

Report on the Observance of Human Rights

Including the Principle of
Equal Treatment
in the Slovak Republic
for the Year

2017



**REPORT ON THE OBSERVANCE OF HUMAN RIGHTS
INCLUDING THE PRINCIPLE OF EQUAL TREATMENT IN THE
SLOVAK REPUBLIC FOR THE YEAR 2017**

BRATISLAVA

2018

Title: Report on the Observance of Human Rights Including the Principle of Equal Treatment in the Slovak Republic for the Year 2017

Author: Collective of authors – expert employees of the Slovak National Centre for Human Rights

Published by the Slovak National Centre for Human Rights, in Bratislava 2018

The authors are responsible for the content and editing.

Text has not undergone linguistic correction.

© Slovak National Centre for Human Rights

Un-purchasable Title

ISBN: 978 – 80 – 89016 – 97 – 6

Report on the observance of human rights including the principle of equal treatment in the Slovak Republic for the year 2017 covers the period between 1 January 2017 until 31 December 2017. Materials were prepared by the employees of the Slovak National Centre for Human Rights based on available sources and request responses received in January-March 2018.

Table of contents

Introduction	11
1. Gender Equality.....	22
1.1 Gender Equality Index and Gender Inequality Index	24
1.2 Violence against Women	29
1.2.1 Campaign “Because I said no (<i>Pretože hovorím nie</i>)”	31
1.2.2 National Helpline for Women Experiencing Violence	32
1.3 Participation of Women in a Political Life	34
1.3.1 International, regional and national obligations	36
1.3.2 Elections to the bodies of the self-governing regions 2017	38
Recommendations:.....	42
2. Roma.	44
2.1 Moldava nad Bodvou.....	47
2.2 Sabinov	50
2.3 Svidník.....	51
2.4 Spišský Hrhov.....	53
Recommendations	55
3. Rights to Education	56
3.1 Terňa Primary School with Nursery School.....	57
3.2 Giraltovec Primary School	60
3.3 Árpád Feszty Primary School with Nursery School with Hungarian as Teaching Language, Hurbanovo.....	62
Recommendations.....	63
4. Protection of Rights of Persons with Disabilities.....	65
4.1 Legal protection of Persons with Disabilities in the Slovak Republic	65
4.1.1 Current legal regulation of rights of persons with disabilities	65
4.1.2 Convention on the Rights of Persons with Disabilities.....	65
4.1.3 Legal capacity in civil law	67
4.1.4 Antidiscrimination Act and the right to equal treatment	68
4.1.5 Criminal law aspects of protection of persons with disabilities.	69
4.2 Follow up to the Chapter „9 Impact of bullying“ in the Report on Observance of Human Rights Including the Principle of Equal Treatment for the Year 2016	72

4.3 Follow up of the Situation concerning the District Directorate of the Police Force in Dolný Kubín and the Post Office in Košice	74
4.3.1 District Directorate of the Police Corps in Dolný Kubín.....	74
4.3.2 Post Office in Košice	77
4.4 Emergency Number 112 Now Also for Persons with Disabilities	79
4.5 Integration of Children with Disabilities within Education Process	80
Recommendations.....	84
5. Temporary Countervailing Measures.....	86
5.1 Activities of the Ministry of Agriculture and Rural Development of the Slovak Republic Conducted in 2017	87
5.2 Activities of the Ministry of Health of the Slovak Republic Conducted in 2017.....	88
5.3 Activities of the Ministry of Transport and Construction of the Slovak Republic Conducted in 2017	90
5.4 Activities of the Ministry of Culture of the Slovak Republic Conducted in 2017	91
5.5 Activities of the Ministry of Labour, Social Affairs and Family of the Slovak Republic Conducted in 2017	92
5.5.1 National project “From Practice to Employment” (“ <i>Národný projekt Praxou k zamestnaniu</i> ”).....	92
5.5.2 National project “Graduate Training as Starting Point for Employment” (“ <i>Národný projekt Absolventská prax šartuje zamestnanie</i> ”)	93
5.5.3 National Project “A Chance for the Youth” (“ <i>Národný projekt Šanca pre mladých</i> ”)	93
5.5.4 National project “Restart for Young Job Seekers” (“ <i>Národný projekt Reštart pre mladých uchádzačov o zamestnanie</i> “)	94
5.5.5 National project “Education of Young Job Seekers” (“ <i>Národný projekt Vzdelávanie mladých uchádzačov o zamestnanie</i> “)	94
5.5.6 Project “Family and Work II” (“ <i>Projekt „Rodina a práca II</i> “)	95
Recommendations.....	96
6. Discrimination of the Elderly	98
6.1 Providing Financial Services in the Banking.....	98
6.2 Discrimination of Working Elderly	105
6.4 Age Limit for Screening the Breast Cancer in the Slovak Republic (Discrimination of Elderly Women in the Field of Providing Health Care)	111
Recommendations:.....	117

7. Prevention from Increasing Extremism.....	119
7.1 Prevention and Its Role.....	120
7.2 Good Practice Examples?.....	122
7.3 Research of the Slovak National Centre for Human Rights	124
7.4 Importance of Preventive Mechanisms Online	126
Recommendations.....	128
8. Asylum	130
8.1 Observance of the Right to International Protection in the Slovak Republic.....	130
8.2 Legal Regulation of Asylum.....	132
8.3 Analysis of the Observance of the Right to International Protection	135
8.3.1 National context in the Slovak Republic	135
8.3.2 European context – migration crisis	137
8.4 Good Practice Examples.....	138
Recommendations.....	141

List of Abbreviations

ADL – Act No. 365 Coll. on Equal Treatment in Certain Areas and on Protection against Discrimination and on Supplementing other Laws

Agenda 2030 – Agenda 2030 for Sustainable Development

Council for Agenda 2030 – Council of the Government of the Slovak Republic for Agenda 2030

CNP Code – Act No. 161/2015 Coll. on Civil Non-Contentious Procedure, as amended

CRPD – Convention on the Rights of Persons with Disabilities

CEDAW – Convention on Elimination All Forms of Discrimination of Women

TCM – temporary countervailing measures

EIGE – European Institute for Gender Equality

EU – European Union

IOM – International Organisation for Migration

ICD – International Classification of Illnesses

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

RMB Košice – Regional Monuments Board of the city of Košice

Ministry of Transport – Ministry of Transport and Construction of the Slovak Republic

Ministry of Culture – Ministry of Culture of the Slovak Republic

Ministry of Agriculture – Ministry of Agriculture and Rural Development of the Slovak Republic

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

MRC – marginalised Roma communities

Ministry of Justice – Ministry of Justice of the Slovak Republic

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

Ministry of Interior – Ministry of Interior of the Slovak Republic

Ministry of Health – Ministry of Health of the Slovak Republic

National Helpline – National Helpline for Women Experiencing Violence

NBS – National Bank of Slovakia

CC Amendment – Recognition and Execution of Property Decisions Issued in Criminal Proceedings in the European Union and on Amendment of Some Acts

National Council – National Council of the Slovak Republic

Police Corps – Police Corps of the Slovak Republic

Criminality Prevention Unit – Criminality Prevention Unit of the Office of the Minister of
Interior of the Slovak Republic

UN – United Nations

UNDP – United Nations Development Fund

DD PC DK – District Directorate of the Police Corps of the Slovak Republic in Dolný Kubín

SBA – Slovak Bank Association

Chamber – Slovak Medical Chamber

Office of the Deputy Prime Minister - Office of the Deputy Prime Minister for Investments
and Informatisation

SP – Slovak Post

SP Košice 1 – branch of the Slovak Post at Poštová Street in Košice

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

ST – Slovak Telekom, a. s.

Centre – Slovak National Centre for Human Rights

School Act – Act No. 245/2008 Coll. on Upbringing and Education (School Act) and on
Supplement of Certain Laws

SSI – State School Inspection

CC – Act No. 300/2005 Coll. Criminal Code, as amended

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

Government – Government of the Slovak Republic

SGR Elections – Election to the bodies of self-governing regions

SGR – self-governing region

CERD – UN Committee on Elimination of Racial Discrimination

Act on Asylum – Act No. 480/2002 Coll. on Asylum and on Supplement and Amendment of
Certain Laws

Act on Banks – Act No. 483/2001 Coll. on Banks and on Amendment and Supplement of
Certain Laws

Act on Establishment of the Centre – Act No. 308/1993 Coll. on Establishment of the Slovak
National Centre for Human Rights, as amended

Income Tax Act – Act No. 595/2003 Coll. on Income Tax, as amended

Act on Commissioners – Act No. 176/2015 Coll. on Commissioner for Children and on
Commissioner for Persons with Disabilities and on Amendment and
Supplement of Certain Laws

Victims of Crimes Act – Act No. 274/2017 Coll. on Victims of Crimes, as amended

asylum application – application for asylum or subsidiary protection

Introduction

Human rights are an integral part of life of every person, whether it concerns rights of children, elderly, foreigners, people in need, people with disabilities or others. Observance of human rights not only supports diversity in the society but it also provides opportunities for self-realisation and self-determination of persons belonging to vulnerable groups, while providing multiple advantages for the majority of the society. Together with observance of human rights comes a need for tolerance and non-discrimination in the society. The Slovak National Centre for Human Rights (hereinafter the “Centre”) unites these two important areas in the field of protection of rights, namely promotion and protection of human rights and promotion and protection of non-discrimination.

The Centre was established by the Act of the National Council of the Slovak Republic No. 308/1993 Coll. on the Establishment of the Slovak National Centre for Human Rights (hereinafter the “Act on the Establishment of the Centre”) effective as of 1 January 1994, in accordance with the Agreement concluded between the Government of the Slovak Republic and the United Nations Organisation on the Establishment of the Centre, published by the Notification of the Ministry of Foreign and European Affairs of the Slovak Republic No. 29/1995 Coll. As mentioned above, the Centre operates in two defined, but closely related fields. Firstly, it is promotion and protection of human rights that follows from the Act on the Establishment of the Centre. The Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and on Protection against Discrimination Amending and Supplementing Other Laws, as amended (hereinafter the “ADL”) determined the second area of operation of the Centre. In accordance with this act, the Centre operates as the only Slovak institution for the equality and for the assessment of the observance of the equal treatment principle.

The Centre has a unique position in the system of human rights institutions in the Slovak Republic. From the international perspective, it acts as a national human rights institution within the system of the United Nations (hereinafter the “UN”). From the perspective of the European Union (hereinafter the “EU”), the Centre represents specialised national equality body involved in the European network of equality bodies - EQUINET.

Accordingly, the Centre monitors and evaluates the observance of human rights and fundamental freedoms as well as observance of the equal treatment principle in the Slovak Republic. In accordance with the provisions of Section 1 (4) of the Act on the Centre, the Centre drafts and publishes on its website the Report on the Observance of Human Rights Including

the Principle of Equal Treatment in the Slovak Republic yearly, by 30 April (hereinafter the “HR Report”). This competence of the Centre is also included in Point 3 (a) iii of the 1993 Principles Relating to the Status of National Institutions (also known as Paris Principles) and from the provisions of the EU non-discrimination directives¹.

The individual chapters of the 2017 HR Report address human rights and freedoms, extremism, observance of the equal treatment principle and issues of non-discrimination. The content of the report is addressing selected human rights and freedoms that were subjected to public discussion in 2017, in the application of which the shortcomings were shown or which protection proved to be problematic in the previous year.

The HR Report aims to provide an objective, true and contemporary reflection on the observance of human rights in the Slovak Republic during the previous year in monitored areas and, at the same time, to provide recommendations ensuring the streamlining of the protection and application of human rights and fundamental freedoms. For this purpose, the Centre reached out to a wide spectre of public bodies, public institutions, and non-governmental organisations working in the field of human rights with the requests for providing relevant information essential for the most accurate depiction of human rights situation in the Slovak Republic.

The 2017 HR Report was discussed by the Administrative Board of the Centre in accordance with the provision of Section 3a (7) (h) of the Act on the Establishment of the Centre during its meeting held on 17 April 2018.

¹ E.g. Article 12 (2) (c) of the Council Directive 2004/113/EC and Article 20(2) (c) of the Directive of the European Parliament and the Council 2006/54/EC.

List of Recommendations of the Centre

1 Gender Equality

The Centre hereby recommends that:

01. The Ministry of Justice of the Slovak Republic actively leads a dialogue and monitors public opinion on the 2011 Convention on Preventing and Combating Violence against Women and Domestic Violence aiming at fighting the disinformation campaigns which accompany the process of its ratification.
02. The Council of the Government of the Slovak Republic for the Agenda 2030 includes the sustainable development goal No. 5 – gender equality to the national strategy and National Investment Plan for the years 2018 – 2030.
03. The Ministry of Labour, Social Affairs and Family of the Slovak Republic expands the campaign – “Because I say no (*Pretože hovorím nie*)” aiming at increasing the reach of the campaign to young people in the age of 18 – 25 years.
04. The Ministry of Interior of the Slovak Republic and the Police Corps of the Slovak Republic educate the representatives of the criminal justice who are in direct contact with victims of the gender based and sexual violence on the gender based and sexual violence and on working with such victims.
05. The Ministry of Labour, Social Affairs and Family of the Slovak Republic and political parties adopt temporary countervailing measures aiming at reaching the actual equality of women in political life and in decision-making positions in political life.
06. Political parties introduce initiatives allowing the full participation of women in politics on the national, regional and local level.
07. Political parties implement mentoring programmes aiming at the higher participation of women in politics on the national, regional and local levels.
08. The Ministry of Labour, Social Affairs and Family of the Slovak Republic supports projects and public campaigns focused on increasing the representation of women in political life and motivating political parties to achieve this objective.
09. The Statistical Office of the Slovak Republic re-introduces the disclosure of statistical data divided according to gender when disclosing the election results.

10. The Statistical Office of the Slovak Republic implements a precise division of collection and disclosure of statistical data pursuant to the standards of the UN.



2 Roma

The Centre hereby recommends that:

01. Self-governing regions develop clear housing policies aimed at the elimination of segregation.
02. Self-governing regions improve housing conditions of Roma citizens through social work.
03. Self-governing regions and the Ministry of Transport and Construction of the Slovak Republic decrease the scale of Roma residential segregation.
04. Self-governing regions increase the proportion of Roma dwellings with access to the basic infrastructure.
05. Self-governing regions and the Ministry of Transport and Construction of the Slovak Republic increase the proportion of Roma citizens living in lawful dwellings and on lands with settled ownership.
06. The Ministry of Justice of the Slovak Republic and the Legal Aid Centre provide free legal aid against forced evictions, threats of evictions and demolition.



3 Right to Education

The Centre hereby recommends that:

01. The Ministry of Education, Science, Research and Sport of the Slovak Republic, self-governing regions and municipalities allocate sufficient financial resources supporting and increasing the capacities of primary schools in a form of construction, superstructure, modernisation and reconstruction of school objects.

02. The Ministry of Finance of the Slovak Republic allocate increasing amount of finances for the Ministry of Education, Science, Research and Sport of the Slovak Republic aiming at satisfying the increasing number of requests for allocation of assistants by pupils and their legal representatives, and for the purposes of creation of more job positions of school psychologists, speech therapists and special pedagogues.
03. The Ministry of Education, Science, Research and Sport of the Slovak Republic analyse the possibilities and expand the graduate practice programme for psychologists, speech therapists and special pedagogues.
04. The Ministry of Education, Science, Research and Sport of the Slovak Republic in coordination with existing network of higher education institutions and universities adopt measures increasing the number of graduates of special pedagogy, speech therapy and child psychology.
05. The Ministry of Education, Science, Research and Sport of the Slovak Republic prepare and provide all pedagogic employees with specialised programmes designed to develop their pedagogic skills, especially those addressing needs of pupils with special upbringing and educational needs.
06. The Ministry of Education, Science, Research and Sport of the Slovak Republic in cooperation with schools, founders of schools and other local public authorities in the field of education flexibly take into account demographic development and ethnic composition of boomers when regulating school districts.
07. Schools and school facilities deepen the ability to react to different needs of pupils without their permanent categorisation.
08. The Ministry of Education, Science, Research and Sport of the Slovak Republic and founders of schools keep strengthening the accessibility of pre-school education in terms of capacities and quality to ensure local and content accessibility for all children, with a possibility of natural integration of children from socially excluded communities.

