Institute for Child Psychology and Pathopsychology of 21.2.2017 concerning the number of diagnostics of Roma children.

<sup>54</sup> Statement of CVTI SR of 27.1.2017 regarding the data of diagnostics of Roma children.

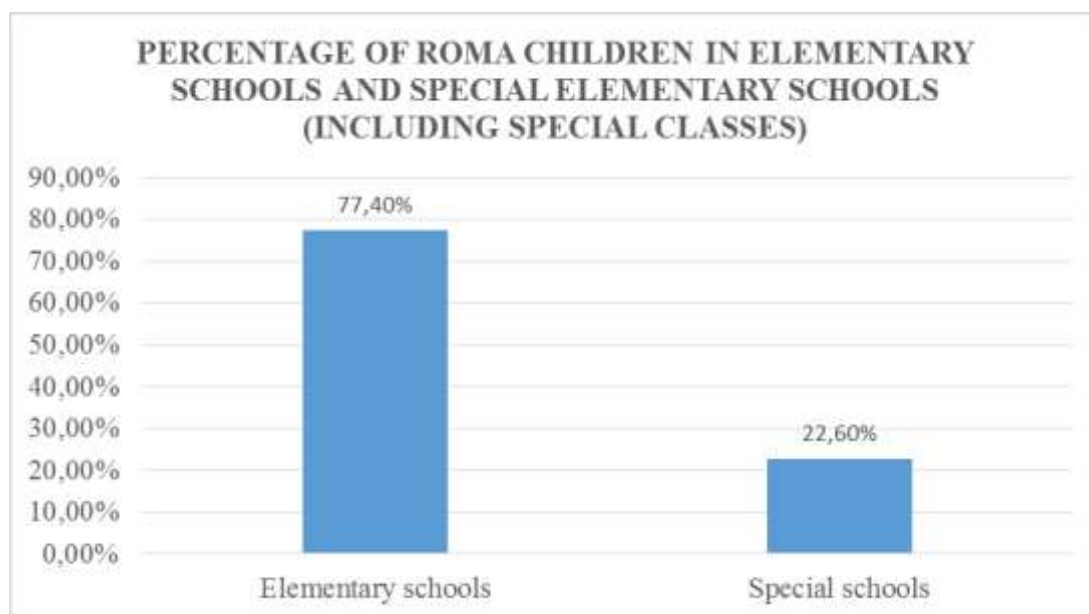
Graph no. 1 – Percentage of Roma children in schools by types. Source: CVTI SR



Graph no. 2 – Percentage of children of Slovak nationality and Roma nationality in schools by types-comparison. Source: CVTI SR

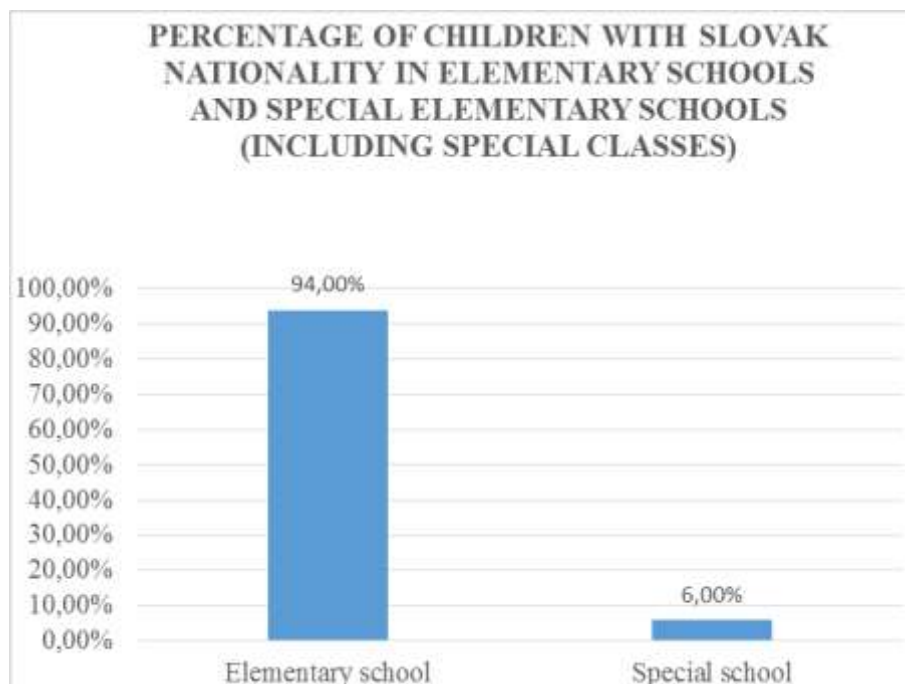


Graph no. 3 – Percentage of Roma students by education level. Source: CVTI SR



In comparison with the percentage of majority children and students in elementary schools and particularly in special elementary schools including special classes, the percentage of Roma nationality is significantly higher with regards to special education (graph no. 4).

Graph no. 4 – Percentage of children with Slovak nationality in primary education schools. Source: CVTI SR



The Centre is concerned by the fact that (as stated by the Research Institute for Child Psychology and Pathopsychology) testing measures in Roma language are not used in diagnostics practice and no psychological diagnostic measures in Roma language are being prepared either. In Slovakia, psychological tests are not available in a language of any other national minority. When testing a child from Roma community who does not sufficiently understand the Slovak language, CPPCaP address this barrier with several approaches (exclusion of verbal parts of tests, using Roma language, presence of a third person who knows Roma language during less complex verbal tasks).

Based on lower level of knowledge of the Slovak language, a certain group of children is disadvantaged within testing. Using tests in the Roma language is linked to various practical problems (a child can communicate in a local dialect, translation of tests does not resolve social and cultural disadvantage within testing, since the test does not necessarily reflect specific experience of these children or lack of certain knowledge).

Within the education system, there is a facultative option to suggest re-diagnostics of a child upon initiation of a pedagogue (special pedagogue, class teacher, headmaster). In practice of special elementary schools, this option applies more exceptionally and can be influenced by various unrelated motives (e.g. funding forms in education).

Regardingly, it is necessary to search for legal solutions of the current situation and make the diagnostics practice more effective (without the need of complete re-diagnostics). It is particularly important to focus on diagnostics methodologies of children from Roma communities.

Inappropriate enrolment of a child (not only) from a Roma community into a special elementary school causes problematic success in life due to the completed level of education and brings about obstacle in achieving higher level of education.

The Centre identified barriers faced by such special school graduates in comparison to graduates of other special schools (students with health disadvantage) or standard elementary schools. Upon termination of the last grade of a special school, a student with intellectual disability gains primary education adequate to completion of the last grade of educational programme for the first level of a standard elementary schools.

An inevitable legal requirement to continue with higher education within secondary vocational education or full secondary vocational education (with state graduation examination) is to complete lower secondary education adequate to successfully terminating the last grade of educational programme for the second level of a standard elementary school (secondary education).

Upon completion of a special elementary school for students with intellectual disabilities, the achieved level of education does not entail to lower secondary education, i.e. full termination of an elementary school, as compared to standard elementary schools.

Special elementary schools for students with intellectual disabilities (including low level of intellectual retardation) do not offer more difficult forms of education in order to provide full elementary education adequate to the second level of elementary schools – lower secondary education. School curricula absent certain subjects or the difficulty and content of the subject matter is lower, which is natural and objectively justified with regards to specificities of the target group. What is disturbing is the fact that educational process does not distinguish between students with excellent study results who would be able to complete more difficult education processes or other (absenting) subjects and other students.

Due to the absence of different performance requirements based on different study results, students are discriminated in admission to the first grade of education programme of the secondary vocational education or full secondary vocational education<sup>55</sup>, without being able to personally influence it. The School Act does not allow them to automatically enrol in such level of education. In order to achieve the required level of education under Article 16 para. 3 subpara. b) of the School Act, an applicant to higher level education must necessarily complete education organised by a school on a facultative basis, i.e. full lower secondary education is a basic requirement for admission to a school of higher level (irrespective of

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<sup>55</sup> E.g. grammar schools; in practice this would occur only exceptionally.

other criteria required by the school).

Supplementary lower secondary education for graduates of special elementary schools for students with intellectual disabilities can be gained through “courses” organised in standard elementary schools or secondary vocational schools that are completed by a panel examination from all subjects.<sup>56</sup> Despite this option, which graduates may not be aware of, its real application is linked to certain practical problems, both objective and subjective. Organisation of such qualification courses is voluntary and, for various reasons (e.g. personal resources), not every school offers it. Practice shows that elementary and secondary schools are not interested to organise education to achieve full secondary education.

Courses are organised in daily and external study forms. They are open to a wider circle of persons, i.e. not only to graduates of special elementary schools, who can also be already working for longer time.<sup>57</sup> In standard situation and with respect to school resources, external study form would be preferred, requesting the student to prepare by self-studying and such supplementary education can be partially degrading for persons of higher age. Interested participants can also face existential problems. The external form is paid and with regards to the age when graduating from a special primary school, the graduate may be forced to actively participate in the labour market or search for work. For employed persons, the external study form precludes social assistant benefits. When searching for employment, a person is limited by gained level of education.

## RECOMMENDATIONS

The Centre recommends that:

1. The Ministry of Education map and propose optimisation of available support forms for graduates of special elementary schools who show interest to gain lower secondary education (secondary education).
2. The Ministry of Education conduct a survey of a real situation concerning organisation of education to gain lower secondary education (secondary education) by elementary and secondary vocational schools and consequently propose measures to increase their accessibility.
3. The Ministry of Education conduct survey of a real situation concerning re-

<sup>56</sup> It serves to prove fulfilment of performance standards requirements for secondary education.

<sup>57</sup> This covers e.g. persons who completed primary school education in lower than the 9th grade or those who fail the 9th grade and thus do not achieve secondary education.



diagnostics in special elementary schools with intellectual disabilities.

4. The Ministry of Education allow individual adjustment of educational programme regarding increased difficulty of education in special elementary schools for children with intellectual disabilities for children who show better intellectual abilities as expected based on their diagnostics in order to achieve lower secondary education (secondary education).
5. The Ministry of Education assess options to create special classes at secondary vocational schools for selected professional education, in relation to which lower intellectual disabilities do not preclude further education.



## 6 VIOLENCE AGAINST WOMEN

Violence against women is a pertaining problem in our society. In general, violence can be defined as any form of harming, threatening, showing dominance, physical, sexual or psychological pressure or abuse of power. Violence is usually identified with physical violence, however, it has many different forms.

There are also more concrete definitions of domestic violence. A vast proportion of domestic violence is committed against females. This is caused by the fact that women are usually physically weaker than men. Legislation often uses only gender-neutral formulations. International conventions and documents tend to use a more narrow term – violence against women.<sup>58</sup> UN Declaration on the Elimination of Violence against Women defines violence against women as *“any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”*.

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<sup>58</sup> HAMRANOVÁ, D. Násilie páchané na ženách z legislatívneho hľadiska (trestné činy so skutkovou podstatou vzťahujúce sa na násilie páchané na ženách). In: epi [online] 2016. [quoted on 2017-03-08]. Available at: <http://www.epi.sk/odborny-clanok/nasilie-pachane-na-zenach-z-legislativneho-hladiska.htm>

Some of the recommendations concerning the issue addressed by the Centre in its 2015 HR Report were continuously implemented. These include recommendations to increase the number of shelters for abused women, to secure sustainable operation of the free nonstop national helpline for women experiencing violence against women (national helpline) and of the Coordinating Methodical Centre for Gender-Based and Domestic Violence (Coordinating Methodical Centre).

However, the most crucial recommendations to adopt legislation on domestic violence and to ratify the Council of Europe convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention) without undue delay (adopted by the Council of Europe in 2011) have yet not been implemented.

A positive fact is that, in the long term, violent criminality in Slovakia is decreasing. The number of murders of women in partnerships also decreased.<sup>59</sup> A significant development can also be seen that the number of reported crimes against partners or concerning sexual violence has increased. This can be caused by an increased trust in authorities as well as by a higher determination of women to resolve this problem.

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The Centre keeps underlying the need to increase trust of abused women towards authorities to raise the number of reported and investigated cases. This can be achieved through trainings for Police Force members and persons who offer first contact to the victims of violence when reporting crimes. The knowledge of Police Force members on the issues of violence against women and proper communication with victims can positively influence resolution of the problem.

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According to the statement of the Ministry of Interior, 453 reports alleging crime of battering a close person or a person entrusted to one's care under Article 208 of the Criminal Code were filed in the record and statistical system of criminality. Mostly, a victim of this crime was a female individual and its perpetrator a male.<sup>60</sup>

In 2016, 136 women contacted the support centrum Civil Association Family Help (Občianske združenie Pomoc rodine), while 49 of them did so for the first time. The most common violator was the current or former partner. Psychological violence prevailed over

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<sup>59</sup> Coordination Methodical Centre for Gender-Based and Domestic Violence, Statistics. <http://www.gender.gov.sk/zastavmenasilie/informacie/vyskumy-a-statistiky/statistiky/>

<sup>60</sup> Statement of the Ministry of Interior concerning recorded complaints alleging crime under Article 208 of the Criminal Code [quoted on 2017-03-02].

physical followed by economical violence, isolation and stalking. The least common form was sexual violence.<sup>61</sup>

The civil association Woman in Distress (OZ Žena v tiesni) recorded in 2016 an increase of cases by 100, while it continued providing specialised consultancy to women from previous years (97 in total). The most common violator reported by the victims was their partner or husband. The most common form was psychological violence, which was reported in 90 % of cases. Physical violence was reported in 60 % of claims, while economical violence in 30 %. Sexual violence was alleged in 10 % of cases.<sup>62</sup>

Other organisations for abused women did not respond to the Centre's request for information.

## 6.1 Perception of gender-based violence in the Slovak Republic

Results of 2016 Eurobarometer show how the Slovak population perceives gender-based violence. Approximately 27 % of Slovaks believe that violence against women is not common in Slovakia, 3% of them even believe that it is not widespread in Slovakia at all.<sup>63</sup> However, a research on violence against women realised by the European Union Agency for Fundamental Rights (FRA) in 2014, showed that 34 % of women older than 15 years have experienced violence by their partner or another man. Such result places Slovakia above the European average concerning the number of women who have experienced violence.<sup>64</sup> Based on these results, it can be stated that people in our country are not aware of these issues.

Respondents agreed that domestic violence targets more often women than men. 5 % of Slovaks find violence against women acceptable in certain situations. 23 % believe that while violence against women is not acceptable it should not be legally punishable in all circumstances. Around 19 % respondents even believe that while sexual intercourse with a partner without his or her consent is wrong, it can be justifiable. 67 % Slovaks find violence against women absolutely unacceptable and punishable in all circumstances. Such results

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<sup>61</sup> Statement of OZ Pomoc rodine concerning statistical data of complaints on violence against women [quoted on 2017-02-28].

<sup>62</sup> Statement of OZ Žena v tiesni concerning statistical data of complaints on violence against women [quoted on 2017-03-01].

<sup>63</sup> Special Eurobarometer: Report: Gender- based violence, 2016. [quoted on 2017-03-02]. <http://ec.europa.eu/COMFrontOffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/surveyKy/2115>

<sup>64</sup> FRA. Violence against women survey, 2014. [quoted on 2017-03-02]. <http://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-violence-against-women-survey>

place Slovakia deeply under the average, since 84 % of Europeans find violence against women absolutely unacceptable and punishable in all circumstances.

10 % of Slovak respondents have noticed violence against acquaintances, friends or family (with regards females). In relation to neighbourhood and surrounding, i.e. not close acquaintances, this number increased to 19 %. Although many respondents know victims of domestic violence, in 37 % cases they have decided not to talk more about the case. The most common reason was that it was not their concern.

Domestic violence should not be considered a concern of only its perpetrator and victim. Lax approach does not resolve the issue. The victim is often traumatised and thus incompatible to address the situation. If a person is aware of committed violence, he or she can report it.

If a person is aware of battering of a close person or a person entrusted to one's care under Article 208 of the Criminal Code, and if such conduct causes serious health harm or death or is committed under special motives, this person is obliged to report it.<sup>65</sup> Otherwise he or she can face sanction of imprisonment for three years.<sup>66</sup>

The research results show that the Slovak population does not perceive violence against women intensively enough. People do not realise its impacts and even if they know cases of abused women, they refuse to resolve the situation. If they decide to do so, they would not know where to turn to besides the fact that since 2016 there has been the Coordinating Methodical Centre under the Ministry of Labour as well as the national helpline. It is thus crucial to constantly inform people in Slovakia about available means of helping victims of domestic violence and the graveness of the issue as well as the need of its solution.

#### **6.1.1 Coordinating Methodical Centre for Gender-Based and Domestic Violence and National helpline for women experiencing violence**

Under the National Action Plan for Prevention and Elimination of Violence against Women for the Years 2014 - 2019 (NAP on Violence against Women), the Ministry of Labour was assigned a task to establish a coordinating and methodical centre and secure its sustainability. Establishment of the coordinating and methodical centre results also from recommendations of the UN Committee on the Elimination of Discrimination against Women. The Coordinating Methodical Centre together with the national helpline fulfil one of the requirements under the Istanbul Convention. The Coordinating Methodical Centre operates from May 2015 and the national helpline since 1 February 2015.

In 2015 HR Report, the Centre stated that the national helpline handled 6 073 phone calls, while 2 829 were from women experiencing violence. According to the Ministry of Labour, in 2016, the national helpline received 3 654 phone calls. Hence, in the past year, the national helpline received approximately 40 % less phone calls as in 2015. It can be assumed that the information campaign regarding the establishment of the national helpline in 2015 raised awareness of people and consequently resulted in a higher number of phone calls.

The Ministry of Labour stated that from the total number of phone calls it was not

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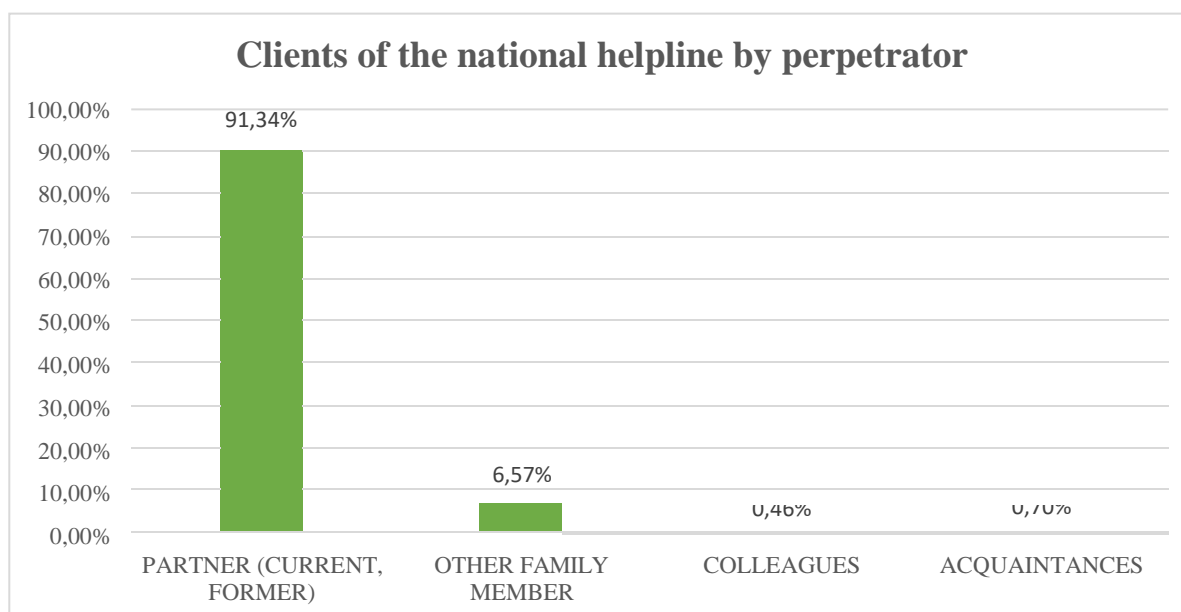
<sup>65</sup> Act No. 300/2005 Coll. Criminal Code.