4 Protection of Rights of Persons with Disabilities

The Centre hereby recommends that:

01. The Ministry of Justice of the Slovak Republic amends the wording of Section 140 (e) of the Criminal Code, as amended by the term “disability” following the provision – *“out of hate of the group of persons or individuals due to their actual or putative affiliation to any race, nation, nationality, ethnic group, due to their actual or putative origin, colour of skin, gender, sexual orientation, political believes or religion”*.
02. The Ministry of Health of the Slovak Republic in cooperation with the Slovak Medical Chamber amend the definition of properly provided medical care pursuant to Section 4 (3) and following provisions of the Act No. 576/2004 Coll. on Healthcare and on Services Related to the Provision of Healthcare, as amended by the proper determination of functional defect, and determination of risk factors and causation of illness or functional defect.
03. The Ministry of Health of the Slovak Republic in cooperation with the Slovak Medical Chamber to amend Section 3 of the Act No. 576/2004 Coll. on Healthcare and on Services Related to the Provision of Healthcare, as amended by provisions of International Classification of Functional Defects (ICD) which should be used by medical personnel other than medical doctors.
04. The Ministry of Labour, Social Affairs and Family of the Slovak Republic ensures and supports the regular monitoring and actively searches for discriminatory practices and bullying at workplaces and raises awareness on impact of the environment to psychosocial burden.
05. The Ministry of Interior of the Slovak Republic continues with the established trend of elimination of barriers in buildings belonging to the resort.
06. The Ministry of Education, Science, Research and Sport of the Slovak Republic adopts measures ensuring sufficient personal resources of special pedagogues, speech therapists, sign language interpreters, teachers’ assistants as well as other experts who would work in nursery schools, primary and secondary schools to secure effectively inclusive education.
07. The Ministry of Education, Science, Research and Sport of the Slovak Republic and the Ministry of Finance of the Slovak Republic provide material resources for nursery schools, primary schools and secondary schools necessary for inclusive education of children with disabilities.
08. The Ministry of Education, Science, Research and Sport of the Slovak Republic ensure preparation and sufficient awareness of pedagogic employees of nursery schools,

primary or secondary schools concerning accessibility and specific needs of children with disabilities and with regard to specific disabilities.


09. The Ministry of Education, Science, Research and Sport of the Slovak Republic increase awareness of parents of children with disabilities concerning opportunities for inclusive education of their children.
10. The Ministry of Education, Science, Research and Sport of the Slovak Republic increase awareness of all children on the rights of persons with disabilities and contribute to raising them to accept persons with disabilities within the society or their groups.

5 Temporary Countervailing Measures

The Centre hereby recommends that:

01. The Ministry of Labour, Social Affairs and Family of the Slovak Republic allocates financial resources to support projects in the area of gender equality in a form of temporary countervailing measures within its funding schemes.
02. The Ministry of Agriculture and Rural Development of the Slovak Republic keeps the increasing capacities and accessibility of nurseries through temporary countervailing measures particularly targeting socially disadvantaged communities and marginalised Roma communities.
03. The Ministry of Health of the Slovak Republic continues with the project “Healthy Communities” and ensures sustainability of the results also upon its termination.
04. The Ministry of Transport and Construction of the Slovak Republic continues supporting construction and acquisition of rental flats, particularly for abused women with children, families in social need, accessible housing for persons with disabilities, adults leaving orphanages and members of marginalised Roma communities.
05. The Ministry of Transport and Construction of the Slovak Republic improves the accessibility of information on railway transport for persons with disabilities.
06. The Ministry of Labour, Social Affairs and Family of the Slovak Republic participates at increased number of temporary countervailing measures aimed at equal opportunities for women on the labour market including their representation in leadership and management and in technical fields.

07. The Ministry of Education, Science, Research and Sport of the Slovak Republic and other stakeholders support and implement temporary countervailing measures projects targeting the Roma minority at all levels of education.
08. All stakeholders adopting temporary countervailing measures follow up on existing or completed measures when adopting new ones targeting the same groups.
09. All stakeholders implementing temporary countervailing measures pay due attention to their evaluation and monitoring.
10. All stakeholders adopting temporary countervailing measures fulfil the obligation to notify and report to the Centre on the adopted measures in line with the Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and on Protection against Discrimination Amending and Supplementing Other Laws, amended.



6 Discrimination of Elderly

The Centre hereby recommends that:

01. Banks re-evaluate the current criteria for providing consumer loans for clients older than 65 years of age and, while observing the quantitative rules of prudent business, start to provide specialised loan products so that the risk of discrimination treatment with this group of society would be minimised.
02. Banks consider increasing the age limit for the final maturity of loans to the statistically average life expectancy age in the Slovak Republic in order to increase the accessibility of loan products to the elderly.
03. Banks design loan products specifically for the target group of people being 62 years old or older.
04. Banks specify the circumstances under which it is acceptable to provide a loan to clients of retirement age already in the general terms and conditions.
05. The Ministry of Finance of the Slovak Republic takes concrete steps to ensure the harmony between the provisions of Section 11(6) of the Act No. 595/2003 Coll. on Income Tax, as amended and applicable anti-discriminatory legislation.

06. The Ministry of Health of the Slovak Republic initiates the retrospective in-depth analysis of data collected during the on-going screening of breast carcinoma in the form of descriptive epidemiology study aiming at identification of hypothesis on the impact of the examination on the mortality by age cohorts and evaluates the cost benefit of the on-going screening.
07. The Ministry of Health of the Slovak Republic compares the differences in the standardised mortality to breast carcinoma in women older than 69 years of age who did not undergo the screening and women of the same age who undergo the screening in other countries.
08. The Ministry of Health of the Slovak Republic verifies the set hypotheses in a prospective analytical study focused on defining the age cohort (including age group 69 years old and older).
09. The Ministry of Health of the Slovak Republic considers amending the act No. 577/2004 Coll. on Scope of Healthcare Covered by Public Health Insurance and on the Reimbursement of Services Related to the Provision of Healthcare, as amended – Annex 2 “The Scope of Preventive Check-Ups” and includes the possibility to access the free-of-charge mammography screening without upper age limit every two years, in case of women at risk even more often.
10. The Ministry of Health of the Slovak Republic pays attention to securing the organised mammography screening in the Slovak Republic, to its management and to the systematic evaluation of already collected data with the focus on drafting expert opinions and recommendations for clinical practice and to an option of extending the target group without upper age limit.



7 Prevention from Increasing Extremism

The Centre hereby recommends that:

01. Media sensitively inform on current problems in the society and prevent contributing to hate speech occurrences and increasing radicalisation in the society.

02. Social media administrators and website providers in cooperation with the Criminality Prevention Unit at the Office of the Minister of Interior of the Slovak Republic adopt online codes of conduct clearly stating that their websites do not tolerate promotion of hatred in any form.
03. The Ministry of Education, Science, Research and Sport of the Slovak Republic pays due attention to upbringing of growing youth at schools and warns against dangers and risks related to spreading of hatred towards certain groups of people through education at primary and secondary schools and through respective curricula.
04. The Ministry of Education, Science, Research and Sport of the Slovak Republic pays due attention to the development of educational skills of pedagogic employees by implementing particular measures and publishing their impacts.
05. The Ministry of Education, Science, Research and Sport of the Slovak Republic, the Criminality Prevention Unit at the Office of the Minister of Interior of the Slovak Republic and self-governments closely cooperate in adopting particular and effective preventive measures and regularly inform the public about their implementation.



8 Asylum

The Centre hereby recommends that:

01. The Ministry of Interior of the Slovak Republic and the Police Corps of the Slovak Republic fully respect human rights of migrants and asylum seekers and ensure due observance of international treaties and human rights conventions, particularly the Geneva Convention Relating to the Status of Refugees and the European Convention on the Protection of Human Rights and Fundamental Freedoms, in all actions concerning refugees and migrants.
02. The Ministry of Interior of the Slovak Republic and the Ministry of Justice of the Slovak Republic ensure and respect access to fair, speedy and effective asylum procedure for all applicants for asylum, the right to information, the right to effective remedy and the best interest of a child.
03. The Ministry of Interior of the Slovak Republic inhibit and prevent inhuman or

degrading treatment in relation to detention of migrants and refugees at borders, particularly when it comes to minor migrants and refugees.

04. The Ministry of Interior of the Slovak Republic desist from the practice of detaining children based on the immigration status of their parents in line with the recommendations of the United Nations Committee for the Rights of the Child.
05. The Ministry of Interior of the Slovak Republic guarantee the right to adequate standard of life, education and healthcare to all children of applicants for asylum and/or refugees.
06. The Ministry of Interior of the Slovak Republic adopt a state integration programme for persons with international protection, which would promote effective integration and serve as prevention from extremism and radicalisation.
07. Public bodies and all human rights organisations active in the Slovak Republic participate in awareness raising and promoting accurate information on human rights of refugees and immigrants, particularly in terms of current situation and growing xenophobia.
08. Public bodies and all human rights organisations active in the Slovak Republic ensure and cooperate at provision of alternatives to detention to families with children in order to provide maximum possibilities for children to stay with their family members or guardians without the need to prove availability of inadequately high daily financial allowance.
09. Public bodies and all human rights organisations active in the Slovak Republic cooperate at adoption and implementation of integration programmes for persons seeking or enjoying international protection.
10. All human rights organisations active in the Slovak Republic stand up against violations of human rights of migrants and refugees, promote tolerance and empathy towards refugees and migrants, including their protection in reception centres and other housing facilities.
11. All human rights organisations active in Slovakia advocate against suppression of human rights by security measures and borders protection.
12. All human rights organisations active in the Slovak Republic support national and regional cooperation aimed at human rights protection, provision of humanitarian aid, promote understanding towards refugees and migrants also through media and participate in intercultural dialogue and common activities.

1 Gender Equality



Gender equality is an interdisciplinary term without exact definition in either Slovak legal order or in international law. Generally, the gender equality can be defined as equal opportunities between men and women, boys and girls.² The concept of gender equality is more precisely developed by the UN Women that defines gender equality mainly as “equal rights, obligations and opportunities of men and women, boys and girls”.³ On the national level, the Nationwide Strategy for Gender Equality in the Slovak Republic for the years 2014 – 2019 defines gender equality in the Slovak Republic as an equal social status of men and women in all spheres of public and private life aiming at securing the full social potential in accordance with individual skills.⁴

The objective of the gender equality is not men and women becoming the same but that the obligations and responsibilities of men and women would not depend on the gender someone was born with. It can be said that concerning individual interests, specific needs, life situations and priorities of men and women, the gender equality takes also into consideration the difference between sexes. The gender equality is not only a human rights issue but it can be also seen as a condition and indicator of sustainable development.

In recent years, the gender equality has become a popular topic of discussion in the society. The popularity of gender equality brings not only positives but also negatives caused by its misinterpretation. Gender equality should not be equated or interchanged with, for instance, feminism. In comparison with gender equality, feminism is characterised as a certain intellectual obligation or political movement that strives to achieve social justice for women and/or fights against sexism.

On the international level, there are multiple international treaties and conventions regulating the gender equality. Many of these international treaties and conventions were also signed and ratified by the Slovak Republic. The most important international convention in the field of protection of the gender equality is considered the 1979 International Convention on Elimination of All Forms of Discrimination of Women (hereinafter the “CEDAW”) and its optional protocol. Apart from this convention, within the UN, International Labour

² European Institute for Gender Equality: „*Concepts and Definitions*“, available online at <http://eige.europa.eu/gender-mainstreaming/concepts-and-definitions>.

³ UN Women: „*Concepts and Definitions*“, available online at <http://www.un.org/womenwatch/osagi/conceptsanddefinitions.htm>.

⁴ Ministry of Labour, Social Affairs and Family of the Slovak Republic: „*Nationwide Strategy of Gender Equality in the Slovak Republic for years of 2014- 2019*“(2014), p. 5.



Organisation and Council of Europe, there were also adopted other international conventions directly or indirectly regulating issues of the gender equality.⁵ Many of these conventions regulate the gender equality (resp. equal treatment principle) as an accessory rights bound to other “priority” right.

In the Slovak Republic, there is no legal definition of gender equality nor an independent legal regulation of gender equality. Gender equality is regulated by laws concerning the equal treatment principle – non-discrimination. The basic laws regulating gender equality in the Slovak Republic are particularly the Constitution of the Slovak Republic (hereinafter the “Slovak Constitution”) which stipulates in Article 12(1) that “*People are free and equal in dignity and rights.*” as well as in a wide variety of laws. The most important laws regulating the equal treatment principle is considered ADL. However, the Labour Code and other laws having provisions on equality⁶ must be also stipulated.⁷

The promotion, protection and development of gender equality in the Slovak Republic is mainly carried out by the Centre as an independent equality body and by Ministry of Labour, Social Affairs and Family of the Slovak Republic (hereinafter the “Ministry of Labour”) – the Department of Gender Equality and Equal Opportunities and by the Committee for Gender Equality as a permanent advisory committee of the Council of the Government of the Slovak Republic for Human Rights, National Minorities and Gender Equality which is responsible for monitoring the observance and implementation of the CEDAW, other international human rights conventions, legislation and strategic goals of the EU in this field.⁸

In 2014, the Government of the Slovak Republic (hereinafter the “Government”) adopted the Nationwide Strategy for Gender Equality in the Slovak Republic for years 2014 – 2019 proposed by the Ministry of Labour. According to the Ministry of Labour, the

⁵ e.g. European Convention on Protection of Human Rights and Fundamental Freedoms, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, in the field of education - UNESCO Convention against Discrimination in Education, in the field of child protection - Convention on the Rights of Child or in the field of employment rights – Convention of International Labour Organisation on Equal Remuneration of Men and Women Workers for Work of Equal Value, Convention of International Labour Organisation concerning Discrimination in Respect to Employment and Occupation.

⁶ Act on Social and Legal Protection of Children and on Social Curatorship, Act on Social Services, Act on Social Insurance, Act on Health Insurance, Act on Healthcare and Services related to Healthcare, Act on Protection of Consumers, Act on Supporting Work with Youth, Act on Education, Act on Detention and Act on Imprisonment.

⁷ JUDr. Anna Zachová et al.: „*Equal Treatment Protection and Its Protection – Theory and Experience of Chosen European Countries and Slovak Republic*“ (2010), p. 14 – 15.

⁸ Statute of the Committee for Gender Equality, Article 3.



shortcomings in the field of development, promotion and protection of gender equality in the Slovak Republic are especially linked to:

- traditional distribution of gender roles;
- insufficient knowledge of rights and gender equality agenda;
- lack of temporary countervailing measures;
- lack of services for better work-life balance.⁹

1.1 Gender Equality Index and Gender Inequality Index

Gender Equality/ Inequality Index is an indicator which reflects the status and level of gender equality in an individual country or region. In the context of the Slovak Republic, there are two major indexes of gender equality – an index developed by the United Nations Development Fund (hereinafter the “UNDP”)¹⁰ which collects and evaluates data on the UN level and the European Institute for Gender Equality (hereinafter the “EIGE”) which collects and evaluates data on the EU level.

Every year, the UNDP publishes the Human Development Report which can be characterised as a set of indexes, respectively indicators which reflect human development in individual UN member states. Two indexes on gender equality are a part of this report, namely:

- a) gender development index;
- b) gender inequality index.

While gender development index takes into consideration mainly data such as life expectancy, expected years of schooling, standard of living of men and women, the gender inequality index takes into the consideration a different portfolio of indicators:

- a) In the field of health, it considers the maternal mortality ratio, adolescent birth rate. Together, these indicators form the female reproductive health index.
- b) In the field of empowerment, it considers the female and male population with at least secondary school education and female and male share of the parliamentary seats. Together, these indicators form female empowerment index and male empowerment index.

⁹ Ministry of Labour, Social Affairs and Family of the Slovak Republic: „*Nationwide Strategy for Gender Equality in the Slovak Republic for the Years 2014 – 2019*“ (2014), p. 13 – 21.

¹⁰ See <http://www.undp.org>



c) In the field of labour, it consider male and female labour force participation.

Together, these indicators form a part of male and female labour market index.¹¹

Therefore, it can be stated that the index of gender inequality is a result of comparison of female gender index and male gender index. After the evaluation of the global index of gender inequality, the Slovak Republic ranked 40th with 0,991 points and reached very high level of human development. To compare, Austria ranked 24th place (0.078 points), Czech Republic ranked 28th place (0.129 points), Poland ranked in 36th place (0.137 points) and Hungary ranked 43rd place (0.252 points).¹²

On the other hand, EIGE focuses on the empowerment of all aspects of gender equality on the level of the EU. Through the gender equality index, it measures level of the gender equality in individual EU member states and monitors the development of gender equality on the EU level in accordance with its individual established policies.¹³ The gender equality index is based on data collected in eight different areas of human life:

- a) work;
- b) money;
- c) knowledge;
- d) time;
- e) status;
- f) health;
- g) violence; and
- h) intersecting inequalities.¹⁴

After evaluation of the results of the EIGE's gender equality index, it can be stated that the level of gender equality in the Slovak Republic has been stagnating for a long time. Currently, it is approaching 52.4 points.¹⁵ For comparison, the EU average is circa 66.2 points. When looking at the evaluation of individual areas of human life, the Slovak Republic has achieved the best

¹¹ United Nations Development Fund: „*Technical Notes of the Human Development Report*“ (2016), p. 1, available online at: http://hdr.undp.org/sites/default/files/hdr2016_technical_notes.pdf.

¹² United Nations Development Fund: “*Statistical Data of the Human Development Report*” (2016), p. 214, available online at: http://hdr.undp.org/sites/default/files/hdr_2016_statistical_annex.pdf.

¹³ European Institute for Gender Equality: “*Gender Equality Index: Data*” (2015), available online at <http://eige.europa.eu/gender-equality-index>.

¹⁴ European Institute for Gender Equality: “*Gender Equality Index: About the Index*” (2015), available online at <http://eige.europa.eu/gender-equality-index/about>.

¹⁵ European Institute for Gender Equality: “*Gender Equality Index: Index Score Slovakia*” (2015), available online at <http://eige.europa.eu/gender-equality-index/2015/SK>.



results in the area of health (85.3 points), finances (74 points) and labour (65.5 points).¹⁶ However, in comparison with previous years, the Slovak Republic has accomplished better results only in the field of finance.¹⁷ On the other hand, the worst results were achieved by the Slovak Republic in the field of violence (30 points) and empowerment (23.1 points). When evaluating data collected in the Slovak Republic, EIGE took into the consideration following indicators:

- a) In the field of labour: participation (mainly FTE employment rates and duration of working life) along with segregation and quality of work (mainly ability to take one hour or two off during working hours to take care of personal or family matters, career prospect index).
- b) In the field of money: financial resources (mainly mean monthly earnings and mean equivalised net income) and economic situation (mainly not at-risk-of-poverty and income distribution).
- c) In the field of knowledge: attainment and education (mainly graduates of tertiary education and People participating in formal or non-formal education) and segregation (tertiary students in education, health and welfare, humanities and arts).
- d) In the field of time: care activities (mainly people caring for and educating their children or grandchildren, elderly or people with disabilities, every day and people doing cooking and/or housework, every day) and social activities (mainly workers doing sporting, cultural or leisure activities outside of their home, at least daily or several times a week and workers involved in voluntary or charitable activities, at least once a month).
- e) In the field of health: status (mainly self-perceived health, good or very good, life expectancy at birth, healthy life years at birth), behaviour (mainly people who don't smoke and are not involved in harmful drinking and people doing physical activities and/or consuming fruits and vegetable) and access (mainly population without unmet needs for medical and dental examination).

¹⁶ European Institute for Gender Equality: “*Gender Equality Index: Index Score Slovakia*” (2015), available online at <http://eige.europa.eu/gender-equality-index/2015/SK>.

¹⁷ European Institute for Gender Equality: “*Gender Equality Index: Index Score Slovakia*” (2015), available online at <http://eige.europa.eu/gender-equality-index/2015/SK>.



- f) In the field of violence: the prevalence, severity, disclosure and additional indicators.¹⁸

Measuring and monitoring the gender equality on multiple levels (UN, EU and national level) allows the Government not only adequately and independently evaluate the situation in the Slovak Republic but, in accordance with the results of individual monitoring and measuring, to adapt the Nationwide Strategy of the Gender Equality in the Slovak Republic and respective national action plans to gradually eliminate inequalities between man/boys and women/girls in all areas of their life. The importance of the protection and development of the gender equality and its benefits for sustainable development was confirmed by the repeated enlistment of the gender equality into the 2030 Agenda for Sustainable Development (hereinafter the “Agenda 2030”). On the national level, it is implemented by the Office of the Deputy Prime Minister for Investments and Informatisation (hereinafter the “Office of Deputy Prime Minister”). The Agenda 2030 was adopted by the UN General Assembly resolution on 21 October 2015 and determines 17 goals and 169 targets for the achievement of sustainable development, wider freedom and international peace in the world. New goals and targets came into force on 1 January 2016. A year later, on 11 January 2017, the Government adopted the Concept of Implementation of the Agenda 2030 in the International Setting: Responsible Slovakia – Sustainable Development beyond Our Borders.¹⁹ In the field of gender equality, the UN member states have committed themselves to following targets:

- to eliminate all forms of discrimination of women and girls everywhere,
- to eliminate all forms of violence against women and girls in the private and public sphere, including human trafficking, sexual and other forms of exploitation,
- to eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation,
- recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate,

¹⁸ European Institute for Gender Equality: “*Indicators of Gender Equality Index in the Slovak Republic*” (2015), available online at <http://eige.europa.eu/gender-equality-index/2015/SK>.

¹⁹ Resolution of the Government of the Slovak Republic No. 5 dated 11 January 2017 on the Implementation Concept of the Agenda 2030 in International Setting.



- ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life,
- ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action²⁰ and the outcome documents of their review conferences,
- undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws,
- enhance the use of enabling technology, in particular information and communications technology, to promote the empowerment of women,
- adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels.²¹

The Council of the Government of the Slovak Republic for the Agenda 2030 (hereinafter the "Council for Agenda 2030") has been established by the resolution of the Government No. 350 dated 24 July 2017. Its role is, through its working group on implementation of the Agenda 2030, to draft the National Investment Plan for the years 2018 – 2030. On its first meeting, the Council for Agenda 2030 has decided that the Slovak Republic will implement through the abovementioned investment plan only 5 priorities:

1. Silver and Circular Economy
2. Education
3. Health, Environment and Quality of Life
4. Transportation, Energy and Livelihoods in the Context of the Climate Change
5. Elimination of Poverty²²

²⁰ During the 4th World Conference on Women and Measures for the Development, Equality and Peace which took place in September 1995, in Beijing, the action platform was created and Beijing Declaration was adopted. It set the 12 most important priorities for achieving gender equality and empowerment of women.

²¹ United Nations Knowledge Hub for Sustainable Development: "*Sustainable Development Goal No. 5: Achieve Gender Equality and Empower All Women and Girls*", available online at <https://sustainabledevelopment.un.org/sdg5>.

²² Office of the Deputy Prime Minister for Investments and Informatisation: "*Slovakia is forming its vision of the future until year 2030*" (2017), available online at <https://www.vicepremier.gov.sk/index.php/slovensko-formuluje-svoju-viziu-buducnosti-do-roku-2030/index.html>.



The goal No. 5 of the Agenda 2030 – Gender Equality was not included among the priorities which will be further considered by the Council for the Agenda 2030 when drafting respective national strategy and National Investment Plan for the Years 2018 – 2030 even though the Slovak Republic is not achieving even an average level of gender equality in the EU.

1.2 Violence against Women

Violence against women represents a persisting issue in the Slovak Republic. Generally, the violence can be defined as any form of harm, threat and act of domination, physical, sexual and psychological constraint and abuse of power. The violence is usually equated with physical violence, however, it has multiple different forms.²³ If it comes to the legal definition of violence against women, on the UN level, it is covered by the CEDAW and on the level of the Council of Europe, it is covered by the 2011 Convention of the Council of Europe on Preventing and Combating Violence against Women and Domestic Violence (hereinafter the “Istanbul Convention”) which defines the violence against women as “*a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life*” by Article 3(a). The gender based and sexual violence form a specific category of violence. The Office of the UN High Commissioner for Refugees defines gender based violence and sexual violence as a violence directed against a person based on the gender. It includes domestic violence, rape, sexual violence, sexual harassment, intimidation at work and school, human trafficking and forced prostitution. Although, the victims of such violence can be women/girls as well as men/boy, usually female victims prevail.²⁴

In the Slovak legal order, there is lack of definition of violence against women resp. gender based violence. The Criminal Code (hereinafter the “CC”) as a fundamental legal act of substantive criminal law includes multiple definitions of various kinds of violence,

²³ Slovak National Centre for Human Rights: „*Report on Observance of Human Rights Including the Equal Treatment Principle in the Slovak Republic for the Year 2016*“ (2017), p. 102, available online at http://www.snslp.sk/CCMS/files/Spr%C3%A1va_o_%C4%BDP_2016_FINAL.pdf.

²⁴ Office of the UN High Commissioner for Refugees: “*Fighting Sexual and Gender Based Violence*” (2016), available online at <http://www.unhcr.org/sk/2509-skco-robimestarostlivost-o-zranitelne-skupinysexualne-a-rodove-nasilie-html.html>



including those types of violence which can be subsumed under the category of gender based violence as well as violence against women. As an example, provisions regulating following crimes can be mentioned: provisions on crimes against life and health (e.g. Section 144 Premeditated Murder), provisions on crimes against human dignity (e.g. Section 199 Rape), provisions on crimes against family and youth (e.g. Section 208 Abuse of Close or Entrusted Person). So far, Slovak legal order lacks a definition of the gender based violence taking into account all its specifics. The National Action Plan on the Elimination and Prevention of the Violence against Women for the Years 2014 – 2019 stipulates that violence against women is *“a human right violation and a form of discrimination against women, which are considered all acts of gender based violence which result or might result in sexual, psychological or economic harm or suffering of women, including threatening by such acts, constraint or arbitral deprivation of liberty in public or private life”*.²⁵ In 2017, the Act No. 274/2017 Coll. on Victims of Crimes (hereinafter the “Victims of Crimes Act”) entered into the force. For the first time, it has defined domestic violence as a *“crime committed by violence or threat of violence on a first-degree relative, adoptive parent, adoptee, sibling, spouse, ex-spouse, companion, parent of a joint child and other person who lived or is living with a perpetrator in a common household.”*²⁶ In the 2016 HR Report, the Centre, in accordance with the evaluation of the UN Committee for Elimination of All Forms of Discrimination of Women, recommended to the Ministry of Labour and the National Council of the Slovak Republic (hereinafter the “National Council”) to adopt legal measures in the field of protection of women against the violence and to ratify the Istanbul Convention. The necessity to adopt new legislation regulating gender based violence was also reflected by two national policies – Nationwide Strategy of Gender Equality in the Slovak Republic for the Years 2014 – 2019 and National Action Plan for Elimination and Prevention of Violence against Women for the Years 2014 – 2019. The indicator of fulfilment of the requirement to adopt new legislation strengthening the legal and institutional framework in order to recognize women's rights and protection against all forms of violence is the abovementioned Victims of Crimes Act which will enter into the force in 2018. The Centre perceives adoption of the new legislation positively. However, we point out that despite the obligation to submit the Istanbul

²⁵ Ministry of Labour, Social Affairs and Family of the Slovak Republic: *“National Action Plan for Elimination and Prevention of Violence against Women for the Years 2017 – 2019”* (2016), p.10.

²⁶ Act No. 274/2017 Coll. on Victims of Crimes, as amended, Section 2 (1)(e).



Convention to the parliament for the ratification, the Government has not done so. Moreover, in August 2017, as proposed by the Ministry of Justice of the Slovak Republic (hereinafter the “Ministry of Justice”), the Government adopted the resolution No. 379 dated 16.8.2017 by which the ratification of the Istanbul Convention was postponed indefinitely. The Ministry of Justice was ordered to monitor the development of public opinion and moderate the discussion on the Istanbul Convention. The Government substantiated this decision by the fact that some of the provision of the Istanbul Convention might be deemed controversial and inconsistent with the Slovak Constitution.

1.2.1 Campaign “Because I said no (*Pretože hovorím nie*)”

In accordance with the respective national action plan, in 2017, the Ministry of Labour launched an awareness raising and information campaign on sexual violence – “Because I said no”. The Campaign is aiming at increasing the sensitivity of young people to the matters of sexual violence and to refuse it publicly.²⁷ The campaign is a reaction to the results of the 2016 Eurobarometer whereby 47 % of respondents consider gender based or sexual violence justifiable under certain circumstances. Slovak respondents consider being such circumstances:

- a) being drunk or using drugs (14%);
- b) voluntarily going home with someone, e.g. after party or date (14%);
- c) wearing revealing, provocative or sexy clothing (16%); and
- d) not clearly saying no, resp. physically fighting back (13%).²⁸

It is the first nationwide campaign in the Slovak Republic which is solely focused on the issue of sexual violence and its prevention in persons of 18 – 25 years of age.²⁹ The campaign is predominantly composed of TV and radio spots as well as various presentation in online space and information materials. The Centre concludes that since the launch of the campaign in 2017 until the end of the year 2017, the campaign had relatively weak reach to the target group. This can be mostly concluded based on the number of views of the video

²⁷ Official Website of the Campaign „Because I said no“ available online at <https://www.zastavmenasilie.gov.sk/pretoze-hovorim-nie/>.

²⁸ European Commission: „*Special Eurobarometer 449: Gender Based Violence*“, (2016), p.3.

²⁹ Official Website of the Campaign „Because I said no“, available online at <https://www.zastavmenasilie.gov.sk/pretoze-hovorim-nie/>.



spots published on YouTube (average number of views of the videos was fluctuating from 400 to 14 000 views at 49 subscribers)³⁰ as well as from the number of Facebook users who are following the page of the campaign (circa 3000 people).³¹

1.2.2 National Helpline for Women Experiencing Violence

In 2015, the historically first Slovak national non-stop helpline providing women experiencing violence help and support was established. The helpline is aiming at minimalizing the risks which are faced by women in a violent relationship and ensuring necessary help to women whose access to information is difficult due to disability or other handicap. National Helpline for Women Experiencing Violence (hereinafter the “National Helpline”) is operated by the Ministry of Labour. In 2017, the National Helpline recorded 3 301 calls of which 2821 calls (85%) having average duration of 6 minutes were answered.³² In comparison with previous years (2015 and 2016), the decrease in the occupancy rate of the National Helpline can be observed. In comparison with 2015, the National Helpline accepted 6073 calls and, in 2016 it accepted 3654 calls³³ what represents decrease of 53,55% in comparison with 2015 and decrease of 22,80% in comparison with 2016.

In 2017, the National Helpline registered 392 new clients – women who were calling the line for the first time. In average, it represents an increase by 32 new clients of the National Helpline per month. From new clients – women experiencing violence, the National Helpline accepted 1 181 calls what represents 42% of all accepted calls.³⁴

The clients were calling once or multiple time depending on their needs, the extent of exposure to violence and provided intervention.³⁵ The National Helpline provides women with safe and anonymous space for talk about the experienced violence. Therefore, the

³⁰ Official channel of the campaign „Because I said no“, on YouTube, available online at <https://www.youtube.com/channel/UC0uNm1EMDuYvooNCmcbwVEw>.

³¹ Official channel of the campaign „Because I said no“, on Facebook, available online at <https://www.facebook.com/zastavme.nasilie>.

³² From the answer of the Ministry of Labour, Social Affairs and Family of the Slovak Republic to the questions of the Centre dated 16.2.2018.

³³ Slovak National Centre for Human Rights: “*Report on Observance of Human Rights Including the Principle of Equal Treatment in the Slovak Republic for the Year 2016*” (2017) p. 108, available online at http://www.snslp.sk/CCMS/files/Spr%C3%A1va_o_%C4%BDP_2016_FINAL.pdf.

³⁴ From the answer of the Ministry of Labour, Social Affairs and Family of the Slovak Republic to the questions of the Centre dated 16.2.2018.

³⁵ From the answer of the Ministry of Labour, Social Affairs and Family of the Slovak Republic to the questions of the Centre dated 16.2.2018.



identification of the extent of the experienced violence and its seriousness remains in the hands of the client. Because of this, the identification of full spectre of violence experienced by the clients of the National Helpline is to certain extent limited and depends on the ability of clients to evaluate the situation and identify the individual type of violence. Two most experienced types of violence are psychological violence which is experienced by 299 out of 392 clients of the National Helpline (79%) and physical violence which is experienced by 222 clients (57%). In accordance with the data provided by the Ministry of Labour, the other forms of violence recorded through the calls to the National Helpline are social, economic and sexual violence. Moreover, the operators of the National Helpline also identified 128 cases of dangerous threats and 57 cases of dangerous chasing. Apart from the statistics of the National Helpline, the violence against women in the Slovak Republic can be also monitored through the statistics of the Police Corps of the Slovak Republic (hereinafter the “Police Corps”) which relates to individual crimes. The Police Corps' Department of Information Systems which acts as a coordinator of the evidential and statistical system of the criminality stated that, in 2017 the law enforcement agencies registered 500 complaints suspicious of committing a crime of abuse of a close person or entrusted person.³⁶ In 2017, the law enforcement agencies registered 58 male victims, 379 female victims and 63 groups (two and more victims). Further, the statistics show, that if it comes to perpetrators, male perpetrators prevail.³⁷ In 2017, the relevant law enforcement agencies registered 311 male perpetrators and 25 female perpetrators.³⁸

The Centre also requested information from relevant non-profit organisations and civic associations which, during their activities, are in contact with women experiencing violence or who experienced violence or are providing such women with help and support. Out of 9 requested organisations, only two organisations provided the Centre with information about their activities related to the violence against women – civic association Woman in Need and Civic Association Helping Family. In 2017, the civic association Woman in Need received 87 complaints, the complaints about experienced physical and psychological violence

³⁶ From the answer of the Ministry of Interior of the Slovak Republic to the questions of the Centre dated 15 February 2018.

³⁷ From the answer of the Ministry of Interior of the Slovak Republic to the questions of the Centre dated 15 February 2018.

³⁸ From the answer of the Ministry of Interior of the Slovak Republic to the questions of the Centre dated 15 February 2018.



committed by husband or ex-husband were the most common.³⁹ It can be concluded that the civic association Woman in Need has recorded a very moderate decline in the number of complaints. In comparison with 2017, the Women in Need received 10 complaints less than in 2016. In 2017, help and free of charge services provided by the civic association Helping Family was sought by 182 women⁴⁰ what represents an increase by 33% in comparison with 2016.

1.3 Participation of women in a political life

Equal representation of women and men is an important precondition of effective democracy and good governance of public matters. The advantages of actual equality between women and men in political life are more just society, inclusive administration, higher living standards, and positive impact on development of education, healthcare and infrastructure as well as declining level of political corruption.⁴¹

The underlining cause of low representation of women in political life are gender stereotypes. In stereotypical perception of role of men and women in society, that is in the context of traditional role of women (e.g. wife, mother, housewife) and traditional female characteristics (e.g. emotionality, submission, compassion), women do not belong to politics. Gender stereotypes predict that the basic characteristics of a good leader, including political one, are assertiveness, dominance, rationality, therefore the characteristics attributable to men.