<sup>66</sup> See Article 340 para. 1 of the Criminal Code.

possible “to establish the number of phone calls concerning violence against women or categories of persons, i.e. whether it was directly a victim or somebody from her surroundings. Furthermore, several clients call repeatedly, which also cannot be statistically disaggregated.”

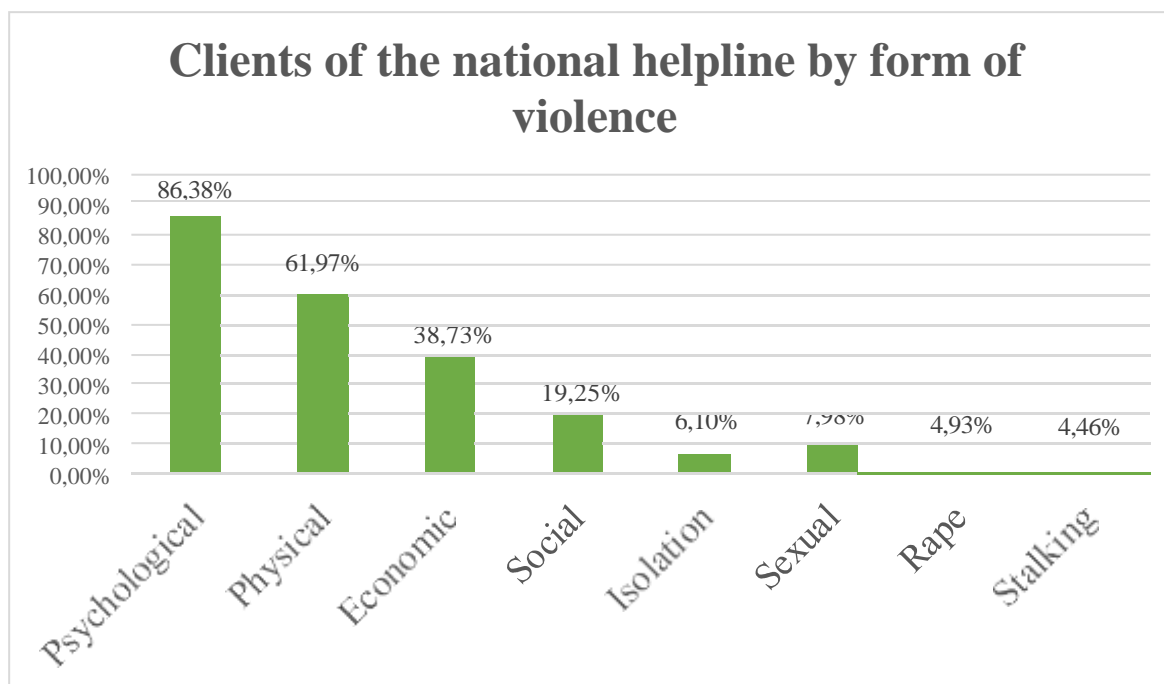
Pursuant to the database of clients of the national helpline, the most common perpetrator is a current or former partner or husband (in more than 90 % of cases).

Graph 1- Percentage of perpetrators of domestic violence against clients of the national helpline (the Ministry of Labour)





Graph 2- Percentage of forms of violence against clients of the national helpline (the Ministry of Labour)



The most common type of violence is psychological then physical and economical.<sup>67</sup> Psychological violence, followed by physical and economic violence showed the same proportion as statistics of other organisations approached by the Centre. It can be concluded that in Slovakia women most commonly experience psychological violence.

## 6.1.2 Shelter homes and consultancy services for abused women

There is still not a sufficient number of support facilities for abused women. The Fifth and Sixth Periodic Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women (for the years 2008 – 2013) states that in 2013, there were 52 support facilities for abused women in Slovakia.<sup>68</sup>

According to the minimum standards of the Council of Europe, Slovakia should have approximately 240 of such facilities. The head of Department of Gender Equality and Equal

<sup>67</sup> Statement of the Ministry of Labour concerning statistical data of the national helpline [quoted on 2017-03-13].

<sup>68</sup> Fifth and Sixth Periodic Report of the Slovak Republic on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women (for the years 2008 – 2013). [quoted on 2017-03-08].

Opportunities at the Ministry of Labour, Ms. Oľga Pietruchová, claims that in 2017 Slovakia should reach ¼ of this number.<sup>69</sup>

The efforts to increase the number of such facilities, particularly in areas with higher numbers of cases, are very welcome. The Centre underlines that with regards to a relatively high number of women experiencing violence, it is crucial to gradually extend the network of centres and women shelters.

It is, hence, condemnable that one of such facilities was closed down in the Bratislava Region. However, due to negligence in care for children and non-transparent financial management, the decision to withdraw accreditation of the centre was justifiable and appropriate.<sup>70</sup>

The Centre welcomes the fact that in 2016 three new facilities for abused women were opened. One of them in Bratislava and other in Trenčín, since Trenčín Region has the highest rate of women seeking health care in relation to psychological or psychosocial violence. The last one was opened in Liptovský Mikuláš, being the first of kind in the region.

## 6.2 Legislative changes

Positive legislative changes concern an amendment of the Act No. 171/1993 Coll. on Police Force as amended (the Act on Police Force), which was also a task under the NAP on Violence against Women assigned to the Ministry of Interior. The amendment entered into force on 1.1.2016 and extended a period for which a violent person can be banned from a shared residence from 48 hours to 10 days. This period should be sufficient to secure effective protection of a victim. Victims are given more time to seek help to resolve the situation.

An amendment of the Act No. 372/1990 Coll. on Offences as amended (the Act on Offences) also entered into force on 1.1.2016. The amendment changed a group of offences against civic cohabitation covering psychological, physical violence or threats of such conduct against a close person.

The Centre welcomes both amendments and underlines that for effective elimination and protection from violence against women, it is crucial to monitor their implementation in practice.

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<sup>69</sup> KUKELKA, M., BARBORÁK, J. Nové centrum pre týrané ženy. Rádio Slovensko, Rádiožurnál Slovenského rozhlasu 7.2.2016. at 18:00.

<sup>70</sup> JÁNOŠÍKOVÁ, K., STANKAV, V. Maják nádeje môže prísť o akreditáciu. Televízna stanica STV 1, Správy RTVS 9.10.2016 at 19:00.

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Slovakia has yet to adopt special legislation on domestic violence and maintains only the criminal law regulation. If domestic violence reaches the intensity of crime, it qualifies as one of the crimes against family and youth, against life and health, against freedom and human dignity or other as relevant.<sup>71</sup>

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The Centre believes that adoption of legislation on domestic violence would be an appropriate step, especially with regards to the need to define gender-based violence or violence against women. Adoption of such law would provide better protection to women who are victims of violence and facilitate ratification of the Istanbul Convention. The act on domestic violence discussed in 2015 has, however, not been mentioned since the previous year.

The need to adopt legislation on protection of victims of crimes is also debated in the society. The adoption of this law is also requested in terms of ratification of the Istanbul Convention. The Ministry of Justice states that this law will *“primarily be adopted as transposition of the Directive of the European Parliament and the Council No. 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA”*. Wording of the act is currently being prepared.<sup>72</sup> The Ministry of Justice further stated that *“realisation of these tasks aims for a coherent protection of all victims of violent crimes without any discrimination and taking into account specific needs in protection of victims of domestic violence and violence against women.”*<sup>73</sup>

Domestic violence is also closely linked to the new regulation of urgent measures in the Act No. 160/2015 Coll. Rules of Civil Contentious Litigation as amended as well as in the Act No. 161/2015 Coll. Rules of Civil Non-contentious Litigation as amended. The regulation replaced the term interim measure. The Court is entitled to order urgent measures whenever before, during or after the procedure. In terms of violence against women, it is also important to mention regulation of Article 325 para. 2 subparas. e) - h) of the Rules of Civil Contentious Litigation. This Article lists urgent measures that can be imposed in order to prevent a perpetrator of domestic violence or a person undoubtedly suspicious of such violence

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<sup>71</sup> MAGURSKÁ, Z. Legislatívne pozadie problematiky násilia páchaného na ženách a jeho aspekty v lekárskej praxi. Available at:

[http://www.esfem.sk/subory/nasilie/legislativne\\_pozadie\\_problematiky\\_nasilia\\_pachaneho\\_na\\_zenach.pdf](http://www.esfem.sk/subory/nasilie/legislativne_pozadie_problematiky_nasilia_pachaneho_na_zenach.pdf)

<sup>72</sup> Statement of the Ministry of Justice concerning the ratification of the Istanbul Convention and preparation of requested legislation [quoted on 2017-03-1].

<sup>73</sup> Statement of the Ministry of Justice concerning the ratification of the Istanbul Convention and preparation of requested legislation [quoted on 2017-03-1].

temporarily from entering into house or apartment inhabited by a person who he or she is allegedly committing violence against or from entering a place where the victim regularly lives or stays. Urgent measures can also be imposed to prevent phone or electronic communication as well as approaching a person who may be in danger. If justified, the protected person can be provided with effective and objective court protection.<sup>74</sup>

Despite several positive legislative changes to improve the situation of domestic violence victims, the Centre underlines the need to support these partial amendments by a comprehensive act implementing provisions of the Istanbul Convention and defining violence against women.