Another reason of unsatisfactory participation of women in political life are also political parties. The political parties are usually domain of man who, by control of party functions and lists of candidates, create a barrier to further penetration of women to politics. Political parties and their leaders do not play often active role when promoting the political participation of women and their attitudes towards the voluntary quotas or other forms of measures increasing the number of women participating in political decision-making varies. In 2017, there was no political party chaired by a woman in the Slovak Republic. If it comes to parliamentary clubs, two out of seven parliamentary clubs are chaired by women.

³⁹ From the answer of the civic association Woman in Need to questions of the Centre dated 22 January 2018

⁴⁰ From the answer of the civic association Helping Family to questions of the Centre dated 22 January 2018

⁴¹ European Institute for Gender Equality: „*Gender Equality in Political Decision-Making*“ available online at http://eige.europa.eu/sites/default/files/documents/2016.1523_mh0116064skn_pdfweb_20170511095723.pdf



The obstruction to the higher participation of women in politics is also the increase of sexism and hate speech in politics. Generally, the participation of women in politics attracts the attention on social media and female politicians are often harassed in various forms. Female politicians do not feel safe in politics for many reasons.⁴² Together with stereotypical opinions on the role of women in society, the political environment does not create sufficiently supporting foundations for achieving the gender equality.

Global Index of Gender Equality which is drafted by the World Economic Forum placed Slovakia in 2017 on 89th place out of 144 countries in the category – political representation of women. Among the other things, the number of women in parliament (80th place), number of women in ministerial positions (94th place) and number of years during which the country was led by a women (43rd place) are taken into account in this category. Overall, the Slovak Republic was placed on 74th place.⁴³ Political participation of women is therefore worse in comparison with the overall placement of the country. To compare, in 2013 the Slovak republic was also placed on 74th place but in the category of political participation of women achieved 77th place out of 136 countries.⁴⁴ Similarly unfavourable is the position of the Slovak Republic in the 2015 Gender Equality Index drafted by EIGE. In the category of political strength of women, the Slovak Republic received only 29 points out of 100 points while the EU average is 48.5 points. When evaluating criteria for the determination of political strength of women, the index focuses on the ratio of female ministers, female members of national parliament and female member of regional parliaments.⁴⁵

Therefore, it can be stated that the Slovak Republic needs to adopt measures to increase the political participation women which is one of the basic predisposition of achieving the gender equality in practice. The Slovak Republic is also bound in this regard by its obligations in the field of human rights protection.

⁴² See United Nations Development Programme: „*Advancing Women's Political Participation: European Consultation on Gender Equality & Political Empowerment*“ (2016), available online at <https://www.idea.int/publications/catalogue/regional-organizations-gender-equality-and-political-empowerment-women?lang=en>

⁴³ World Economic Forum: „*The Global Gender Gap Report 2017*“ (2018), available online at http://www3.weforum.org/docs/WEF_GGGR_2017.pdf

⁴⁴ World Economic Forum: „*The Global Gender Gap Report 2013*“ (2014), available online at http://www3.weforum.org/docs/WEF_GenderGap_Report_2013.pdf

⁴⁵ See European Institute for Gender Equality: „*Gender Equality Index 2016*“ (2017), available online at <http://eige.europa.eu/gender-equality-index>



1.3.1 International, regional and national obligations

The equality of women and men in regard to the participation in political and public life is guaranteed by international conventions on the protection of human rights. In general, the issue of civil and political rights is subject to the 1966 International Covenant on Civil and Political Rights which stipulates in Article 25 that *“Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) To have access, on general terms of equality, to public service in his country.”* In accordance with Article 3, the states are bound to ensure the equal right of men and women to enjoyment of these political rights.

Specifically, in regard to women, the CEDAW bounds states in Article 7 to adopt all relevant measures to eliminate the discrimination of women politics and public life. General recommendations to Article 23 of the CEDAW highlights the need for temporary countervailing measures (hereinafter “TCM”) (e.g. quotas) to ensure the equality of women and men in participation in public life and politics. To ensure the actual equality in politics is necessary, not only formally, to remove obstacles as well as introduce temporary measures supporting equal participation of women and men in public life. At the same time, the recommendations stipulates the role of states, political parties and public officials actively support full and effective participation of women in public life and politics.⁴⁶

During the last review of the status of implementation of CEDAW in 2015, the UN Committee for Elimination of All Forms of Discrimination against Women was concerned that the Slovak Republic has a low representation of women in parliament and government, on national as well as on local level. It recommended the Slovak Republic to adopt measures with specific goals and fulfilment plan for accelerating the number of women in public life and politics and most importantly, in decision-making positions. It also recommended the Slovak Republic to adopt the measures including TCMs to support equal representation of women and

⁴⁶ See the UN Committee for the Elimination of All Forms of Discrimination against Women: „*General Recommendation No. 23 – Politics and Public Life*”(1997), available online at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT/CEDAW/GEC/4736&Lang=en



men in the parliament and political parties, on senior positions in state administration on national as well as local level while the special attention should be paid to women belonging to the ethnic minorities. As an examples, the legal quotes are mentioned.⁴⁷

In 1995, the Beijing Declaration in its Article 13 named the full participation women in accordance with the equal treatment principle in all spheres of society, including decision making processes, to be fundamental when achieving equality, development and peace. As a strategic goal, the Beijing Action Platform includes the adoption of measures to ensure the equal access and full participation of women in individual elements of power and in decision-making processes. As possible actions, it includes, among other things. adoption of measures, if appropriate, in regard to the election systems which support political parties in involvement of women in elected and non-elected public offices in the same ratio as men.⁴⁸

The resolution of the European Parliament on Women in Political Decision-Making: Quality and Equality⁴⁹, which call upon the member states and EU institutions to propose and implement effective gender equality policies and strategies to achieve parity participation in political decision-making and leadership on all level, is considered a key document in the EU system. In the declaration, there are gender quotas included amongst the tools for achievement of this goal. The gender policies on the EU level follow the Strategic Engagement of the Gender Equality for the years 2016 – 2019,⁵⁰ which also stipulates the need for achieving the gender balance in political decision-making and the support of activities of national governments which are backing gender balance in political and public decision-making. To conclude, the conclusions of the Council of the European Union on European Pack for Gender Equality for the Period 2011 - 2020⁵¹ are calling for the measures on a national level and, if appropriate, on

⁴⁷ Committee on the Elimination of Discrimination of All Forms against Women: “*Concluding observations on the combined fifth and sixth periodic reports of Slovakia*“ CEDAW/C/SVK/CO/5-6 (2015) Points 24 a 25, available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fSVK%2fCO%2f5-6&Lang=en

⁴⁸ Beijing Declaration and Beijing Action Platform, (1995) available online at <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>

⁴⁹ Resolution of the European Parliament dated 13 March 2012 on Women in Political Decision-Making – Quality and Equality, available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0070+0+DOC+XML+V0//EN>

⁵⁰ Strategic Engagement of the Gender Equality for the years 2016 – 2019, (2016) available online at http://ec.europa.eu/newsroom/document.cfm?doc_id=45163

⁵¹ Council of the European Union: “*Council Conclusions on the European Pact for Gender Equality for the Period 2011 – 2020*”, (2011) available online at https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lsa/119628.pdf



the EU level aiming at supporting the equal participation of women and men in decision-making on all levels and in all areas.

In the Slovak legal order, the equality of women and men in political life is guaranteed on the constitutional level. The Slovak Constitution in its Article 30 enshrines general, equal and direct voting right and access to elected and other offices for all citizens under the same conditions. In accordance to Article 12 of the Slovak Constitution, the right to vote and the right to be elected is guaranteed to all citizens regardless their gender. Despite the formal equality, the representation of women in political life in the Slovak Republic is in significant disproportion in regard to representation of men. From the variety of public policies for this area, the National Action Plan for Gender Equality in the Slovak Republic for the Years 2014 – 2019⁵², which stipulates as one of its goals the goal to decrease the gender differences in the participation of women and men in decision-making positions, is considered as a key document. Within this goal, one of the tasks aims at increasing the representation of women in decision-making positions in political life, including their motivation and possibility to run for an office and participate.

1.3.2 Elections to the bodies of the self-governing regions 2017

The Centre conducted an analysis of the election to the bodies of self-governing regions (hereinafter the “SGR Elections”) in 2017 from the perspective of representation of men and women. The Analyses focused on male and female candidate running for the post of chair of the chairman/ chairwomen of the self-governing region (hereinafter “SGR”) as well as for on the candidates running for members of the council of the higher territorial unit. The results of the analysis clearly show a low participation of women in the SGR elections and low proportion of representation of women on the posts of SGR chairwoman.

All over the Slovak Republic, there were 92 candidates to the post of chairperson of SGR out of which only 9 were female candidates. From all male and female candidates running for the post of SGR chairperson, there were only 9.78% of female candidates. In the SGR Bratislava, there were overall 11 persons, out of which 2 were female candidates that is 11.11% of all running candidates. In the SGR Banská Bystrica, there were overall 17 candidates out of

⁵² Ministry of Labour, Social Affairs and Family of the Slovak Republic: „*National Action Plan of Gender Equality in the Slovak Republic for the years 2014 – 2019*”, (2013) available online at https://www.gender.gov.sk/wp-content/uploads/2014/11/Akcny-plan-RR_final.pdf



which only one was a woman that is 5.89% of all running candidates. In the SGR Košice, there were 15 candidates out of which only one was a woman that is 6.67% of all running candidates. In the SGR Nitra, there were 8 candidates out of which only one was a woman that is 12.5% all running candidates. In the SGR Prešov, there were 12 candidates, none of which was a woman. In the SGR Trenčín, there were 7 candidates, out of which three were women that is 42.86% of all running candidates. In the SGR Trnava, there were 6 candidates and, just like in the SGR Prešov, there was no female candidate. In the SGR Žilina, there were 9 candidates, out of which one was a woman that is 11.11 % of all running candidates. The highest number of female candidates were running in the SGR Trenčín (three persons) while in SGR Prešov and Trnava, there was no female candidate. From all persons elected to the office of chairpersons of SGR, there is only one woman what represents 12.5% of all chairpersons of SGRs. The proportion of elected women to the post of a chairwoman of SGR is 2.79% higher than the ration of women running for the office of chairwomen of SGR. The graphic overview of male and female candidates running for the position of chairman or chairwoman is depicted in the table No. 1.

Table No. 1: Persons running for the office of a chairman/chairwoman

SGR	Bratislava	Banská Bystrica	Košice	Nitra	Prešov	Trenčín	Trnava	Žilina	National average
Overall number of candidates	11	17	15	8	12	7	6	9	92
Number of women	2	1	1	1	0	3	0	1	9
Women in %	11.11%	5.89%	6.67%	12.5%	0%	42.86%	0%	11.11%	9.78%

In overall, it can be noted that four SGRs: Bratislava, Nitra, Trenčín a Žilina were fluctuating above the national average. The best results were achieved by the SGR Trenčín. The national average was substantially lowered by the lack of female candidates in the SGR Prešov and Trnava. In overall, there were 2902 candidates running for a post in SGR assemblies. On the ballots, there were 612 women what is 21.92% of all running candidates.



In the SGR Bratislava, there were 362 candidates, out of which 102 were women that is 28.18% of all running candidates. In SGR Banská Bystrica there were 385 candidates, out of which 84 were women that is 21.82% of all running candidates. In the SGR Košice, there were 469 candidates, out of 108 were women that is 23.03% of all running candidates. In the SGR Nitra, there were 282 candidates, out of which 54 were women that is 19.15% of all candidates. In the SGR Prešov, there were 501 candidates, out of which 95 were women that is 18.96% of all running candidates. In the SGR Trenčín, there were 275 candidates out of which 55 were women that is 20% of all running candidates. In the SGR Trnava, there were 251 candidates out of which 51 were women that is 21.32% of all running candidates. In the SGR Žilina, there were 377 candidates out of which 66 were women that is 17.50% of all running candidates. The graphic overview of male and female candidates to the SGR assemblies can be seen in the table No. 2.

Table No. 2: Persons running to the SGR assemblies

SGR	Bratislava	Banská Bystrica	Košice	Nitra	Prešov	Trnava	Trenčín	Žilina	National average
Overall	362	385	469	282	501	275	251	377	2902
Number of women	102	84	108	54	95	55	51	66	615
Women in %	21.18%	21.82%	23.02%	19.15%	18.96%	20%	20.32%	17.50%	21.19%

Only in the SGR Banská Bystrica and Košice, there were running more female candidates than national average. Other SGRs were fluctuating within the 2% range of the national average, the SGR Žilina being exception where the number of female candidates were +3.5% higher than national average.

Among all 416 elected representatives to the SGR assemblies on a national level, there is only 56 female representatives what represents 13.46% of all elected representatives. In the SGR Bratislava, 50 people were elected to the SGR assembly out of which 13 were women, that is 26% of all elected representatives. In the SGR Banská Bystrica, there were 49



representatives elected to the SGR assembly out of which 5 were women, that is 10.20% of all representatives. In the SGR Košice, there were 57 representatives elected to the SGR assembly out of which 4 were women, that is 7.02% of all elected representatives, In the SGR Nitra, 54 representatives were elected to the SGR assembly out of which 6 were women, that is 11.11% of all elected representatives. In the SGR Prešov, 62 representatives were elected to the SGR assembly out of which 8 were women, that is 7.02% of all elected representatives. In the SGR Trenčín, 47 representatives were elected to the SGR assembly out of which 11 were women that is 23.40% of all elected representatives. In the SGR Trnava, 40 representatives were elected to the SGR assembly out of which 2 were women, that is 5% of all elected representatives. In the SGR Žilina, 57 representatives were elected to the SGR assembly out of which 7 were women, that is 12.28% of all elected representatives. The graphic overview of elected male and female representatives can be seen in the table No.3.

Table No. 3: Persons elected to the SGR assemblies

SGR	Bratislava	Banská Bystrica	Košice	Nitra	Prešov	Trnava	Trenčín	Žilina	National average
Overall number	20	49	57	54	62	47	40	57	416
Number of women	13	5	4	6	8	11	2	7	56
Women in %	26%	10.20%	7.08%	11.11%	12.90%	23.40%	5%	12.28%	13.46%

It can be seen, that only SGR Bratislava and Trenčín overachieved the national average. In both cases, the proportion of elected female representatives overachieved the proportion of women running for the office in SGR Bratislava by 4.82% and in the SGR Trenčín by 3.4%. On the other hand, the highest overflow was in the SGR Trnava (15.32%). The national average proportion of the number of women elected into the SGR assemblies and the number of women running for the office is lower by 7.73%.

If we compare these data with the results of the 2013 SGR Elections, the following statements can be made. The number and percentage of women running for the office of the SGR chairperson increased. While in 2013, only five women run for the office what makes



7.57% of all candidates, in 2017, nine women run for the office what makes 9.78% of all candidates. We are pleased to see this moderate but positive trend. It is positive that in comparison with the year 2013, a woman was elected to the office of the chairperson of the SGR. In 2017, the number of women running for the spot in the SGR assemblies was higher as well as the overall proportion of male and female candidates was higher. In 2013, the overall number of female candidates was 485 what is 18.83% of all running candidates. In 2017, the overall number of female candidates was 615 what is 21.19% of all running candidates. Despite this positive trend, the number of women sitting in the SGR assemblies is lower than after the 2013 SGR elections. In 2013 SGR Elections, 64 women were elected to the SGR assemblies what represents 15.68% of all running candidates, while, in 2017 only 56 women were elected to the SGR assemblies what represents 13.46% of all running candidates. The Centre considers the higher number of women participating in the SGR Elections, whether running for the office of chairperson or to the assembly, very positively. Negative discrepancy between the elected female members of SGR assemblies in 2013 and 2017 is subject to further research.

In this regard, the Centre considers important to point out to the collection of the data. In comparison with the year 2013, the Statistical Office of the Slovak Republic has not provided data divided in respect to the gender in 2017. Therefore, the finding of the Centre in 2017 are based on its own work in this field. The Centre considers the fact that the Statistical Office of the Slovak Republic has not provided general and expert public with freely accessible data divided and structured in respect to the gender negatively. Division of the statistical data not only in respect to the gender but also in respect to age, level of income, education and geographical location represents a key tool for detecting deep structural inequalities in the society. Using such divided statistical data is highly recommended by the UN, also within the Agenda 2030 for Sustainable Development.⁵³

Recommendations:

The Centre hereby recommends that:

01. The Ministry of Justice of the Slovak Republic actively leads a dialogue and monitors public opinion on the 2011 Convention on Preventing and Combating Violence against

⁵³ Available online at https://unstats.un.org/sdgs/files/meetings/iaeg-sdgs-meeting-06/20170607_updated%20version-overview%20of%20standards%20of%20data%20disaggregation.pdf



Women and Domestic Violence aiming at fighting the disinformation campaigns which accompany the process of its ratification.