### 6.3 Istanbul Convention

The Centre highlighted the significance of the Istanbul Convention in its 2014 HR Report. Slovakia signed the Istanbul Convention in 2011 but has not ratified it yet. The announced deadline (30.6.2016) was not met and the Ministry of Justice asked for postponement of a deadline to submit proposal for ratification of the Istanbul Convention by June 2017.

The Speaker of the Ministry of Justice informed in October 2016 about the Ministry's plan to submit the proposal into the inter-resort comment procedure by the end of 2016.<sup>75</sup> No relevant document was, however, submitted. The reason behind the repeated postponement of the ratification of the Istanbul Convention is allegedly the aim to secure the best national legislation possible prior to the ratification.

The Centre requested relevant information from the Ministry of Justice. Under the Resolution of the Slovak Government No. 297/2011 (task C.2.), the Minister of Justice is obliged to *“submit to the governmental session a proposal for the ratification of the convention upon conducting legal analysis and adopting necessary legislative measures for implementation of the convention”*. According the Ministry of Justice, the deadline for this task was postponed until 30.6.2017 upon request. It further stated that submission of the proposal for ratification of the Istanbul Convention into the inter-resort comment procedure could be expected in the coming weeks.

The Centre hopes that the proposal for ratification of the Istanbul Convention would

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<sup>74</sup> Article 325 of the Act No. 160/2015 Coll. on Rules of Civil Contentious Litigation as amended.

<sup>75</sup> MEČIAR, J., BARIOVÁ, E. Istanbulský dohovor opäť v hre, 2016. TV JOJ, Noviny at 16:00.

be submitted without undue delay. The Centre repeatedly underlines that in order to enable the ratification it is crucial to complete preparation of the necessary legislation for implementation of the convention as soon as possible.

### **6.3.1 Attitudes of Slovak citizens regarding the Istanbul Convention**

With regards to re-opening of the ratification of the Istanbul Convention there has been various opinions in the society. A very negative approach was presented by the Alliance for the Family (Aliancia za rodinu) which organised a petition against the ratification of the Istanbul Convention in 2015. The Centre informed about the petition in its 2015 HR Report, which referred that the petition had more than 5 000 signatures. The Centre recommended the Slovak citizens to study related issues before signing such documents and petitions. In 2016, the number of signatures more than doubled (the petition gained support of approximately 13 600 persons). According to the information published at the website of the Alliance for Family, the petition with more than 12 500 was submitted on 29.11.2016 to the Government Office.

With regards to misleading and incorrect interpretations provided by various (mainly Cristian) organisations it is crucial to intensively spread correct information. The Centre keeps appealing to people in Slovakia to double-check information before joining similar activities.

## **RECOMMENDATIONS**

The Centre recommends that:

1. The Slovak Republic ratifies the Istanbul Convention in the stated deadline.
2. The Ministry of Labour and NC SR submit and adopt new legislation concerning the protection of women from violence.
3. The Ministry of Labour, the Ministry of Interior, non-governmental sector and expert public raise awareness on issues of violence against women and the fact that violence against women is absolutely unacceptable and should be punishable under law.
4. The Ministry of Interior and the Police Force train Police Force members who offer first contact to the victims of violence on the related issues and on adequate communication with the victims.
5. Self-governing regions, cities, municipalities and non-governmental sector increase number of shelter homes for abused women.



## 7 Rights of the elderly

The rights of the elderly are frequently debated at the national and international level. One of the underlying reasons is that the world population is ageing. Population ageing is a pertaining problem. Since 2005, the average age of men in Slovakia has increased from 35,8 to 38,5. The average age of women has increased from 39 to 41,7.<sup>76</sup>

Population ageing brings about questions on how to tackle poverty, which is often faced by the elderly. In developed countries, the population over 60 will double in the upcoming decades. It is assumed, that in developing countries the population over 60 will triple by 2050. These changes will bring new challenges in redistribution of resources, participation in political and social life, social care and health care. In this new demographical environment, states will face human rights challenges.<sup>77</sup> The average life expectancy is

<sup>76</sup> Slovenská republika v číslach. 2016. In: Štatistický úrad SR [online]. Bratislava, Ústredie Štatistického úradu SR. ISBN 978-80-8121-466-0. [quoted on 2017-01-25]. Available at: <http://bit.ly/2evOLLi>

<sup>77</sup> Martin, C., D. Rodríguez-Pinzón & B. Brown. 2015. Human rights of Older People: Universal and Regional Legal Perspectives. Dordrecht: Springer. ISBN 978-94-017-7184-9.

increasing, which causes greater interest in active life in a higher age than in the past. Hence, the efforts to tackle stereotypes and create better conditions for employment, education or participation in events should be a challenge for the whole society.

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Older persons often face the so-called ageism, which can be defined as a form of discrimination and prejudice against the elderly. Persons of higher age constantly experience rejection in various areas of life. Rejection of older persons is very visible in employment since employers prefer to hire younger persons. Hence, the only income of older persons is their pension, which is often not enough to cover their basic needs. The elderly often reach the edge of poverty, which in connection with ageism, places them at the edge of society.

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Absence of specific measures on the rights of the elderly causes older persons to live in poverty, with untreated diseases, as homeless or in inadequate dwellings, violence, lack of education, low income jobs, ineffective legal protection, vulnerability, exclusion or isolation.<sup>78</sup>

In such a situation, several human rights of the elderly are being violated, such as human dignity, non-discrimination and equality, the right to adequate standard of living, the right to participation and social inclusion, the right to the highest possible standard of mental and physical health and others. Therefore, it is important to pay due attention to observance of the right of the elderly to personal liberty, the right to privacy and family life, the freedom of movement as well as prohibition of torture and degrading or inhuman treatment, particularly with regards to institutional care for the elderly in social service facilities. Special needs of older women and older persons with disabilities must be taken into account and their rights should be effectively protected.

In the global context, a UN Open-Ended Group on Strengthening the Human Rights of Older Persons was established in reaction to the UN Secretary General report of 2010. This report pointed at the discrimination of the elderly, their poverty and violence against them as well as the lack of specific measures and services for the elderly. The working group is tasked to assess a possible proposal for international convention for the protection and promotion of human rights and human dignity of the elderly.

Slovakia has recently adopted various documents forming policy aimed at the elderly and addressing population ageing in order to protect and strengthen the rights of the elderly and their position in the society. These issues were also addressed in other general policy

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<sup>78</sup> Martin, C., D. Rodríguez-Pinzón & B. Brown. 2015. Human rights of Older People: Universal and Regional Legal Perspectives. Dordrecht: Springer. ISBN 978-94-017-7184-9.



materials in reference to the elderly as a particularly vulnerable group.

In relation to the project of the Strategy for Active Ageing, Slovakia adopted in 2014 a National programme for Active Ageing for the Years 2014 – 2020<sup>79</sup>, which is designed on the promotion of the rights of the elderly by their activation through public support policies. The National Programme for Active Ageing focuses on, *inter alia*, support for lifelong learning, civic and social activities outside the formal labour market, support of independence, dignity, economic and social security of the elderly including the protection from ill-treatment in social areas and relations.

Concerning the promotion of inclusion of persons dependent on help of others through social services, Slovakia adopted in 2016 a National Action Plan for the Transition from Institutional to Community-Based Care in the Social Services System for the Years 2016 - 2020<sup>80</sup>. The aim of deinstitutionalisation of social services is to create and secure conditions for independent and free life of all persons dependent on help of the society in a natural social community environment, i.e. to prevent their separation and isolation from society in various institutions. Deinstitutionalisation requires accessibility of good quality alternative services in public interest that would enable the persons concerned, including the elderly, to live free and independent life with the support of the community, experts, family members and volunteers. As recipients of social services, the elderly are directly affected by deinstitutionalisation.

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A National Framework Strategy for Supporting Social Inclusion and Fight against Poverty of 2015 is another important material in terms of the rights and social situation of the elderly, which lists the elderly as a group particularly vulnerable to poverty. It is a strategic document summarising approaches to address poverty and social exclusion in Slovakia.

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With regards to the demographic development as well as the social and economic situation faced by the elderly, it is crucial that Slovakia systematically and conceptually adopt measures to protect the rights of the elderly, support their active participation in various areas of social life and fight their social exclusion.

In its 2014 HR Report, the Centre covered the rights of elderly in terms of the amendment of the Act No. 448/2008 Coll. on Social Services and supplementing the Act No.

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<sup>79</sup> Available at: <https://www.employment.gov.sk/files/slovensky/ministerstvo/rada-vlady-sr-prava-seniorov/npas-2014-2020.pdf>

<sup>80</sup> Available at <https://www.employment.gov.sk/files/rodina-soc-pomoc/soc-sluzby/narodny-akcny-plan-prechodu-z-institucionalnej-komunitnu-starostlivost-systeme-socialnych-sluzieb-roky-2016-2020.pdf>



455/1991 Coll. on Trade Licensing (Trade Licensing Act) as amended (the Act on Social Services) that introduced, *inter alia*, scoring of quality of provided social services. This amendment established an obligation for social service providers to fulfil quality requirements to provide social services based on criteria, standards and indicators divided in four areas:

- observance of human rights and freedoms,
- procedural requirements,
- personal requirements,
- operation requirements.

The system of quality scoring of social services was supposed to be launched since 1.1.2016. The subsequent amendment of the Act on Social Services laid down that the Ministry of Labour would not assess quality of the provided social services until 31.12.2017.

Concerning the quality improvement of social services and observance of the rights of the elderly using social services, the Centre finds it crucial that the state start exercising effective supervision over quality of these services through quality scoring without undue delay.