02. The Council of the Government of the Slovak Republic for the Agenda 2030 includes the sustainable development goal No. 5 – gender equality to the national strategy and National Investment Plan for the years 2018 – 2030.
03. The Ministry of Labour, Social Affairs and Family of the Slovak Republic expands the campaign – “Because I say no (*Pretože hovorím nie*)” aiming at increasing the reach of the campaign to young people in the age of 18 – 25 years.
04. The Ministry of Interior of the Slovak Republic and the Police Corps of the Slovak Republic educate the representatives of the criminal justice who are in direct contact with victims of the gender based and sexual violence on the gender based and sexual violence and on working with such victims.
05. The Ministry of Labour, Social Affairs and Family of the Slovak Republic and political parties adopt temporary countervailing measures aiming at reaching the actual equality of women in political life and in decision-making positions in political life.
06. Political parties introduce initiatives allowing the full participation of women in politics on the national, regional and local level.
07. Political parties implement mentoring programmes aiming at the higher participation of women in politics on the national, regional and local levels.
08. The Ministry of Labour, Social Affairs and Family of the Slovak Republic supports projects and public campaigns focused on increasing the representation of women in political life and motivating political parties to achieve this objective.
09. The Statistical Office of the Slovak Republic re-introduces the disclosure of statistical data divided according to gender when disclosing the election results.
10. The Statistical Office of the Slovak Republic implements a precise division of collection and disclosure of statistical data pursuant to the standards of the UN.

2 Roma



The Centre has been consistently monitoring situation concerning housing of Roma. In its 2015 Human Rights Report, the Centre points out the pertaining problem with Roma housing situation. According to the Atlas of Roma Communities in Slovakia, in 2013, there were 29 406 dwellings in 803 monitored settlements with estimated population of 215 436 persons. The most common type of dwellings were flats in blocks of flats with a total number of 10 635 (36.2 %) and with estimated population of 66 400 persons (29.7 % of population in all dwellings). The second most frequent type of dwellings were legal concrete houses, e.g. houses registered in the land registry, with a total number of 8 701 and an estimated population of 72 083 persons (33.5 % of population in all dwellings). Legal huts and houses constructed upon construction permit (e.g. legal individual houses) represented 9 889 (33.6 %) dwellings with an estimated population of 79 187 people (36.8 % of population in all dwellings).⁵⁴

It is a common fact that Roma often live in dwellings that do not fulfil technical and hygiene standards, lack access to drinking water, electricity, gas, canalisation, roads or lack of pavements with public street lighting. These dwellings are in many cases constructed over lands that do not have legally settled ownership or lands of known owners without their consent. They also live in destroyed blocks of flats from the previous regime or one-room provisional huts made of various materials.

A socialistic program for liquidation of Roma settlements started creation of these destroyed streets or neighbourhoods, which are indeed uncomplimentary for the cities concerned. Back then, population of these settlements was resettled to flats in cities facing challenges, lack of will or abilities of Roma to use properly such new dwellings. Roma from socially disadvantaged environments could not adapt to living in flats and it was precisely the lack of understanding of Roma ethno-psychology that often lead to complete demolition or depreciation of these flats by Roma.⁵⁵

The majority society affected by prejudice, stereotypes and media tend to believe that the situation in Roma settlements is unsolvable. It must, however, be underpinned that the

⁵⁴ Plenipotentiary of the Government of the Slovak Republic for Roma Communities: „*Atlas of Roma Communities in Slovakia*” (2013), available in Slovak at: https://www.employment.gov.sk/files/slovensky/rodina-socialna-pomoc/socialne-sluzby/atlas_rom-kom.pdf.

⁵⁵ Šuvada, M.: „*Rómovia v slovenských mestách*” (2015), Department of Politics of Matica Slovenská.



situation concerning housing of Roma cannot be seen superficially. Similarly as the Slovak society, the Roma community is neither homogenous nor uniform. Almost every Roma community has its specificities and differences often serving as limiting factors determining the external perception of each community, life therein and its relation to the majority as well as to Roma surroundings. Hence, it is impossible to create a single model to be implemented nationwide.⁵⁶

Regarding the institutional segregation, it must also be noted that certain Slovak cities resettle maladaptive Roma families from city centres to outskirts with flats for late payers as part of their public policies. This is exactly how Roma enclaves and poor enclaves were created consequently leading to ghettoization of Roma. A tendency not to have less adaptive Roma present in those parts considered valuable by the majority society, such as city centres and nearby areas or close to touristic localities, is a general effort in Slovak cities.⁵⁷

In May 2017, the National Council adopted an amendment to the Act No. 330/1991 Coll. on Land Arrangements, Settlement of Land Ownership Rights, District Land Offices, the Land Fund and Land Associations as amended aimed to facilitate land settlement under Roma dwellings. The amendment of this act was prepared by the Ministry of Agriculture and Rural Development of the Slovak Republic (hereinafter the “Ministry of Agriculture”) addressing the need to settle ownership rights and rights of use concerning the lands under settlements of marginalised Roma communities (hereinafter the “MRC”) as well as lands in farmyards. Regarding the lands under settlements, the amendment entitles the landowners and co-owners to opt for settlement in a form of new lands, lands under settlements or monetary settlement. In case the owner opts for getting back his/her original land or its share under the settlement, ownership of the land concerned is transferred to the municipality and the municipality cannot sell this land or put a burden upon it, except from transferring its ownership to an inhabitant of the respective dwelling.

Roma have been the most negatively assessed group in Slovakia concerning social distance.⁵⁸ Research conducted in the area confirm that negative attitudes towards Roma pertain

⁵⁶ Mušíňka, A.: “*Podarilo sa. Príklady úspešných aktivít na úrovni samospráv smerujúcich k zlepšeniu situácie Rómov*“ (2012), Department of Roma Studies of the Prešov University.

⁵⁷ Šuvada, M.: “*Rómovia v slovenských mestách. Bratislava*” (2015), Department of Politics of Matica Slovenská

⁵⁸ Social distance from Roma means the proportion of respondents that rejects Roma as neighbours or rejects Roma in their city/municipality/country.



at all levels of the society. The level of social distance depends on the age, gender, education, social and economic activities and status. The biggest social distance from Roma concerns people who never have got in touch with them. The majority lacks sufficient objective information on Roma and does not understand structural causes of their situation. Roma are perceived as unchangeable and unsolvable, even as a threat.⁵⁹

Prejudice and segregation have also been proven by data of the Atlas of Roma Communities in Slovakia, which shows that the most populated type of settlements are settlements at outskirts with 12 440 dwellings inhabited by estimated 95 020 people. Proportion of residents per one dwelling in average is 7.6. The same proportion applies for segregated settlements with a total number of 9 756 dwellings inhabited by 73 920 residents as estimated. Settlements within municipalities have a total population of 46 496 inhabitants with the lowest number of dwellings (7 210) and the lowest proportion of residents per dwellings – 6.5 residents.

The Centre believes that in those cities and municipalities that implement measures for Roma these are ultimately beneficial for all inhabitants. Success of such cities and municipalities is due to incredible efforts of mayors who are willing to make steps ahead to resolve the so called Roma issue.

The Centre also recalls the Concluding Observations of the UN Committee on the Elimination of Racial Discrimination⁶⁰ (hereinafter the “CERD”) of 8 December 2017.⁶¹ CERD recommends the Slovak government adopt effective measures to eliminate discrimination of Roma minority in various areas of life. CERD also pays attention to housing situation of Roma minority. It recommends the Slovak Government improve living conditions of socially excluded members of Roma minority and eliminate their segregation in housing. The Centre upholds concluding observations of CERD.

When selecting particular case studies, the Centre sought to show diversity of

⁵⁹ Open Society Foundation: *“Moderation of the Stereotypes and Prejudices against Roma Population: Creation of Communication Strategy and Its Implementation in Selected Professions of the First Contact in Selected Regions”* (2014)

⁶⁰ The UN Committee on the Elimination of Racial Discrimination is a UN treaty body consisting of independent experts overseeing observance of the International Convention on Elimination of All Forms of Racial Discrimination by contracting states. The observance of this convention by the Slovak Republic was evaluated by the committee at the session with the Slovak government delegation which took place on 28 - 29 November 2017 in Geneva.

⁶¹ Available at: http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/SVK/CERD_C_SVK_CO_11-12_29703_E.pdf.



approaches of cities and municipalities towards housing of Roma. In the present Human Rights Report, the Centre therefore elaborates on critical cases as well as good practice examples that could be applied also in other communities or municipalities.

2.1 Moldava nad Bodvou

Moldava nad Bodvou is a city with 11 000 inhabitants. Within last population census, 1 085 inhabitants reported themselves as belonging to Roma ethnicity. According to data from field social workers, the number of Roma population in the city is estimated at 1 950 persons, while 800 of them live in a settlement close to Budulovská Street. There is a fully segregated Roma settlement close to Budulovská Street with two blocks of flats (24 flats). These flats are owned by their residents and have access to electricity. Due to debts on payments, they lack access to drinking water. Another segregated part of Moldava nad Bodvou inhabited by Roma is located in Obrancov Mieru Street with unlawfully inhabited 3 houses with no access to water, electricity, gas or canalisation. Furthermore, there are also segregated streets mainly inhabited by Roma in the city, such as Debrad'ská Street, J. Kráľa Street, Vodná Street and Jiskrová Street. Roma living in these streets live in houses with access to electricity, water, canalisation and possibility of gas connection. Finally, some Roma communities are scattered within the majority society in Rožňavská Street, Bartalošová Street, Tehelná Street, Jesenského Street, ČSA Street and Obrancov Mieru Street. Roma flats in Rožňavská Street, ČSA Street and Bartalošová Street and Roma houses in the remaining streets have access to electricity, water and canalisation.⁶²

Pursuant to information in media, in 2017, Moldava nad Bodvou decided to sell approximately 20 flats in Rožňavská Street inhabited by Roma families who had debts on rent towards the city. According to the statement of the city, this was a solution of long lasting problems concerning citizens damaging rented city property and breaching lease contracts, hence the city refuses any manifestations of discrimination.⁶³ Members of the city council

⁶² City of Moldava nad Bodvou: “*Programme of Development of the City of Moldava nad Bodvou for the Years 2016-2033*”, available online in Slovak at: http://www.moldava.sk/roxyfileman/Uploads/Dokumenty/februar_2016/PHSR_analyticka_cast.pdf,

⁶³ Roman Cuprík: “*Rómov z Moldavy sťahujú, hoci sa chceli dohodnúť*” (2. 9. 2017), available online in Slovak at www.domov.sme.sk.



approved the sale of flats in December 2016. The explanatory note of the city states that the tenants concerned were also “maladaptive inhabitants” and that cohabitation of tenants and owners of flats has not always been ideal.

Concerning its housing policy, the statement of the city of Moldava nad Bodvou regarding the Centre's request⁶⁴ refers to a generally binding regulation No. 101, which explicitly regulates renting conditions for flats. The city enters into lease agreements for a period of one year and at the end of the year regularly evaluates them by a housing committee and housing administrators. Considering the debtors as well as maladaptive citizens, it is taken into account that each lease is specific. Hence, each lease contract is evaluated individually, irrespective of nationality or ethnicity of tenants of city flats. The city argues that besides high debts on rent (almost EUR 700 000) and on related services (e. g. waste commissions), it decided not to extend the lease agreement to only 3 out of 162 tenants. It also states that currently it was not in such economic situation to build dozens low-standard flats due to disproportionate increase of debts as well as weak support of state housing policies.

The statement of the city of Moldava nad Bodvou regarding the Centre's application further mentions two requests for transfer of ownership to flats in indefinite lease. There were no such requests concerning other flats in definite lease. Despite that, the town hall together with flat administration proposed the city council to adopt the possibility to buy the flats for those tenants who have definite lease and don't have any debts on rent or those who were late on payment maximum with monthly rent and have indefinite lease. These agreements were approved in 2016 at the 25th session of the city council. Consequently, the original tenants could request to buy their flats, which was done by 9 of them who bought the flats from the city. The remaining flats were not sold and are used by their original tenants. The city underlined, that the amount of debts of these 11 tenants was more than EUR 100 000 by the end of 2017.

Concerning Moldava nad Bodvou, in 2017 media brought information about construction of an anti-Roma fence. The Centre has been consistently drawing attention to the issue of anti-Roma walls construction in Slovakia. In its 2013 Human Rights Report, the Centre warned against the spread of such fences or walls in Slovakia and in the 2016 Human Rights Report it concluded that construction of anti-Roma walls is only an apparent solution while in

⁶⁴ From the answer of the city of Moldava nad Bodvou regarding to the questions of the Centre dated 29 January 2018.



practice barriers among people living in close neighbourhoods only increase.

During summer holidays, the city built a fence between the Primary School with Grammar School with Hungarian as Teaching Language, which has a majority of students from a Roma settlement (total number of all students was 488), and the Primary School at Československej armády Street. For more than forty years, the schools shared common areal.⁶⁵

Moldava nad Bodvou stated that it built fences in order to protect its assets, for health protection and prevention of possible damage of city assets. The city council adopted by resolutions No. 540/201, No. 541/2017 and No. 550/2017 of 21 September 2017 and upon supporting statements of commissions and approval of the parties concerned (e.g. headmasters of primary schools) a decision to entrust assets management to all schools in its founding mandate. Separate entrances to each school formed part of this consensus due to the need to set up clear competences under the assets management, mainly to maintain order, justified costs aimed at assets protection and prevention of possible liability in case of health damage of children or other citizens. The city further noted that the reaction of citizens was positive and reasoned it by stating that it did not register any complaint or objection concerning the assets management.⁶⁶ It claimed that the fence was built upon request of parents of children of the Primary School at Československej armády Street since previously strangers used to enter the areal. These people disrupted education, entered the dining hall and there were even occurrences of attacks and theft. Media published information according to which the headmaster of the Primary School with Grammar School with Hungarian as Teaching Language, however, had not handle any written complaint or dealt with any situation concerning attacks or thefts.⁶⁷

It must be noted that several issues have accumulated in Moldava nad Bodvou and these cannot be resolved separately. Moldava nad Bodvou and its surrounding is a geo-economic area of more than 50 thousand people in Bodva valley and has been repeatedly found the locality with the highest criminality rate with a prevalence of property crimes.⁶⁸ In its 2013 Human

⁶⁵ Roman Cuprík: "Postavili ďalší plot oddeľujúci Rómov, stojí medzi školami" (31. 8. 2017) Korzár; No. 201, Region, p.6.

⁶⁶ From the answer of the city of Moldava nad Bodvou regarding to the questions of the Centre dated 29 January 2018.

⁶⁷ Roman Cuprík: "Postavili ďalší plot oddeľujúci Rómov, stojí medzi školami" (31. 8. 2017) Korzár; No. 201, Region, p.6.

⁶⁸ Veronika Prušová: "V krčme, kde sedeli, bol zrazu zlý vzduch. V Moldave sa proti Rómom bránia aj žiletkovými plotmi" (24. 10. 2017), available online in Slovak at www.dennikn.sk; Slovensko, 11:19,



Rights Report, the Centre reported on the Police Corps intervention in the Roma settlement in Budulovská Street in Moldava nad Bodvou. In 2017, the Centre conducted an independent investigation⁶⁹ concerning refusal of entry for people of Roma ethnicity to public swimming pools in Moldava nad Bodvou and concluded discriminatory action of employees of the public swimming pools⁷⁰.

The Centre finds the living situation of Roma in Moldava nad Bodvou critical. It is concerned that the city decided to raise the fence barrier between the schools instead of trying other lawful measures. On the other hand, it must be stated that the self-government cooperates with the Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities and field social work is one of the city's priorities.

2.2 Sabinov

The Apostolic Church in Sabinov⁷¹ plans to create a “model street” for interested Roma. Urbanistic study of the Apostolic Church estimates construction of approximately 20 new houses for Roma families at the outskirts of Sabinov. The main goal of this project is that the future users build the houses from their own resources and on their own lands.

The Apostolic Church is active in Hura area with a numerous Roma community. It has selected those Roma who changed their approach to life, found work and integrated in the society. As a precondition, Roma themselves had to buy the lands and the Apostolic Church subsequently requested the city of Sabinov to change the land plan so that these Roma could start the construction. However, residents of a nearby street objected since they were worried that their living standards and housing in the area would deteriorate. They contested the situation at the city council session in July 2017 and asked the members not to change the land plan. The city council consequently withdrew the issue from the agenda.

⁶⁹ Under Section 1(2)(g) of the Act No. 308/1993 on Establishment of the Slovak National Centre for Human Rights, as amended.

⁷⁰ See: http://www.snslp.sk/CCMS/files/2Nez%C3%A1visl%C3%A9_zis%C5%A5ovanie_-_diskrimin%C3%A1cia-_zabr%C3%A1nenie_vstupu_R%C3%B3mov_na_k%C3%BApalisko.pdf

⁷¹ Apostolic Church in Slovakia is in itself a protestant church with particular evangelic and Pentecostal-charismatic characteristics. It is a part of the worldwide church community Assemblies of God (AoG), which together with other Pentecostal and charismatic church communities gathers approximately 750 million members – reborn Christians.



According to the statement of Sabinov regarding the Centre's questions⁷², the town hall has adopted a resolution of the City Council No. 144 of 30 June 2016, which approved launching of a tender for Modifications and Supplements to the Land Plan of Sabinov 2016. Changes and supplements concerned 20 localities, first of which reflects the request of the Apostolic Church in Slovakia- Sabinov and concerns the area "IBV Malá Hura" opposite the church of the Apostolic Church. Despite this change did not raise from the initiative of the city, the city adopted it and did not request the Apostolic Church to cover the costs for procuring the landplanning documentation.

Resulting from the statement of the city of Sabinov, modification of the land plan in the area was not definitely rejected but only moved to a separate debate to be held later. Representatives of the Apostolic Church in Sabinov believe that concerns of people are exaggerated. It defends the project of the so called Roma Street by stating that the new houses would be constructed by their owners without any donations. The city of Sabinov states that it had met several times with representatives of the Apostolic Church and it has been trying to address and solve the issue of the Apostolic Church.

Prejudice rate of the majority towards Roma remains high in Slovakia. Media often picture Roma inappropriately and unprofessionally, which only leads to further stereotyping and sets grounds for discrimination. Regarding the planned construction in Hura, racial hatred is manifested mainly against the Roma population due to generalisation, stereotyping and creation of stereotypes concerning their behaviour, values and customs.

The Centre welcomes communication between the representatives of the city and the Apostolic Church as well as field social work of the city of Sabinov in the area of housing, in particular assistance in legalisation of unlawful constructions and filing applications for electricity connection, water connections and applications for rented flats.⁷³

2.3 Svidník

There are approximately 800 Roma living in Svidník, i. e. 7 % of its citizens.⁷⁴ In 2009,

⁷² From the answer of the city of Sabinov to the questions of the Centre dated 19 January 2018.

⁷³ From the answer of city of Sabinov to the questions of the Centre dated 19 January 2018.

⁷⁴ Šuvada, M.: "*Rómovia v slovenských mestách*" (2015), Department of Politics of Matica Slovenská.



a block of flats in Goldbergerová Street mainly inhabited by Roma partially collapsed. Due to problems with statics, the city had to demolish the entire block. Around 80 tenants were provided alternate housing in the former city dormitory in Sovietskych hrdinov Street.

According to the statement of the city of Svidník regarding the Centre's request⁷⁵ in response to unsuitable housing situation, the city built 72 low-standards flats in Festivalová locality. The first phase terminated in 2011, when 17 families moved to container flats. The second phase completed in July 2017, when another 54 families moved. The construction was organised by the city with a loan from the State Housing Development Fund, donation from the Ministry of Transport and Construction of the Slovak Republic (hereinafter the "Ministry of Transport") and its own resources. In the block A18, there are 18 flats with 80 residents, block B28 has 28 flats with 140 residents and block C28 has 28 flats with 179 residents. New low-standard flats are equipped with sanitary, kitchen unit and solid fuel furnace.

Allocation of municipal rental flats is regulated by a generally binding regulation of the city of Svidník No. 2/2016 on lease of rental flats in the city of Svidník, which lays down condition of applications, selection of tenants, approval and organisation of lease. At its session on 7 June 2017, the Social, Health and Housing Committee of the City Council in Svidník assessed the applications for low-standard rental flats lease and passed those applicants who fulfilled requirements under the generally binding regulation into selection by toss.

According to the statement of Svidník, the city assisted the citizens with moving. It also provides assistance in filing applications, regarding requirements for allocation of flats in other localities where the majority and minority cohabitate. This concern flats in Nábrežná Street with 32 families and flats in Sovietskych hrdinov Street with 26 families. The city also stated that many families live in houses all around Svidník. These are integrated families, their members have jobs and took responsibility for their lives. The city's priority in the area of housing is counselling and motivation concerning housekeeping and taking care for surroundings, cleaning and order in the resident buildings.⁷⁶

The Centre highlights the important role of social housing legislatively regulated in Section 21(1) of the Act No. 443/2010 Coll. on Donation for Housing Development and on

⁷⁵ From the answer of the city of Sabinov to the questions of the Centre dated 19 January 2018.

⁷⁶ From the answer of the city of Svidník to the questions of the Centre dated 12 February 2018.



Social Housing, as amended.⁷⁷ Social housing is organised through construction from public resources and comprises social housing in standard flats and social housing in low-standard flats. The Centre welcomes that the city of Svidník implements social housing in practice.

2.4 Spišský Hrhov

One of the municipalities comprehensively approaching work with Roma communities is Spišský Hrhov, where 350 of 1 800 citizens are Roma. The current mayor, Mr. Vladimír Ledecký, has been a mayor since 1998, when Roma still lived in huts without electricity, almost all of them were unemployed and one fifth of children attended special schools.⁷⁸

At the beginning, the municipality adopted a strategic plan of municipality, analysing situation and proposing solutions, timeframe and resources. The whole planning process was conducted with participation of citizens including Roma, the city council, professional facilitators and academics. The strategic plan is regularly updated based on evaluation of activities done and needs arising. The basic principle, i. e. the effort for maximum possible integration of Roma community within the municipality and overall development of the municipality, remains. Housing problems were identified as one of the most serious within preparation of strategic development.⁷⁹ Spišský Hrhov became the first Slovak municipality to adopt a plan of economic and social development. All activities and plans of the municipal enterprise⁸⁰ are in line with the strategic plan of municipal development.

According to the statement of Spišský Hrhov regarding the Centre's questions⁸¹, local Roma now have equal housing conditions as the majority. They live in houses with electricity, water and canalisation. The municipal enterprise also built rental flats for them in a concrete block with 6 flats and wooden houses with 5 flats. The flats are allocated by the city council and its members follow a scoring system. A list is made according to the score gained and rental

⁷⁷ Social housing is housing constructed under public resources and aimed for appropriate and dignified living of persons who cannot procure their own housing and fulfil conditions under the law. Social housing is also housing or accommodation financed with a use of public resources and provided within care under special laws.

⁷⁸ Peter Jabrik: "Americký denník opäť písal o Spišskom Hrhove" (25. 9. 2017) Korzár; No. 220, Region, p. 3.

⁷⁹ Mušinka, A.: "Podarilo sa. Príklady úspešných aktivít na úrovni samospráv smerujúcich k zlepšeniu situácie Rómov" (2012), Department of Roma Studies of the Prešov University.

⁸⁰ See: <http://www.spisskyhrhov.info/obec-spissky-hrhov/organizacie-v-obci/hrhovske-sluzby-s-r-o/>

⁸¹ From the answer of the city of Spišský Hrhov to the questions of the Centre dated 16 February 2018.



flats are allocated to applicants with the highest score.

Primary activities of the municipality focused on culture of living, housekeeping, hygiene and cohabitation. Further activates aimed at aesthetics of external premises of houses, house yards, entrances and maintenance of public areas. As a key stakeholder, the municipality started to pay due attention to rigorous observance of construction legislation and to provide assistance with settlement of lands and houses ownership as well as legalisation of housing in cases fulfilling at least minimum requirements. The municipality addressed and implemented a system of tax and commission duties' observance by real households' members. A system of waste collection and export, elimination of dumpsites and streets pollution, particularly a system of illegal dumpsites.⁸²

Spišský Hrhov is special for activities of its municipal enterprise. It mainly focuses on construction, provision of municipal swimming pools, construction and management of distillery, landscape maintenance, fruits and herbs drying, cleaning services, briquettes and pallets production, organisation of festivals, cultural and social events. The municipal enterprise offers its craftsmen to other municipalities and firms in return for consideration. Profits of the municipal enterprise divides into the needs of its development and other social services in the municipality. The municipal enterprise has secured more than half of construction works of flats while future tenants directly participated.

Pursuant to the statement of Spišský Hrhov, all lands in the municipality have settled ownership and there are no unlawful constructions. A key factor behind the current situation was lands buyout from their original owners by the mayor for affordable prizes. Land register payments were born by the municipality, which financially supported Roma (due to high interest rates in banks) and concluded payment schedules with them.⁸³

The Centre highlights comprehensive work with Roma communities by Spišský Hrhov as well as the overall positive contribution of the mayor for the municipality and its citizens.

⁸² Mušíinka, A.: "Podarilo sa. Príklady úspešných aktivít na úrovni samospráv smerujúcich k zlepšeniu situácie Rómov"(2012), Department of Roma Studies of the Prešov University.

⁸³ Miroslav Pollák: "Ako v Spišskom Hrhove pochodovali za práva kôz a oviec" (21. 10. 2017) Sme – VÍKEND, p. 12-13.



Recommendations

The Centre recommends that:

01. Self-governing regions develop clear housing policies aimed at elimination of segregation.
02. Self-governing regions improve housing conditions of Roma through social work.
03. Self-governing regions and the Ministry of Transport and Construction of the Slovak Republic decrease the scale of Roma residential segregation.
04. Self-governing regions increase proportion of Roma dwellings with access to basic infrastructure.
05. Self-governing regions and the Ministry of Transport and Construction of the Slovak Republic increase proportion of Roma citizens living in lawful dwellings and on lands with settled ownership.
06. The Ministry of Justice of the Slovak Republic and the Legal Aid Centre provide free legal aid against forced evictions, threats of evictions and demolition.

3 Right to Education



Cooperation between the Centre and the State School Inspection (hereinafter the “SSI”) in the area of human rights protection and promotion, particularly concerning protection and monitoring of observance of the rights of the child, continued also in 2017. This cooperation focuses on the rights of children with special education and upbringing needs and on implementation of conditions for inclusive education of children from socially excluded background. SSI informed the Centre on relevant facts established during school inspections. In the school year 2016/2017, SSI found segregation practices concerning education of Roma children in three inspected schools, particularly in Terňa Primary School with Nursery School, Gíraltovec Primary School and Árpád Feszty Primary School with Nursery School with Hungarian as Teaching Language.

Upon the Centre’s request, SSI provided complex reports with results of school inspections in all three schools and reports from follow-up inspections monitoring adoption of imposed measures with regards to two of them (Gíraltovec and Hurbanovo). The Centre conducted personal visits at the schools. The aim of personal visits was to monitor current situation in the school year 2017/2018, visit of the school during education and mainly to personally interview leadership of the schools (headmasters and deputy headmasters). The interviews aimed to establish current situation concerning segregation findings of SSI and gain closer information about historical development of the current situation in terms of discrimination and future perspectives.

Cases of segregation in education regularly occur in Slovakia and it is not expected that this would change in the close future. Discrimination and segregation occur whenever organisation of education breaches principles regulated by state and basic goals of upbringing and education in relation to the principle of equal treatment. In terms of full acceptance of principles of inclusive education, desegregation and the need not to discriminate children from MRC, the Centre underlines that real abilities of municipalities and cities to mitigate the situation with nothing more than their own efforts should be considered. In line with the Analysis of the Ministry of Education, Science, Research and Sport of the Slovak Republic (hereinafter the “Ministry of Education”) on two-shifts operation of primary schools and proposal of measures to resolve the situation⁸⁴, the Centre understands that Slovakia is aware

⁸⁴ See: https://www.minedu.sk/data/files/7123_analyza_dvojzmennej_prev_zs.pdf



of these issues and shows certain efforts to address them. However, it appears that the commitment of the Government of the Slovak Republic under the programme proclamation⁸⁵ to gradually eliminate two-shift operation of primary schools, especially in localities with high concentration of MRC, which is closely related to segregation and discriminatory practices, has not been implemented quickly enough. Financial resources allocated by the Slovak government in the years 2013 – 2016 for capacity increase of primary schools through construction, extension, superstructure, modernisation and reconstruction of school objects in the amount of EUR 7,243 million covered creation of 263 new classes for approximately 6 575 pupils. Dozens of schools, hundreds of classes and thousands of pupils educated in two-shift organisation keep waiting for new premises.

Apart from spatial capacities, increased resources for school assistants (the Ministry of Education currently approves approximately 50 % of the applications), special pedagogues, psychologists and speech therapists are also needed.

In terms of this, the Centre welcomes the activity of the Ministry of Education which, as intermediary for priority axe Education under Operational Programme Human Resources, in 2017 launched a call for applications for non-repayable financial contribution to support inclusive education “More successful at primary school” (OPLZ-PO1/2016/DOP/1.1.1-01).

Eligible applicants under the call included:

- a) primary schools pursuant to the Act No. 245/2008 Coll. on Upbringing and Education (School Act) and amending and supplementing certain acts as amended (hereinafter the “School Act”),
- b) primary school founder if a particular school does not have its own legal personality,
- c) primary schools for pupils with health disadvantages with regards to creation of job position for teacher assistants for pupil with health disadvantage.⁸⁶

3.1 Terňa Primary School with Nursery School

SSI - School Inspection Centre Prešov conducted a school inspection in Terňa Primary School with Nursery School between 2 November 2016 and 8 November 2016. The report from

⁸⁵ See: <http://www.vlada.gov.sk/programove-vyhlasenie-vlady-sr-na-roky-2016-2020/?pg=2>

⁸⁶ See: <https://www.minedu.sk/21-03-2017-usmernenie-c-1-k-vyzve-na-predkladanie-ziadosti-o-nenavratny-financny-prispevok-na-zvysenie-inkluzivnosti-vzdelavania-oplz-po12016dop111-01/>



school inspection No. 7032/2016-2017 states that individual classes were located in the main building and a small adjacent building few meters distant. In the small building, there were only classes exclusively comprising pupils from MRC. In this building, education was organised also in the afternoon for pupils from MRC. When establishing parallel classes, the school paid little attention to proportional participation of pupils from the majority and MRC, hence failing to create conditions serving the best interest of these pupils, i.e. their inclusive education in schools and classes. Such organisation of education showed segregation features.

In 1961, the primary school in Terňa moved to its current premises and originally had 14 classes with one class for each year in the first grade and two classes for each year in the second grade. The increased number of pupils in the second grade took into account influx of pupils after completing first grade education in the so called small classes schools in surrounding municipalities within Terňa school district.

Currently, there are 20 classes, including two zero grade classes and one special class for pupils with learning disorders, with 308 pupils in total. This situation was caused by gradual closure of small classes schools in surrounding municipalities. Altogether, 193 pupils have special upbringing and educational needs, 44 pupils due to health disadvantages and 149 pupils come from socially disadvantaged background. Approximately 65 % of all pupils come from MRC. The primary school with nursery school consists of two buildings, the main one and an adjacent building originally built by a municipality to serve as nursery school. Currently, there are three classes of nursery school with several primary school classes in the adjacent building.⁸⁷

The school justified division of pupils in parallel classes by the need of optimisation in the interest of both groups. Criteria for division are based on previous attendance of nursery school. One class is comprised of pupils with pre-school education in nursery school (belonging to majority and MRC), the second class comprises pupils who are mostly without prior education and have increased need to develop communication and grapho-motoric skills and improve communication in Slovak. Disposable hours are allocated differently in parallel classes, taking into account abilities and needs of pupils. Upon completing 2nd and 4th year, enrolment is reassessed based on individual development of the pupil concerned. Those pupils

⁸⁷ Information from personal meeting between the Centre's representative and headmistress of Terňa Primary School with Nursery School.



who improve in their results, motivation to study and enjoy support and cooperation of their parents are reassigned to a parallel class. In parallel classes, education of English is enhanced by more hours allocated from disposable hours in terms of abilities and quality education (in the 7th year, education of Russian as second foreign language is similarly enhanced).⁸⁸

During the Centre's visit, situation in the school was practically the same as described in the report of SSI. The school stated that implementation of imposed desegregation measures would be counterproductive. The school said that the majority is in fact in minority in the school and annually represented about 20 – 30 % pupils in each year. Hence, there is no single class only comprising pupils from the majority population in the school. The school further noted that due implementation of proportional representation of pupils from the majority under SSI findings would lead to withdrawal of all majority pupils (currently one quarter of non-Roma pupils from the school district enrolls in schools that are not attended by pupils from MRC).

In the main building, classes have both pupils from the majority and those from MRC (with permanent residence in Terňa or Malý Slivník). These pupils attended pre-school education in nursery school or were re-enrolled from parallel classes in higher years of the first grade. Parallel first grade classes in the adjacent building, apart from three nursery school classes, comprise pupils without pre-school education who come from MRC of Furmanec settlement in Malý Slivník. Parents of those children do not enrol them in nursery schools, thus, their first contact with education process is when they start fulfilling compulsory school attendance.⁸⁹

The school highlighted the needs of pupils with pre-school education (from both the majority and MRC) and expectations of their parents for quality education needed for further education and success at labour market, which would be unattainable within fully proportional representation. The main barriers are insufficient funding for support staff in the school and limited premises available. The school opened one nursery school class to satisfy the increased demand of parents from Terňa for pre-school education of their children, which caused organisation of afternoon education in classes located in the adjacent building. The school also proposed that a relocated facility of nursery school or a zero grade class is open in Malý Slivník, since 134 pupils daily commute by bus from this municipality to Terňa, which is not. This

⁸⁸ Report from State School Inspection: Inspection No. 7032/2016-2017.

⁸⁹ Information from personal meeting between the Centre's representative and headmistress of Terňa Primary School with Nursery School.



situation is not optimal. Every day, approximately 20 pupils from MRC of Furmanec settlement fail to present themselves at the school, arrive late by car with their parents or by feet. The proposed solution was rejected by the self-government of Malý Slivník. The school also stated that several classes in the small building were shared as well as extracurricular activities, school club and interest units.

Four assistants of pupils work in the school, two of them are Roma. Due to insufficient financial resources, these assistants do not have permanent contracts but conduct works on agreement or under graduate practice programme. Pupils with learning disorders are assisted by one part-time psychologist and one special pedagogue. The school submitted various documents proving its repeated efforts to modify the school district in relation to school attendance of increasing number of children commuting from Malý Slivník. None of the local primary schools has capacities to enrol children from Malý Slivník. The school's management raised concerns that the municipality plans to open a daily stationary for seniors in the adjacent building currently used by the school. This would cause not only two-shift organisation of education in the main building but also abandonment of full-day educational system within the project "School open to everybody" and operation of interest units.