## 7.1 Research on Poverty and social exclusion of the elderly in Slovakia

In 2016, the Centre in cooperation with the civic association Help the Elderly Forum (the Forum) followed up on their cooperation from 2008 and realised a research focusing on situation of the elderly in Slovakia. The original research called Poverty and Social Exclusion of the Elderly<sup>81</sup> realised in 2008 addressed the issue of poverty and social exclusion of the elderly and showed various interesting results.

Eight years later, the Centre and the Forum again engaged in cooperation in order to compare the results and assess changes in the monitored areas of life of the elderly. The new Research on Poverty and Social Exclusion of the Elderly in Slovakia<sup>82</sup> aimed to establish whether the situation of the elderly in various aspects of life has changed positively or negatively. While in 2008 a percentage of Slovak population in the post-productive age was 12,1 %, by 2016 this number has grown to 14,5 %.

The research consisted of a questionnaire and covered all regions of Slovakia. It targeted people over 53 years of age. The Centre prepared the questionnaire and the Forum was responsible for gathering data from the respondents. The Centre then recorded their answers in the electronic system and evaluated the results. Altogether, the Forum gathered relevant answers from 786 respondents.

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The research showed that the situation of the elderly in Slovakia is not easy. Their monthly income is often very low and many of them are on the edge of poverty. Fear of poverty is caused by low pensions, unexpected expenditures as well as dependence on others. Without the help of children or a partner, many older persons would have serious problems to cover their monthly costs. Fear from solitude or deterioration of health condition are everyday problems of the elderly.

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Almost 90 % of respondents claimed that they did not have finances to cover their basic needs or that they could only cover them partially. 74,3 % respondents believe that the elderly are in danger of poverty, while almost 60 % respondents perceive themselves to be in

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<sup>81</sup> See: Fórum pre pomoc starším, Slovenské národné stredisko pre ľudské práva. Chudoba a sociálne vylúčenie starších občanov. Výsledky empirickej sondy. 2008. [quoted on 2017-01-26]. Available at: [http://www.snslp.sk/files/chudoba\\_a\\_soc.\\_vylucenie.pdf](http://www.snslp.sk/files/chudoba_a_soc._vylucenie.pdf)

<sup>82</sup> See: Fórum pre pomoc starším, Slovenské národné stredisko pre ľudské práva. Chudoba a sociálne vylúčenie starších osôb na Slovensku. 2016.[quoted on 2017-01-26]. Available at: [http://www.snslp.sk/CCMS/files/Chudoba\\_socialne\\_vylucenie\\_starsich\\_osob\\_2016.pdf](http://www.snslp.sk/CCMS/files/Chudoba_socialne_vylucenie_starsich_osob_2016.pdf)

danger of poverty. Women experience poverty more than men. In terms of type of accommodation, people living in social care facilities fear poverty the most.

The risk of poverty is also linked to a persons income. Almost 30 % respondents do not have sufficient finances to cover their basic needs. More than 46 % respondents cannot cover their monthly costs and more than 15 % seniors must borrow money to get by. Since 2008, monthly costs of a senior have raised from 308,51 € to 375,64 €.

Table 1 – Ability to get by from the monthly income

Does your income sufficiently cover your monthly costs?			
	Number of respondents	%	Replies (affirmative, negative)
yes, I can even save	29	3,69 %	304
yes	275	34,99 %	38,68 %
no	363	46,18 %	482
no, I must borrow money	119	15,14 %	61,32 %

It must also be stated that 50 % respondents claimed that their monthly income was between 301 € and 400 €, while 27,86 % respondents claimed that their monthly income was between 150 € and 300 €. The elderly are afraid of unexpected expenditures, such as those for repairing or changing household appliances, diseases or funeral costs.

Although the threat of poverty of the elderly is perceived by less respondents than in 2008, it appears that the ability of the elderly to cover their basic needs has been negatively developing since 2008. Women feel the threat of poverty more than men (women 61,78 %, men 57,74 %).

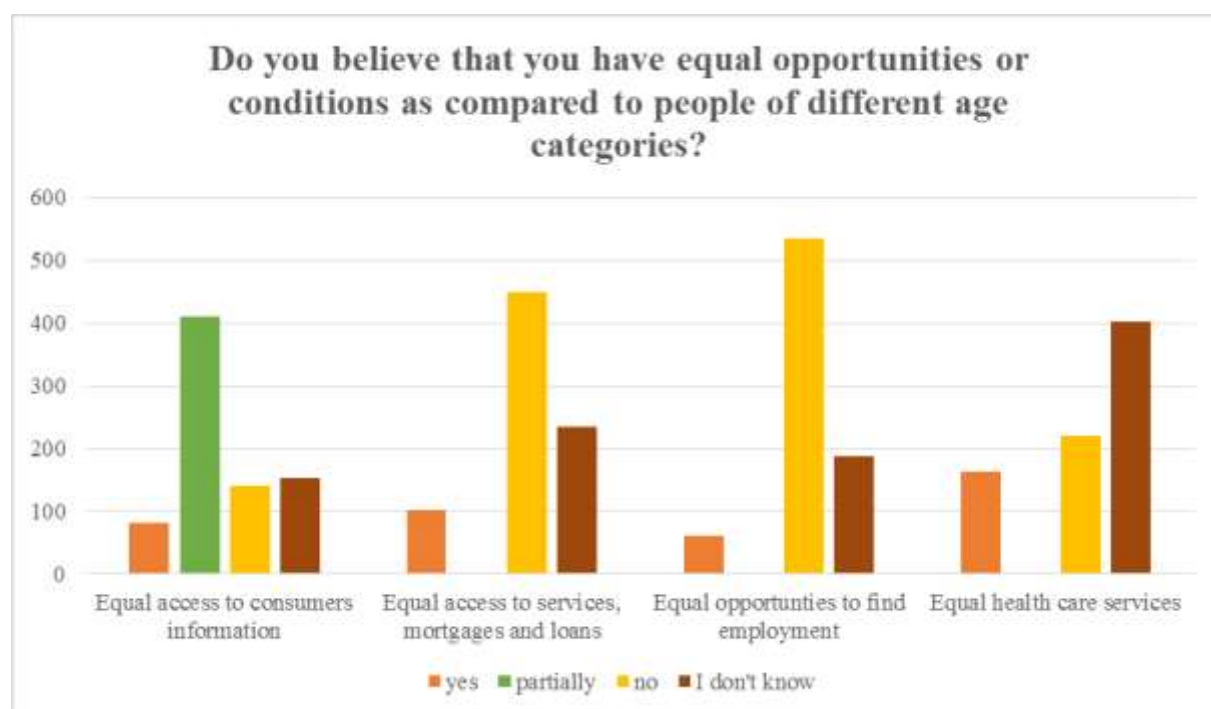
Picture 1 – Perception of poverty by gender



However, in many areas the research showed positive trends. The interest of seniors in active life, employment, culture and education has increased as compared to 2008, which is

very positive. In order to achieve full participation in various activities, the elderly need to have opportunities to do so. Access to activities is often limited by their financial situation that does not allow anything besides covering the basic needs. Another obstacle is the lack of adaptation of the society to the needs of the elderly. The society is often intolerant towards the elderly, full of stereotypes picturing older persons as incompetent, useless or impotent. This results in discrimination based on age, which can occur in employment, health care and access to various forms of education. According to the research, almost every second senior feels discriminated.

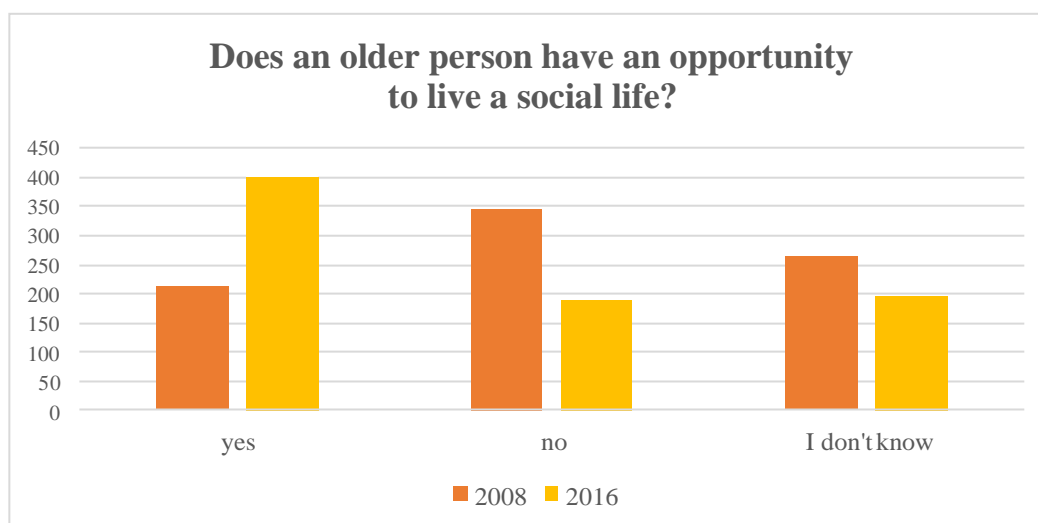
Graph 3 – Equal opportunities of seniors in various areas of life



Seniors show interest in education and employment. In case they had the opportunity, 20 % of seniors would be interested to work. With regards to education, 20 % of seniors would be interested if they got the chance. Interest of seniors in employment and education proves that they want to fully participate in the society. Despite this, almost 70 % of the elderly claimed that they did not have equal opportunities to find employment as compared to people of other age categories.

Almost one fourth of the respondents stated that they regularly participated in cultural events. Similarly, 41,86 % of respondents regularly meet with their friends. Seniors are nowadays more aware of chances to live a social life.