3.2 Giraltovce Primary School

SSI – School Inspection Centre Prešov conducted a school inspection in Giraltovce Primary School between 27 February 2017 and 3 March 2017. The report from school inspection No. 77017/2016-2017, SSI states that when establishing classes in the 1st, 4th, 6th, 8th and 9th year, the school composed classes exclusively with Roma pupils despite the possibility to include them in parallel classes with the majority. Such practice caused segregation and violated the principles of upbringing and education under the School Act.

SSI imposed measures to eliminate segregation and conducted a follow-up inspection on 20 September 2017. The follow-up inspection showed that the pupils concerned were integrated into classes with the majority. However, it was found out that pupils of two classes (2.A and 2.B) were divided into two groups for religion education, while one was exclusively composed of pupils from the Roma community. Such unjustified division showed segregation features. A follow-up inspection of SSI on 18 October 2017 found that there were no



segregating classes or groups in the school anymore.

The school district of Giraltovce Primary School comprises of the city of Giraltovce. There are 25 classes in the school with 425 pupils in total. 84 pupils have special upbringing and educational needs, 52 of them due to health disadvantages and 35 in relation to their origin from a socially disadvantaged background. Overall, 38.32 % pupils are from MRC. Apart from pedagogic staff, the school hires speech therapist, school psychologist and special pedagogue, all of them conducting works under agreement.⁹⁰ The school requested financial resources for 5 assistant teachers and got approval for only two, plus one to whom it was entitled due to the proportion of pupils from socially disadvantaged background.⁹¹

The school stated that it started with inclusion of Roma children from segregated classes to parallel classes with the majority, however, this process was not yet completed during the complex inspection. The school further stated that it established such classes to adapt education and disposable hours to pupils' needs. Pupils from MRC have problems with Slovak, articulation, pronunciation and general readiness. One of the underlying reasons is that socially more disadvantaged Roma did not enrol their children in nursery schools or their enrolled children did not attend the nursery school. Hence, many Roma children got in touch with organised institutional education for the first time only when they started attending the primary school.

Upon termination of the integration process and in terms of implementation of the measure imposed by SSI, the school's management believed that desegregation process was fully terminated. They did not have negative information concerning organisation of religion education. The priest himself decided to give religion classes to pupils from the majority and left the group exclusively composed of pupils from the Roma community to a catechist. When the management found out about this situation, it directly remedied it.⁹²

In terms of inclusive education, the school stated that Roma pupils were not a homogenous group but can be divided into three subgroups based on social and family situation. These subgroups do not get along and refuse to accept each other. The entire Roma population attends this particular school despite the fact that there is another private primary school in the

⁹⁰ Report from State School Inspection: Inspection No. 77017/2016-2017.

⁹¹ Information from personal meeting between the Centre's representative and headmaster of Giraltovce Primary School.

⁹² Information from personal meeting between the Centre's representative and headmaster of Giraltovce Primary School.



city. However, the private school allegedly applies an unwritten policy of only enrolling pupils from the majority.

3.3 Árpád Feszty Primary School with Nursery School with Hungarian as Teaching Language, Hurbanovo

SSI – School Inspection Centre Nitra conducted a school inspection in Árpád Feszty Primary School with Nursery School with Hungarian as Teaching Language (Hurbanovo) between 11 January 2017 and 17 January 2017. The report from school inspection No. 4100/2016-2017 states that three classes (two zero grade classes and one special class) with a prevalence of students from MRC were located in the building of Special Primary School which is approximately 600 meters distant from the school. Such separation appeared despite the fact that there were two classes allocated only for an afterschool club for children in the main building. Separate education of pupils distantly from the school community in a different building negatively impacted social integration and showed features of segregation in a form of spatial exclusion.

A follow-up inspection of SSI on 7 December 2017 found that from the original three classes located in the Special Primary School, one zero grade class and one class with intact pupils still remain there. The special class was relocated to a building B within the school areal where first grade classes are located. The remaining two classes should be relocated to the B building upon termination of a loft construction (October 2018).

There are 16 classes in the school with 252 pupils in total. 92 pupils have special upbringing and educational needs, 37 of them due to health disadvantages and 55 have socially disadvantaged background. Overall, 94 (37.30 %) pupils come from MRC.⁹³ Apart from pedagogic staff, the school hires one special pedagogue and speech therapist (working 2 days in a week). One teacher assistant will start in January 2018 (although the school requested four of them). The school would also welcome an assistant from the Roma community, however, despite its active efforts it could not find any.

There is also a primary school with Slovak as teaching language in Hurbanovo with a school district covering Hurbanovo and four nearby municipalities. Despite the fact that Roma

⁹³ Report from State School Inspection: Inspection No. 4100/2016-2017.



pupils often speak only Roma language (and learn Hungarian in a preparation year), a part of them speaks both Romani and Hungarian and some even Romani and Slovak, all Roma children from the city attend Árpád Feszty Primary School with Nursery School with Hungarian as Teaching Language (Hurbanovo). There are no Roma children enrolled in the primary school with Slovak as teaching language.⁹⁴

Recommendations

The Centre recommends that:

01. The Ministry of Education, Science, Research and Sport of the Slovak Republic, self-governing regions and municipalities allocate sufficient financial resources supporting and increasing capacities of primary schools in a form of construction, superstructure, modernisation and reconstruction of school objects.
02. The Ministry of Justice of the Slovak Republic allocate increasing amount of finances for the Ministry of Education, Science, Research and Sport of the Slovak Republic aiming at satisfying the increasing requests for allocation of assistants by pupils and their legal representatives and for the purposes of creation of more job positions of school psychologists, speech therapists and special pedagogues.
03. The Ministry of Education, Science, Research and Sport of the Slovak Republic analyse the possibilities and expand the graduate practice programme for psychologists, speech therapists and special pedagogues.
04. The Ministry of Education, Science, Research and Sport of the Slovak Republic in coordination with existing network of higher education institutions and universities adopt measures increasing the number of graduates of special pedagogy, speech therapy and child psychology.
05. The Ministry of Education, Science, Research and Sport of the Slovak Republic prepare and provide all pedagogic employees with specialised programmes designed to develop their pedagogic skills, especially those addressing needs of pupils with special upbringing and educational needs.
06. The Ministry of Education, Science, Research and Sport of the Slovak Republic in

⁹⁴ Information from personal meeting between the Centre's representative and headmaster of Árpád Feszty Primary School with Nursery School with Hungarian as Teaching Language, Hurbanovo, see: <https://zshurbanovo.edupage.org/album/>



cooperation with schools, founders of schools and other local public authorities in the field of education flexibly take into account demographic development and ethnic composition of boomers when regulating school districts.

07. Schools and school facilities deepen the ability to react to different needs of pupils without their permanent categorisation.
08. The Ministry of Education, Science, Research and Sport of the Slovak Republic and founders of schools keep strengthening the accessibility of pre-school education in terms of capacities and quality in order to ensure local and content accessibility for all children, with a possibility of natural integration of children from socially excluded communities.

4 Rights of Persons with Disabilities



Rights of persons with disabilities are governed by various documents on national as well as on international level. The obligation to observe the rights of this group of society cannot remain only on the paper. It is the actual implementation of these rights which plays an important and non-replaceable role in life of persons with disabilities. Every year, the Centre informs general public about the achievements and shortcomings in the field of observance of human rights of persons with disabilities by its HR Report.

4.1 Legal Protection of Persons with Disabilities in the Slovak Republic

4.1.1 Current legal regulation of rights of persons with disabilities

Persons with disabilities are legally protected by multiple documents on national as well as on international level, as a part of criminal law, employment law, equality law etc. In the previous HR Reports, the Centre paid attention to the protection of rights of persons with disabilities in individual chapters. However, we did not pay a specific and consistent attention to rights of persons with disabilities, until now. The Centre considers monitoring individual legal aspects of the protection of rights of persons with disabilities necessary.

In 2017, the Centre legally represented the victims of discrimination due to the ground of disability. In these cases, the discriminatory ground of disability was linked to certain area protected against by stipulated forms of discrimination. However, persons with disabilities can be subjected to various legal regulations which interfere with their rights.

4.1.2 Convention on the Rights of Persons with Disabilities

The most important international convention regulating the status and protection of rights of persons with disabilities is the 2006 Convention on the Rights of Persons with Disabilities (hereinafter the “CRPD”). By the ratification, the Slovak Republic has deepened its



commitment to respect the 1948 Universal Declaration of Human Rights and confirmed that every person is entitled to all human rights and fundamental freedoms without any distinction.

In its HR Reports⁹⁵, the Centre addressed the CPDR, which entered into the force in the Slovak Republic in 2010, on multiple occasions. The CPDR defines disability as an always evolving term and it is the result of interaction between persons with worsen health and barriers in form of viewpoints and environment which prevent these people to fully participate with others in the society⁹⁶

The attitude of people who do not suffer from any disability towards the people with disabilities can lead to multiple situations against which the persons with disabilities should be protected from. As examples may serve discrimination with prevents persons with disabilities the equal access to employment, education, goods and services. The Slovak Republic applied the institutional approach and in accordance with Article 33(2) of CPDR established an independent body mandated to protect rights of persons with disabilities. – Commissioner for Persons with Disabilities.

According to its mandate⁹⁷, the Commissioner focuses on the protection and promotion of rights of persons with disabilities. In respect to Section 8(4) of the Act No. 176/2015 Coll. on Commissioner for Children and Commissioner for Persons with Disabilities and on Amendment of Certain Acts (hereinafter the „Act on Commissioners“), a person, who does not have a legal capacity or his/her legal capacity was restricted, has right to turn to the Commissioner for Persons with Disabilities directly or through his/her representative. If such a person is a minor, he/she has a right to turn to the Commissioner for Persons with Disabilities without knowledge of the parents. The problematic seems the fact that new legal regulation introduced by the Act No. 161/2015 Coll. Code of Civil Non-Contentious Procedure (hereinafter the “CNP Code”) does not recognise deprivation of legal capacity and the Act on Commissioner will have to deal with this issue.

⁹⁵ Slovak National Centre for Human Rights : Reports on Observance of Human Rights Including the Principle of Equal Treatment from 2011 onwards available online at <http://www.snslp.sk/#page=2426>

⁹⁶ Convention on the Rights of Persons with Disabilities, Preamble, (e).

⁹⁷ Act No.176/2015 Coll. on Commissioner for Children and Commissioner for Persons with Disabilities and on Amending Certain



4.1.3 Legal capacity in civil law

Article 12 of CPDR declares that the persons with disabilities have legal capacity in all spheres and on the same basis as others. The state parties are bound to adopt relevant measures

which will allow persons with disabilities to have access to aid which can be used when applying their legal capacity. Further, the state parties are bound to ensure that all measures regarding the enforcement of legal capacity respect rights, will and preferences of the person in question. The measures should also prevent conflicts of interest and inappropriate influence so the measures would be appropriate and adapted to individual situation of a person as well as be implemented in the shortest time possible and be subjected to regular control by respective, independent and impartial body or court. These guarantees should be reasonable to extent to which they impact rights of the person in question.

The provision significantly influenced the Slovak legal order as well as adopting new laws on proceedings concerning legal capacity since the proceedings concerning legal capacity are addressed by 21 Section of the CNP Code.⁹⁸ As of 2016, the CNP Code reversed the institute of legal capacity deprivation what was supported also by the explanatory report which considered the provisions on legal capacity deprivation unlawful. The exact circuit of possible parties to the proceedings (a subject which is entitled to initiate proceedings concerning legal capacity is a close person, healthcare provider, provider of social services or a person who has an interest in the matter) is regulated by Section 233 of CNP Code. Currently, there is still more than 16000 people in the Slovak Republic whose legal capacity was deferred and it will take approximately 8 years for courts to decide on all cases.⁹⁹

The opinions on the legal regulation in question varies. Some experts are in favour of abolishment of the institute of legal capacity deprivation and often object the laxity of courts due to their promptness when deciding about the legal capacity. The full deprivation of legal capacity was considered problematic because the extent of disability was evaluated on the basis of expert opinions respectively findings of attending physicians. Deciding about the legal capacity solely based on the opinion and findings of experts and attending physicians was

⁹⁸ Previous Act No.99/1963 Coll. Civil Procedure Code, as amended regulated the proceeding in question only by seven Sections.

⁹⁹ The information was acquired during the meeting of the Committee for Persons with Disabilities on 30 November 2017.



considered inadequate. The Constitutional Court of the Slovak Republic stated in its finding US 313/2012 of 28 November 2012 following:

„To decide such matter only based on expert opinion will not be usually possible without considering further evidence (proposed by a party or ex offio) in respect to Section 120(2) of the Civil Procedure Code and evaluating the outcomes of hearing the evidence in the light of other findings.“

One of the arguments which backs the institute of legal capacity deprivation is abuse of persons with disabilities. Persons whose legal capacity was deferred cannot acquire rights and obligations. Currently, there is a room for third parties who could unfairly exploit such legal limitation for his/her own interests.

According to Section 248(2) of the CNP Code: *„If court decides to restrict the legal capacity, it must determine the scope of the limitation of the legal capacity and appoint guardian in the judgement verdict.“* In accordance with this provision, the court has an obligation to determine the scope of legal acts which can or cannot be carried out by the person whose legal capacity was restricted. The deferral of the legal capacity cannot be currently accepted by the court what results in the fact that the restriction of the legal capacity should not be very restrictive to get closer to the previous legal regulation, what would de facto represent a deferral of the legal capacity. It is questionable how should be the situation assessed by a judge who is deciding on restriction of the legal capacity. Deferral of the legal capacity was a ultima ratio tool designed for situations where other – less repressive measures could not be used.

Despite various opinions, we can state that by adoption and ratification of the CPDR and through CNP Code, the protection of persons with disabilities was strengthen. Thanks to abolishment of the institute of legal capacity deferral (despite some negative side effects) the persons with disabilities can have their legal capacity only restricted.

4.1.4 Antidiscrimination Act and the right to equal treatment

Observance of the equal treatment principle lies in the prohibition of discrimination based on the grounds of gender, religion or belief, race, nationality or ethnicity, disability,



national or social origin, property, gender, age or other status or due to reporting criminal activity or other anti-social activity¹⁰⁰.

Protection of the rights of persons with disabilities in respect to the observance of the equal treatment principle is regulated by the ADL. According to the ADL, disability is an individual discriminatory ground¹⁰¹ that is, when a person is treated differently in a similar situation in the field of employment or similar legal field, in the field of provision of goods and services, social security, healthcare or education. After evaluation of the evidence, the court can declare that a person was discriminated against based on his/her disability in one of the above mentioned areas. The Centre represents an independent institution for monitoring and evaluation of the observance of human rights in the Slovak Republic. It also provides a legal aid to the victims of discrimination, including persons with disabilities.

4.1.5 Criminal law aspects of protection of persons with disabilities

In the field of criminal law, the persons with disabilities as victims of crimes are granted higher protection. The CC considers a crime against a person with disability as a generally aggravating circumstance in accordance with provisions of Section 37(a) and (c) of the CC. This is particularly a case when the perpetrator commits a crime with especially despicable motive and when the perpetrator commits a crime to prevent or to make more difficult for other to enforce his/her fundamental rights and freedoms.¹⁰²

The CC includes a hate motive to basic nature of several crimes. As an example may serve is a crime of establishing, supporting and promoting a movement aiming at suppressing fundamental rights and freedoms where a „other group of persons“ can cover also a group of persons with disabilities (Section 421 of the CC)

The Amendment of the CC - Act No. 316/2016 Coll. on Recognition and Execution of Property Decisions Issued in Criminal Proceedings in the European Union and on Amendment

¹⁰⁰ Section 2(1) of the Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and on Protection against Discrimination Amending and Supplementing Other Laws, as amended

¹⁰¹ Section 2 of the Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and on Protection against Discrimination Amending and Supplementing Other Laws, as amended

¹⁰² Section 37(a) and (c) of the Criminal Code



of Some Acts (hereinafter the “CC Amendment”) introduced a new crime – apartheid and discrimination of group of persons (Section 424a of the CC). In its statement for the Radio and Television of Slovakia, the Centre made a statement on the new amendment and pointed out genesis and historical context of apartheid.

The basic definition of the crime in question stipulates “*Who enforces apartheid or racial, ethnic, national or religious segregation or other widespread or systematic discrimination of a group of people will be punished by deprivation of liberty from 4 to 10 years.*” Persons with disabilities are considered a group of persons which systematic discrimination can constitute a crime.¹⁰³

As a member of the network of equality bodies (Equinet), the Centre requested good practice examples of the protection of persons with disabilities in the context of analysis and comparison of specific motivation in other EU members with Section 140 of the CC. We point out that in the Slovak criminal law, there is no category of hate crimes. The abovementioned specific intent can refer to the hatred.