Graph 4 – Opportunities to live a social life



The research Poverty and social exclusion of the elderly in Slovakia brought about crucial information on the situation of the elderly in Slovakia. The results can serve for preparation of measures to improve this situation in order to secure full enjoyment of human rights by the elderly, including economic, social and cultural rights, without discrimination based on age. The research also highlighted issues faced by the elderly in our society and its results raise awareness on these issues.

## RECOMMENDATIONS

The Centre recommends that:

1. The Ministry of Labour secure effective and independent evaluation of social service quality and pay due attention to assessment of fulfilment of the requirement of human rights and freedoms observance without undue delay.
2. Competent ministries within grants schemes support projects and activities focusing on active ageing and lifelong learning of the population of the Slovak Republic.
3. Competent ministries and other public bodies create and thoroughly implement measures to tackle poverty and social exclusion of vulnerable groups, including the elderly.
4. Cities, municipalities and self-governing regions organise and promote cultural, awareness raising and education events for seniors in order to support their participation in social life.



## 8 TEMPORARY COMPENSATORY MEASURES

Targets of temporary compensatory measures (TCM) are groups of persons who bear certain disadvantages based on their race or ethnic origin, membership of a nationality or ethnic group, gender or sex, age or disability.

The Centre requested the selected central bodies of public administration and other relevant stakeholders to provide information on adopted or implemented TCM in 2016 or their cooperation in such projects. Although subjects listed in Article 8a para. 1 of the Antidiscrimination Act who adopt TCM are obliged to report it to the Centre (Article 8a para. 4), in 2016, the Centre did not receive any reports on realised TCM upon own initiative of these subjects.

### 8.1 Projects and programmes with elements of TCM implemented in 2016

Majority of the project covered in the 2015 HR Report continued also in 2016. Information on certain projects is not covered in this report since they have been analysed in previous HR Reports. Besides that, the Centre has decided not to cover projects that do not have all characteristic features of TCM, which used to be part of this chapter when reported

by relevant subjects. The Centre also does not list all projects reported by the requested subjects, since some of them did not bear characteristics of TCM at all. Hence, it can be concluded that the competent subjects still do not understand the concept of TCM.

### **8.1.1 Project Healthy Communities**

The national project (NP) Healthy Communities continued also in 2016. Its main aim is to improve access to health care and public health, including preventive health care and health awareness, and balance differences in health condition between Roma and the majority population.<sup>83</sup>

Secondary goals of the project include to increase employment and qualification of members of MRC and to increase positive impacts on the behaviour of MRC members.

The project is realised by health mediation as a type of community work, which engages and trains laics from target communities.<sup>84</sup> It continues as designed, which is in line with a recommendation of the Centre in its 2015 HR Report – to continue with realisation of the project as it is a necessary project with well-defined goals and effective way of realisation.

Recommendations concerning the project thus remain the same, i.e. to continue with realisation of the project, to thoroughly monitor activities of assistants of health awareness and to secure protection from a possible abuse of assistants of health awareness beside their work activity.

Funding of the project is planned also after termination of funds allocated under the European Social Fund, within a contribution organisation Healthy Regions, i.e. from the state budget. Sustainability of the project is crucial. In order to achieve long lasting effects it is necessary to secure longer operation of health awareness assistants in MRC.

### **8.1.2 Projects within the package Take away**

The Roma Community Plenipotentiary informed the Centre about the Strategy for Roma Integration until 2020 which it perceives as a system of TCM. Its integral part are action plans. In 2015 and 2016, the preparation of action plans for the years 2016 to 2018 in the areas of education, employment, health, housing and financial integration were

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<sup>83</sup> Statement of the Ministry of Health concerning realised TCM in 2015 [quoted on 2017-03-03].

<sup>84</sup> Statement of organisation Healthy Regions concerning the realised TCM in 2016 [quoted on 2017-03-03]



undergoing. A new action plan for the years 2019 – 2020 is expected.

In 2016, the Roma Community Plenipotentiary continued with preparation activities for launching a Take away package, which unites several NP for Roma integration. These NP will be available to 150 municipalities based on the so-called underdevelopment index in line with the Atlas of Roma Communities in Slovakia 2013. Municipalities with Roma communities living in worse life conditions were listed among those entitled.

The package includes the NP Filed social work and field social work in municipalities with MRC I. The aim of the project is to increase participation of the most disadvantaged and vulnerable persons in social life through systematic support and innovation support in the field of social work. Its specific aim is to increase integration of marginalised Roma in all areas of the society, including participation in the labour market.

Another project within the package is a NP Community centres in cities and municipalities with MRC I. The community centres would provide Roma and non-Roma citizens opportunities for joint social activities including informal education and leisure activities for children, youth and adults, assistance in community organising, conflict resolution and issues concerning housing, mutual relations as well as awareness raising and prevention activities. These activities are beneficial in relation to increasing the chances in the labour market, social inclusion, prevention and resolution of inter-ethnic conflicts and pressure in municipalities with MRC.

The package also includes a project NP Promotion of pre-primary education of children from MRC I. The NP aims to increase the number of children from MRC attending kindergartens and to improve chances for successful completion of higher levels of education, hence in long-term be beneficial with regards to participation at the labour market.

In 2016, all three NP were in preparation stages, which included preparation of new job positions for field and social workers, awareness assistants, expert workers and expert workers for community centres.

The packages also includes a NP Support for land settlement in MRC and a NP Monitoring and evaluation of policies aimed at social inclusion of marginalised Roma population, within which a facilitating organ at the Ministry of Interior is preparing relevant grant calls.<sup>85</sup>

The Centre welcomes the fact that various projects were merged under one package and believes it could be beneficial in terms of coordination of effective and systematic work

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<sup>85</sup> Statement of the Roma Community Plenipotentiary regarding the realised TCM in 2016 [quoted on 2017-03-08].

with members of MRC. It is also in line with the Centre's recommendations regarding the creation and implementation of measures targeting the Roma minority in Slovakia.

It would be too early to evaluate the package since it was only at its preparation stage in 2016. It can, however, be concluded that its projects target areas and have goals which create space for elimination of social exclusion of MRC and gradually eliminate their disadvantages and discrimination.

The Roma Community Plenipotentiary informed the Centre on funding of the project that indicates that the Take away package dispose of a significant amount of funds from the EU. The Centre hopes that these resources together with personal resources would be used effectively and would bring the desired results. The work with MRC requires persistent, systematic and long-term activities in order to achieve positive results.

Preparation of the Take away package as well as background documentation thereto has taken a relatively long time and obviously considerable financial resources. The Centre, thus, believes that the preparation stage would be completed soon and the practical implementation launched. The Centre welcomes that the package includes a project for monitoring and evaluation of other projects, which can serve as an effective tool to secure effectivity of the projects.

### **8.1.3 Other supported projects for integration of the Roma minority**

The Roma Community Plenipotentiary further informed the Centre that a call was launched by the Ministry of Interior to submit applications for a non-refundable financial contribution to support access to drinking water in separated and segregated MRC.

In 2016, the Roma Community Plenipotentiary provided donations to projects concerning access to drinking and non-potable water in MRC, support for local communications, creation of systems of temporary housing, missionary work, employment and employability, building partnerships and cooperation in resolving social and cultural needs and resolution of extremely unfavourable situation of Roma communities.

### **8.1.4 Project You also have a chance! and other projects for education of Roma**

A TCM project called You also have a chance! (Aj ty máš šancu!) continued also in 2016. It consists of support for Roma high school students by providing free preparation

courses for entry exams to the University of Economics in Bratislava (EUBA). Participants must fulfil all requirements for application. Successful Roma applicants are provided assistance within studies in relation to get oriented at the university and help with studying. The ultimate goal of the project is that the students successfully graduate from EUBA and then find employment. The project is based on personal support and assistance. The project is organised by a civil association Centre for Research of Ethnicity and Culture (CVEK) in cooperation with EUBA.

In the academic year 2015/2016, four Roma students involved in the project started studying at EUBA. They are the first successful applicants from the project. These students keep studying also in the academic year 2016/2017. CVEK claims that they settled down well at EUBA and several of them found a part-time jobs in accounting companies. The project supports them by free tutoring in mathematics, statistics and English.

In 2016, three more Roma students from a Roma grammar school in Kremnica joined the project. During preparations, one student decided to quit due to the level of difficulty. Only one of the two remaining students successfully passed the entry exams.

Preparation for entry exams at EUBA is organised by CVEK. It claimed that the project faces obstacles with low quality of previous studies of Roma children who have studied at segregated primary and elementary school with very little time dedicated to mathematics. The students were able to learn mathematics when it was properly explained to them. However, for the time constraints, this is very difficult and consequently only one student successfully passed the entry exams at EUBA in the academic year 2016/2017. Despite the disadvantage, she achieved very good results in the entry exams.

In the autumn of 2016, eight Roma students joined preparation courses for the entry exams for the academic year 2017/2018.<sup>86</sup>

Other requested stakeholders also provided information regarding education of the Roma minority in Slovakia.

The Roma Community Plenipotentiary provided information concerning the project Mentor and tutor assistance for Roma students at secondary schools organised by a Foundation Roma Education Fund, brand of an international foundation Roma Education Fund. The Centre did not receive information on its results, number of students involved or form of assistance, and hence, it cannot evaluate the project.

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<sup>86</sup> Statement of CVEK regarding the realised TCM in 2016 [quoted on 2017-03-03].

The Roma Community Plenipotentiary further informed that the Action plan for Roma integration until 2020 for the period 2016 – 2018 also included measures concerning Roma education, in particular:

- measures to support creation of infrastructure of kindergartens and elimination of financial barriers in pre-primary education of Roma children;
- measures to promote upbringing and education of children from socially disadvantaged environment in day-long education system;
- measures providing the so-called second chance to young people who complete compulsory education without gaining lower primary education;
- measures to support gradual transition of students to secondary education through strengthening personal and expert capacities of upbringing and carrier consultants and supporting peer, mentor and tutor programmes;
- decreasing financial barriers to study at secondary schools and motivating students to further studies by scholarships for high achievement;
- strengthening expert and material resources for teaching Roma language and literature and supporting schools that teach this subject;
- securing qualified and sensitive diagnostics of Roma children and differentiating special upbringing and educational needs resulting from social disadvantage from those resulting from physical or mental disabilities;
- creating institutional, expert and financial grounds for inclusive education of all children and students in kindergartens, primary and secondary schools in Slovakia.<sup>87</sup>

The Ministry of Education stated that it did not adopt any TCM projects or measure in the area of education in 2016. It provided information on activities concerning Roma education, in particular a call for a NP School open to everybody aiming to support implementation of inclusive model of education in kindergartens, informal education of children from MRC and implementation of a pedagogical model of inclusive education in primary schools. Applicant for this call was a Methodical and pedagogical centre. The Ministry of Education stated that a project aimed at training of pedagogical workers was organised as one of main activities of a project Together with Roma we achieve more.<sup>88</sup>

The Ministry of Interior claimed that in 2016 it organised activities in the area of pre-primary education of children from MRC within the priority axis 5. These concerned

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<sup>87</sup> Statement the Roma Community Plenipotentiary regarding the realised TCM in 2016 [quoted on 2017-03-08].

<sup>88</sup> Statement of the Ministry of Education regarding the realised TCM in 2016 [quoted on 2017-03-06].

preparation of a NP for inclusive education of children in preschool age (preparation continues in 2017) and request-based projects of mentoring and tutoring of children from MRC at primary and secondary schools as well as scholarships at secondary schools (preparation continues in 2017). The Ministry of Interior also mentioned activities within the priority axe 6 concerning a call to build/reconstruct kindergartens.<sup>89</sup> Support of pre-primary education of Roma children is a part of the Take away package (see above 8.1.2).

The Ministry of Agriculture and Rural Development of the Slovak Republic (the Ministry of Agriculture) stated that it participated in education of Roma children in 2016 as a managing body for the integrated regional operational programme for 2014 – 2020 by launching calls aimed at projects improving quality and effective accessibility of education for children from MRC. The calls targeted projects aimed at increasing numbers of secondary vocational schools students in practical education, creating and improving technical equipment of language classrooms, school libraries, and expert libraries at primary schools and increasing infrastructure of kindergartens.<sup>90</sup> The Centre does not have information regarding the realisation of the goal and concrete projects supported through this programme.

Education is one of the key areas of Roma integration. It is positive that the project focuses already on pre-primary education of Roma children from MRC since these children often lack social habits and their enrolment in schools is usually problematic. This influences their overall activity in educational institutions. Generally, education affects social participation and employability. The Centre would welcome more projects, similar to the CVEK's project You also have a chance!, that would focus also on lower levels of education.

### **8.1.5 Other projects in the area of education**

The Ministry of Education provided information on a project Support of upbringing and education of students from a socially disadvantaged environment. This project included call for applications for funding of development projects. The Centre did not receive more detail information on supported projects, their goals and results.

The Ministry of Education further informed about the calls opened in 2016 regarding inclusive education. These calls were roofed under a project More successful in a primary school, within which primary schools could apply for a non-refundable financial contribution

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<sup>89</sup> Statement of the Ministry of Interior regarding the realised TCM in 2016 [quoted on 2017-03-06].

<sup>90</sup> Statement of the Ministry of Education regarding the realised TCM in 2016 [quoted on 2017-03-06].

to open job positions for teacher assistants, pedagogical assistants or an inclusive team.

Within another project called NedisKVALIFIKUJ SA! (Don't disqualify yourself), entitled entities could apply for a financial contribution in the area of lifelong learning. Its priority is to improve equal access to lifelong learning for all age categories.<sup>91</sup>

### **8.1.6 Grant programme Culture of disadvantaged groups of population**

The Ministry of Culture of the Slovak Republic (the Ministry of Culture) regularly informs the Centre on the donation programme Culture of disadvantaged groups of population through which it finances projects aimed at development of cultural needs of disadvantaged groups and creates scope for TCM implementation.

Target groups of this programme include:

- persons with disabilities (physical, intellectual, visual or hearing impairment including mental health - in line with CRPD);
- children and youth – particularly children from orphanages, children from MRC and child victims of violence;
- women (projects in the area of culture contributing to gender equality integration), e.g. non-discrimination of women over 45, single mothers, victims of violence, women from MRC, women in danger of poverty;
- seniors, mainly seniors in danger of poverty and support of projects in the area of culture aimed at active ageing;
- migrants, support of project aimed at cultural integration;
- people in danger of poverty and social exclusion, e.g. unemployed people, homeless people, members of socially excluded communities, LGBTI people, victims of human trafficking.<sup>92</sup>

Although the Centre received information on supported projects and allocated sums for each particular group, it did not receive information on particular projects and those of them that are TCM. Hence, it cannot assess the impact of these projects on elimination of discrimination of disadvantaged groups.

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<sup>91</sup> Statement the Ministry of Education regarding the realised TCM in 2016 [quoted on 2017-03-06].

<sup>92</sup> Statement the Ministry of Culture regarding the realised TCM in 2016 [quoted on 2017-02-28].

### **8.1.7 Projects aimed at gender equality, equal opportunities for men and women and work-life balance**

Information regarding projects aimed at elimination of discrimination based on gender and sex, including motherhood and parenthood, were provided by the Ministry of Labour.

In 2015 its HR Report, the Centre informed about the NP Family and work. In 2016, upon evaluation of the projects within the ending Operational programme Employment and social inclusion, the Ministry of Labour started preparing for the continuation of a project with the same focus. Projects will be supported through request-oriented projects instead of a NP. Supported TCM or activities will include promotion of flexible care forms for children within the work-life balance and creation of effective tools to integrate mothers/parents with little children in the labour market after parental leave by promoting flexible job positions. The call was in its preparation stage in 2016 and it should be open in March 2017.

Compared to the previous NP, promotion of innovative care forms for children with health disadvantages concerning flexible childcare can be granted also within the Bratislava Self-governing Region (the Bratislava Region).

The project Support of balanced representation of women and men in leading positions in organisations of public and private sphere is funded under the European Commission grant scheme Progress. In 2016, it was realised through three conferences and a competition for employers. Among the outcomes of the project, the Institute for Labour and Family Research prepared a methodical guide for employers' organisations. The Ministry of Labour also organised a conference on work-life balance in changing society.<sup>93</sup>

In 2015, the Ministry of Labour informed about the preparation of the NP Family and work II, which should include also the Bratislava Region. The Centre recommended inclusion of the Bratislava Region in projects supporting gender equality since the issue of work-life balance for women does not concern only regions with lower employment rates. Low representation of women in managing positions in Slovakia is a long lasting problem and in the Bratislava Region women have a higher potential to build their career and reach higher and better-paid work positions.

Information from the Ministry of Labour suggests that preparation works on the NP Family and work II have finished and a request-based call was prepared instead. However, only preparation works were done so far. It is not very clear from the statement of the

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<sup>93</sup> Statement the Ministry of Labour regarding the realised TCM in 2016 [quoted on 2017-03-10].

Ministry of Labour, whether the Bratislava Region would be entitled to participate in the supported activities and whether these would only target parents of children with health disadvantages or also parents returning from a parental leave.

The Ministry of Labour did not comment on the results of the original project Family and work. Other support activities reported by the Ministry of Labour do not have characteristics of TCM. The Centre welcomes a dialogue with employers concerning the promotion of gender equality, as they are key actors in this area. Only if employers understand the need to observe the principle of gender equality in the workplace and support it through certain benefits, the gender equality in employment can be achieved in practice. In order to achieve real results in this area, it is crucial to implement more projects and activities.

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In general, TCM are necessary and appropriate measures for Roma integration in Slovakia. It is thus positive that relevant activities are being launched in this area, in particular the prepared NP Take away package.

The need for adoption of TCM is present with regards to other target groups apart from Roma, such as women. Unfortunately, very few projects with long-term results are realised in this area. In the previous year, the Ministry of Labour launched several preparation and support activities.

The Centre finds it negative that the majority of the projects are solely financed through EU funds. TCM should also address issues such as promotion of women in technical jobs, higher and managing positions etc. It is crucial also to involve the Bratislava Regions in projects, which is problematic with regards to EU funded projects. Sustainability and permanence of project results is often questionable.

Regarding persons disadvantaged by their age (mainly seniors, the youth, graduates) and persons with disabilities, permanent measures are more appropriate. TCM in employment area could be beneficial for young people and graduates who often face problems in finding employment. The Centre has no knowledge about projects targeting groups other than Roma.

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When implementing TCM, it is crucial to link them to previous projects, thus to build up on the gained experience and correlate projects targeting the same group. This is the only way to secure temporariness of TCM as measures required only for a certain period.

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

In 2016, the Centre realised the second phase of its research concerning the use of TCM by territorial self-governments. This initiative responded to the 2013 amendment of the Antidiscrimination Act, which entitled any legal person to adopt TCM.

The second phase targeted those respondents who reported having adopted a TCM in the first phase. Its main goal was to gather more information on adopted or recently prepared TCM, their content, period and effectivity.

Both parts of the research are evaluated in the Centre's publication *Monitoring and evaluation of effectiveness of temporary compensatory measures in the Slovak Republic*.<sup>94</sup>

Within the second phase of the research, the Centre only approached those respondents who reported having adopted TCM. The Centre sought to gather more detailed information on adopted and implemented TCM, since these subjects did not notify the Centre irrespective of their legal duty to do so. Another aim was to engage in closer cooperation with subjects adopting TCM.

An electronic questionnaire was distributed to 107 respondents and was filled out by 24,30 % of them. Overall, 26 respondents participated in the second phase, one of which did not provide name of the municipality. The residual 25 respondents covered 13 municipalities, 9 cities and 3 city parts. The biggest number of participants was from Central Slovakia.

The questionnaire comprised 10 questions. For instance, it asked about the period for TCM application, the disadvantaged group targeted or satisfaction with realisation and results of the project.

Respondents usually did not realise that the project adopted was a TCM. They found it out after better understanding of the issue. 75 % respondents confirmed this.

A half of respondents stated that a TCM was adopted within a specific project. Almost a half of them (46,15 %) realised TCM separately and 1 respondent did not provide information. TCM were most commonly organised under the NP Field social work and the Operational programme Employment and social inclusion. The most common goal was to integrate disadvantaged population, create job positions or create better conditions for seniors and persons with disabilities.

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<sup>94</sup> JURÁKOVÁ, Natália. 2016. *Monitorovanie a vyhodnocovanie účinnosti dočasných vyrovnávacích opatrení v podmienkach Slovenskej republiky*. Bratislava: Slovenské národné stredisko pre ľudské práva, 2016. 90 p. ISBN 978-80-89016-86-0.

Respondents believe that adopting a TCM was a good decision. A majority of 88,46 % respondents are satisfied with realisation of TCM, only 3,85 % respondents were unsatisfied.

Questions concerning the period of TCM implementation and whether have they been finished brought interesting results. More than 70 % respondents confirmed that the project is still being implemented. Regarding the question of how long are the TCM being implemented, 2 respondents stated that they were permanent measures.

Remarkably, several respondents negated themselves. Although in some open questions they provided closer information on TCM adopted, in another question they stated that their municipality/city/city part did not adopt any TCM.

The fact that many municipalities/cities/city parts obscure information on adopted TCM or refuse to cooperate can be caused by a lack of knowledge or fear from possible problems or sanctions. Discussions and broad awareness raising on the issue thus seem crucial in order to achieve a better understanding and more interest in TCM adoption as well as to engage in cooperation and facilitate their communication with the Centre.

## RECOMMENDATIONS

The Centre recommends that:

1. The Ministry of Finance of the Slovak Republic and the NC SR allocate financial resources from the state budget to support gender equality through TCM.
2. The Ministry of Labour participate in various TCM projects aimed at equal opportunities for women in the labour market, including their greater promotion in leading and managing positions, in technical areas and involve the Bratislava Region in such activities.
3. The Ministry of Health of the Slovak Republic and the organisation Healthy communities continue with the project Healthy communities and pay careful attention that health awareness assistants are not being missed beyond their work activities.
4. The Ministry of Education and other competent authorities support and realise TCM at all levels of education targeting the Roma minority.
5. The Roma Community Plenipotentiary launch the package Take away and pay due attention to the highest effectiveness in using the allocated financial resources.
6. All subjects adopting TCM follow up on previously implemented and realised TCM when adopting new TCM targeting the same disadvantaged group.
7. All subjects adopting TCM fulfil their reporting duty towards the Centre and notify it about adopted TCM in line with the Antidiscrimination Act.



## 9 IMPACTS OF CHICANE

Within its equality body mandate the Centre provides legal aid to victims of discrimination. In the recent years, the Centre monitors the increasing number of complaints concerning chicane in workplace either in the form of bossing, mobbing or other forms. Negative work conditions, stress and inappropriate workload that can lead to psychosocial diseases cause in certain cases discrimination.

### 9.1 Psychosocial diseases and their impact on labour activity

The issue of psychosocial diseases is a negative trend developing as a result of chicane in workplace.

A psychosocial disease is a psychological disadvantage that, together with other barriers, creates space for development of a disability. The Centre is particularly concerned by those manifestations that result in discrimination in the workplace and chicane behaviour of superior workers or colleagues, which causes diseases based on psychosocial burdens.

## **9.2 Psychosocial diseases – term and related issues**

Situations when a standard behaviour turns to an impeded functioning of a personality in a social area are called psychosocial diseases. Primarily, these diseases occur due to environmental impacts, the so-called psychosocial risks, which result in concrete psychosocial diseases.

Psychosocial risks include high workload, monotonous work, unclear expectations concerning work performance, risk of violence etc.

Distortion of reality perception together with other barriers causes deficits such as depression, anxiety, phobias, bad eating habits and others. Working individuals can show symptoms of aggressiveness, chicane, pathological addictions, sexual dysfunctions, suicidal behaviour etc.

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The Centre supports elimination of barriers among workers and within its mandate contributes to elimination of risk factors (i.e. discrimination, chicane). The Slovak legal order covers several legal measures for protection from risks that could lead to psychosocial diseases. The main challenge is that this type of disease has not yet been explicitly defined.

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## **9.3 Legal aspects of psychosocial risks**

### **National legislation**

The Constitution in Article 38 guarantees specific support and protection for persons with disabilities through more extensive health protection at work and special working conditions.

Equal treatment of persons with disabilities and its protection is regulated by the Antidiscrimination Act in the areas of employment, social security, health care, provision of goods and services as well as education.

A notice of the Ministry of Health of the Slovak Republic (the Ministry of Health) No. 542/2007 Coll. (§ 2 para. 1 subpara. f) on Health Protection against Physical Stress, Occupational Mental Stress, and Sensory Stress at Work states that a psychosocial overload is a factor negatively affecting an organism and requiring psychological activity, psychological

processing and coping with requests and impacts of the environment, which result mainly from social processes and relations or interactions among individuals in a group, crowd etc.

The Act No. 311/2001 Coll. Labour code as amended (the Labour Code) in Article 8 regulates care for employees by employers: “...*Employer secures such working conditions for employees with disabilities that would allow them to apply and develop their work abilities with due attention to their health condition...*”

## **European and international legislation**

CRPD in its Preamble (para. e) establishes that: “...*disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others*“. Pursuant to CRPD and Optional Protocol thereto, all persons with any type of disability shall enjoy human rights and freedoms equally with other persons.

In terms of EU legislation, the Framework Directive 89/391/EAA on the Introduction of Measures to Encourage Improvements in the Safety and Health of Workers at Work lays down a reference regulation for the EU Member States concerning the psychosocial issues.

## **9.4 Facts concerning labour conditions**

The work done in this area by the EU is based on statistics that uncover the unflattering situation of work conditions for workers. One of four employees suffer from work stress affecting his or her psychological condition. New technologies, materials and work processes applied in workplace can also affect work conditions as they change work quality and established work habits. Ways these concrete forms of development enter into working life can directly affect employers. These include pressure, both physical and psychological, which causes adverse relations among colleagues or superior workers, conflicts between work duties and personal issues. Consequently, a workplace exposes workers to psychosocial risks. In terms of stress, it must be noted that it becomes a risk only when having a long-term character.



#### **9.4.1 Chicane as a form of deformation of human psyche in workplace**

Chicane in the workplace represents an abuse of rights in labour relations. Unfortunately, the Labour Code does not define this term. In general, chicane in the workplace is a form of an abuse of rights of an employer, a superior worker or a colleague that causes harm (mainly psychological) to a worker. Forms of chicane are bossing, mobbing and staffing.

Bossing is a systematic attack and threatening by a superior worker aimed at decreasing the dignity of an employee, force his or her obedience, respect and adaptation, even if it requires physical, mental or social harm. A superior worker usually does it in order to accent his or her hierarchical position. Bossing is typical for its systematic nature, i.e. this conduct of a superior worker lasts for a longer period.

If a behaviour of certain employers or colleagues causes adverse work conditions that affect an employee, it can also represent chicane behaviour.

### **9.5 Research presented at the legal seminar in Brussels (25.11.2016)**

The research presented by professors Mr. Mark Bell from the University of Dublin and Ms. Lisa Waddington from the University of Maastricht focused on the particular EU Member States and their approach towards psychosocial diseases.

In 2010, Slovakia allocated approximately 3 % of GDP to treatment and care means for persons with psychosocial diseases. The 2014 Eurobarometer showed that 27 % of health problems is caused by stress, depressions and anxieties.

Countries that seek to define psychosocial diseases or disadvantages include Austria, Bulgaria, Cyprus, the Czech Republic, Estonia, Germany, Ireland, Malta, Portugal, Spain, Sweden and the Great Britain.

Currently, a stigmatic behaviour in the workplace is a very dangerous factor adversely affecting good working environment. Such behaviour is typical by labelling, segregation and discrimination of workers and causes psychosocial diseases. Overall, 22 % of women and 19 % of men in the EU face adverse work conditions due to working under psychosocial distortions. 14 countries worldwide developed active campaigns to tackle stigma.<sup>95</sup>

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<sup>95</sup> <http://www.1decada4.es/course/view.php?id=13>

The ECtHR has covered a psychosocial distortion (disease) in its jurisprudence. Judicial practice of the EU Member States provides very few examples and description of issues concerning the psychosocial distortions. One of the pertinent cases is a Danish case Ring and Skouboe Werge, which was referred to the Court of Justice of the European Union as a preliminary reference.<sup>96</sup>

## RECOMMENDATIONS

The Centre recommends that:

1. The Ministry of Health in cooperation with the Slovak Medical Chamber prepare an explicit definition of a psychosocial disease based on experience of 12 EU Member States that already have done so reflecting medical knowledge in the area.
2. The Ministry of Justice legislatively regulate psychosocial diseases in Article 9 para. 1 of the Act No. 5/2004 Coll. on Employment Services and amending and supplementing certain acts as following: *“For the purposes of this act, a person with disability is a person found disabled under a special law and a person with a psychosocial disease under a special law”*. Such special law should be the Notice of the Ministry of Health No. 542/2007 Coll. (Article 2 para. 1 subpara. f).
3. The Ministry of Labour and the Ministry of Health support regular monitoring and proactive tracing of discrimination and chicane in workplace as well as raise awareness concerning environmental impacts on psychosocial overloads.

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<sup>96</sup> Case *Ring and Skouboe Werge*, EU:C:2013:222.

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