As an interesting example, we can mention Scotland where a sole hate speech aimed at persons with disabilities at football matches is considered a crime (so called. „Malice and ill will“). The Portuguese criminal act was amended on 23 August 2017 by psychological and physical disability as a specific intent of committing a crime of dissemination of hatred and intolerance. The Slovenian example is also very interesting. It stated that there is no specific intent in the Slovenian criminal law but some basic definitions of crimes include the violation of the equal treatment principle (Chapter 16 of the Slovenian Criminal Code – crimes against fundamental rights and freedoms).¹⁰⁴ Greece recognises actual crime of racism. We would like to state that the results of the analysis of received materials show that individual criminal codes recognise motive of hatred against persons with disabilities in definitions of individual crimes.

In case of the Slovak CC (Section 140), the repressive form of prevention of committing crimes against persons with disabilities is missing. Despite the amendment of the CC by specific motive in letter (e) by the CC Amendment in 2016 – “*due to the hatred towards group of persons or individuals due to their actual or putative origin, colour of skin, gender, sexual*

¹⁰³ Crime of apartheid is defined in Section 140a of the CC as a crime of extremism.

¹⁰⁴ Article 131(1) of the Slovenian Criminal Code (KZ-1) as amended.



orientation, political affiliation or religion or..”, the mentioned provision lacks a motive of committing a crime based on the ground of disability.

It is also important to mention the qualifying character – a protected person in respect to Section 139 of the CC. The Section 139(f) of the CC defines a term – sick person. As a sick person is considered in respect to Section 127(6) of the CC a person who suffer by physical or psychological illness, including a temporary illness while it is not important whether the person is on the sick leave, has changed work capacity, is invalid or it is a person with disability.¹⁰⁵ The intensity of such illness or disability corresponds to severe bodily harm. Regarding the qualifying character of protected person, an illness of the perpetrator can be considered as a reason for applying the institute of general mitigating circumstance – “*committed a crime in connection with negative impacts of his/her illness.*”

As an illness is considered any variation of regular life processes of a person and we can subsume under the illness also a physical and psychological disorder.¹⁰⁶

Strictness of the sick person definition in respect to Section 127 of the CC is not high when compared to the criminal codes of other countries. Intensity of a sickness respectively disability corresponding to severe bodily harm is not adequate. Severe bodily harm is defined by Section 123(3)(a) to (i) as a serious health disorder or serious illness (mutilation, paralysis of a limb) respectively as a health disorder which lasts a longer period of time – defined by the CC as 42 calendar days.

In case that there is a serious intervention to the fundamental rights and freedoms by a crime which is defined as “*committed a crime against a protected person*” respectively “with a specific intent”, it is important to stipulate that not every person with disability has a disability corresponding to serious bodily harm. Despite this fact, during the investigation is taken into account whether the person has a visible disability and not the extent of the disability. Looking at the relevant individual provisions of the CC reflect three basic forms of protection of the rights of persons with disabilities:

¹⁰⁵ As a person with severe disability is considered a person whose extent of functional disability is at least 50%.

¹⁰⁶ Burda, E., Čentěš, J., Kolesár, J., Záhora, J. et al.: “*Criminal Code: General Part, Commentary*” (2010, 1 Vol., 1st Ed.. C. H. Beck) p.866.



- 01.) protection of persons with disabilities is included in the institute of general aggravating circumstances in accordance with Section 37(a) and (c)
- 02.) prosecution of the perpetrator of crime against persons with disabilities is directly included in general definitions of certain crimes, e.g. Section 421 and 424 of the CC
- 03.) qualifying character – “protected person” in accordance with Section 139 of the CC defines a term – sick person under which a person with disability can be subsumed.

In regard to the specific intent, there is clearly a need to amend the provision of Section 140(e) of the CC by the term of person with disabilities.

4.2 Follow up to the Chapter „9 Impact of bullying“ in the Report on Observance of Human Rights Including the Principle of Equal Treatment for the Year 2016

This represents a follow up to the recommendation of the Centre for the Slovak Medical Chamber (hereinafter the „Chamber“) included in the 2016 HR Report.

In the 2016 HR Report, the Centre recommended to the Ministry of Health in cooperation with the Chamber to draft the exact definition of term – psycho-social disorder in pursuant to examples from twelve countries which already defined this term in accordance with the current medical findings. The Chamber has shown the willingness to open the discussion on its conclusion on the topic as well as to discuss the incorrect interpretation of term discrimination on 8 August 2017.

The necessity to legally regulate the term psycho-social disorder was stipulated by the Chamber as follow: „*International Classification of Illnesses (hereinafter the “ICD”) represents an organised list of illnesses which is internationally standardised tool for clinical use, data comparison in epidemiology and statistics, for managerial use in the healthcare management and decision-making processes in finance allocation.*“¹⁰⁷.

ICD is in its current version 10 recognises two groups of illnesses: somatic and psychological. It is a classification of illnesses regardless to the fact whether they were caused

107) International Classification of Illnesses, available online at <http://www.nczisk.sk/Standardy-v-zdravotnictve/Pages/Medzinarodna-klasifikacia-chorob-MKCH-10.aspx>



by genetics, psychological (intra, inter and transpersonal), social (family, work and social environment – incl. economic, legal, political and ethical) or they were caused by external factors of the environment such as physical, chemical, biologic, technologic or ecologic.

Every psychologic or somatic illnesses listed in the ICD caused by social factors (bullying, mobbing, bossing, other psychological or physical violence mentioned in the Centre's Report) can be found in the ICD. Therefore, we do not propose to introduce another term “psycho-social disorder”. In the respective case, it is a psychological or combined psychological and somatic disorder caused by social factors. Illnesses caused by social factors such as emotion disorders, behavioural changes concerning social contacts mentioned in the Centre's report, phobias etc. are already recognised by the ICD and were given codes F30 – F69.

Since the social factors are cause and illnesses are a result of factors, the Chamber proposed in this regard to include in the next HR Report a recommendation for amendment of the Act No. 576/2004 Coll. on Healthcare and on Services related to the Provision of Healthcare, as amended which concern the definition of correctly provided healthcare. Correctly provided healthcare should be defined not only as a care which leads to correct diagnosis of the illness with securing timely and effective treatment aiming at the recovery of the person or improvement of the condition of the patient while taking into consideration currently state of medical science – the wording of the act at the moment, but it should be defined as a care leading to correct determination of functional disorder (e.g. issues in social contact due to the mobbing or bossing) and effective treatment aiming at recovery of the person or improvement of the condition of the patient while taking into consideration current state of medical science.

The abovementioned reflects historical and current knowledge of the significance of prevention in medicine (early diagnosis and solution of risk factors and causes of illnesses) in the international context.



For this purpose, it would be beneficial, in accordance with example of Section 3(1) of the Act 576/2004 Coll. on Healthcare and on Services related to the Provision of Healthcare, as amended, to include to this act also a provision on usage of the ICD.¹⁰⁸

The ICD allows to work with a patient having a certain diagnosis purposely in respect to the current disorder or disability of the function of the respective individual. “

The Centre has accepted the recommendations of the Chamber and amended the recommendations for the Ministry of Health.

4.3 Follow up of the Situation concerning the District Directorate of the Police Force in Dolný Kubín and the Post Office in Košice

In its 2016 HR Report, the Centre elaborated on the ongoing negative situation concerning elimination of barriers in the physical environment and the absence of accessible buildings of public institutions: a building of the District Directorate of the Police Corps in Dolný Kubín (hereinafter the “DD PC DK”) and a seat building of the Slovak Post (hereinafter the “SP”) in Košice. How has the situation developed? Was any progress expected by the society and mainly by persons with disabilities achieved?

4.3.1 District Directorate of the Police Corps in Dolný Kubín

DD PF DK is located in a three-floor building. The main entrance to the building has stairs and there are more stairs between each floor. The main challenge is, hence, caused by the lack of technical equipment allowing persons with disabilities to enter the building and the lack of technical equipment allowing them to move from one floor to another.¹⁰⁹

As a temporary solution, until complex or at least partial elimination of barriers in the building, alternative measures were adopted.

¹⁰⁸ International Classification of Illnesses, available online at <https://sclib.svkk.sk/sck01/Record/000092563>

¹⁰⁹ Statements of the Ministry of Interior, the Support Centre Žilina and the District Directorate of the Police Corps in Dolný Kubín to the Centre’s request in 2017.



As described in 2016 HR Report, the first measure allowed the employees of the Department of (Identification) Documents at DD PC DK to use mobile technological equipment to address requests of persons with disabilities directly at their permanent residence. As a second measure, there was a possibility to borrow, upon agreement, a stair climber machine for persons with disabilities from the Municipal Office of Dolný Kubín. Finally, a notice was placed at the entrance doors to DD PC DK and other publicly accessible places with information for persons with disabilities and persons accompanying them concerning the possibility to contact employees of DD PC DK by phone to request assistance to move within the building.

The Centre repeatedly highlights positive steps undertaken by DD PC DK upon expert opinion issued by the Centre in this matter.¹¹⁰

For the purposes of 2017 HR report, DD PC DK stated that its employees keep providing persons with disabilities with alternative solutions allowing them to apply for identification documents at their residence. This service is provided to immobile citizens upon their request or upon request of their relatives.¹¹¹

A year after, the Centre was interested in the stage of elimination of barriers in the building. The Centre asked DD PC DK, the Ministry of Interior of the Slovak Republic (hereinafter the “Ministry of Interior”) and the Support Centre Žilina what has changed in this matter.

According to information provided by DD PC DK, several construction and technical works were conducted in 2017. For instance, a step between pavement and the road was removed. This was done by removal of original kerbs and their replacement by new ones securing smooth passage from the road to the pavement, including for persons in wheelchairs. DD PC DK further informed that the electronic ring and telecommunication terminal were re-installed and placed in a lower height and hence accessible for persons in wheelchairs. New plastic casement doors replaced entrance doors to DD PC DK.

Moreover, a lift was installed in the building allowing transport from the ground floor

¹¹⁰ See: http://www.snslp.sk/CCMS/files/stanovisko_k_bezbari%C3%A9rvosti_budovy_OR_PZ.docx.pdf

¹¹¹ Statement of the District Directorate of the Police Force in Dolný Kubín regarding the Centre's request of 16 January 2018: “In 2017, the alternative measure allowing immobile citizens to apply for identification documents at their residence was provided in 30 cases, in Tvrdošín district 5 times, in Dolný Kubín district 18 times and in Námestovo district 7 times”.



to the first floor, which is the most visited floor by citizens since all registry and others services for citizens are located there (e.g. ID registry, travel documentation, motor vehicle registry). Accessible toilets were opened in the first floor as well.

The Centre welcomes positive developments concerning accessibility of DD PC DK. Prior to instalment of the lift, persons with disabilities could not access the first floor without help of other people or DD PC DK employees.

The Centre also asked information from the Support Centre Žilina, which stated that a lifting platform was installed in order to secure access to the second floor for persons with limited mobility and orientation as well as an outside ramp allowing access to the premises. Both the platform and the ramp would only be used upon valid expert decision.¹¹² The Support Centre Žilina also informed that it did not know the termination date of expert evaluation procedure or when the valid expert decision would be issued.

DD PC DK building is one of many buildings which should be unconditionally made accessible for persons with limited mobility. In its 2016 HR Report, the Centre referred to information provided by the Ministry of Interior concerning the number of buildings, which were fully or partially accessible. The Ministry of Interior stated that 74 buildings of Police Corps were made fully accessible and 52 Police Corps buildings were made partially accessible. 188 Police Corps buildings still require full or partial elimination of barriers, e.g. DD PC DK building.

Have the numbers changed within one year? For the purposes of this 2017 HR Report, the Ministry of Interior informed that the number of buildings that still require full or partial elimination of barriers was 184. The number of buildings where barriers were eliminated is 78 and 52 buildings are partially accessible.

The numbers show a certain progress in elimination of barriers in the Police Corps buildings. The Centre particularly welcomes positive developments achieved within one year to secure accessibility of DD PC DK building. The Centre believes that Ministry of Interior would proactively continue with the established trend of elimination of barriers in its buildings.

¹¹² Statement of the city of Žilina regarding the Centre's request of 14 February 2018.



4.3.2 Post Office in Košice

The second case covered in the Centre's 2016 HR Report concerns a building of the SP at Poštová Street in Košice (hereinafter the "SP Košice 1"). The process of elimination of barriers in this building is highly influenced by the fact that the building belongs to national cultural heritage¹¹³, while SP Košice 1 rents the premises from Slovak Telekom, a. s. (hereinafter the "ST").

The Centre already informed about the situation in its 2015 HR Report when it was even more complicated due to the fact that ST wanted to sell the building so SP did not want to invest in accessibility.

The main public entrance to the building is from Poštová Street. In order to enter the building and use SP services, a person must climb 14 stairs, which can undoubtedly be a big problem for persons with disabilities, older persons, parents with pushchairs or other persons with limited mobility.

As an alternative solution, SP introduced the so-called special regime of service available publicly to costumers of SP Košice 1 during office hours. In practice, the "special regime" meant that an information plate was placed on the building of SP Košice 1, right next to the stairs, informing costumers facing difficulties to enter the building due to the lack of accessible entrance about a phone contact to an employee of SP Košice 1. Upon contacting, this employee served costumers outside the building. Although the Centre welcomed introduction of the alternative measure in its 2016 HR Report, it also raised concerns that the solution was likely to unacceptably interfere with human dignity of the affected persons, since costumers with disabilities were served directly in the street.

What were the main obstacles to adopt measures eliminating the negative situation for persons with disabilities? Mainly, it was the inability to reach compromise regarding elimination of the barriers due to ownership of the building of SP Košice 1 and ownership of the land underneath, the location in the city (i.e. within historical sites area), and the fact that the building is a national cultural heritage. Consequently, the compromise and adequate

¹¹³ The building is a national cultural heritage and an integral part of the original Post and Telegraphic Office in Košice from 1927 - 1928.



solution needed to be adopted among SP, ST (the owner of the building), the Regional Monuments Board Košice (hereinafter the “RMB Košice”) and the Magistrate of the City of Košice. Was any compromise reached in the previous year?

The Centre requested a statement of RMB Košice, which informed about a meeting concerning elimination of barriers in the building located at Poštová Street 18 with a seat of SP. The meeting took place on 22 March 2017 in the premises of SP among the owner of the building (ST), the Office of the Main Architect of the City of Košice, the Commissioner for Persons with Disabilities and RMB Košice. The main aim was to resolve the situation and agree

on the most appropriate and prompt solution to provide accessible entrance to SP Košice 1.¹¹⁴ RMB Košice further stated that it approved project documentation for a lifting platform in a glass lift shaft placed in the entrance area to the building.

The Office of the Main Architect of the City of Košice reassessed its original opinion and has agreed with the proposed lifting platform to be placed in front of the main entrance to the building.¹¹⁵

The Centre also approached ST. ST informed that the elimination of barriers has been organised by SP, which disposes with permissions concerning realisation and approval procedures provided by ST. ST added that in cooperation with SP, RMB Košice and the Magistrate of the City of Košice it agreed on placement and technical solution of accessible entrance to the building. All parties concerned approved the project.¹¹⁶

The Centre welcomes positive outcomes of the meeting initiated by the Commissioner for Persons with Disabilities, as well as the approach of all parties concerned who have reached a compromise solution in a form of lifting platform securing access to SP Košice 1 for persons with disabilities. The result of negotiations in this case can serve as good practice example for other similar cases.

¹¹⁴ Statement of the Regional Monuments Board Košice regarding the Centre's request of 24 January 2018.

¹¹⁵ Statement of the Office of the Main Architect of the City of Košice regarding the Centre's request of 2 February 2018.

¹¹⁶ Statement of the Slovak Telecom, a.s. regarding the Centre's request of 17 January 2018.



4.4 Emergency Number 112 Now Also for Persons with Disabilities

Persons without health disadvantages have no problems to call the emergency line and communicate their problem with an operator. What if it is a person with disability who needs to call the emergency line? For instance a deaf person... It is now simple, such persons can send a free SMS. One of the most crucial measures to assist persons with disabilities in protection of their health, life, property etc. was to make use of the emergency number 112 accessible for them.

The Ministry of Interior informed about preparatory works for amendment of the Act No. 351/2011 Coll. on Electronic Communications in order to provide access to deaf persons

and persons with hearing impairments to the emergency line 112. The Ministry of Interior cooperated with the Ministry of Transport and Construction of the Slovak Republic. A task to provide equal access to services of the emergency line 112 for persons with disabilities is also an obligation of the Slovak Republic under Article 26(4) of the Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on Universal Service and Users' Rights relating to Electronic Communications Networks and Services, Directive 2002/58/EC concerning the Processing of Personal Data and the Protection of Privacy in the Electronic Communications Sector and Regulation (EC) No. 2006/2004 on Cooperation between National Authorities Responsible for the Enforcement of Consumer protection laws. The amendment was approved in December 2017 by the National Council of the Slovak Republic and entered into force on 1 January 2018.¹¹⁷

The amendment also fulfilled one of the aims of the National Programme for Development of Living Conditions of Persons with Disabilities for the Years 2014 – 2020¹¹⁸, in particular to secure access to the emergency line 112 for persons with hearing disabilities. In line with the new regulation, persons with disabilities can access the emergency line 112, which

¹¹⁷ Statement of the Ministry of Interior of the Slovak Republic regarding the Centre's request of 15 February 2018.

¹¹⁸ See: National Programme for Development of Living Conditions of Persons with Disabilities for the Years 2014 – 2020, available in Slovak at: <https://www.employment.gov.sk/files/slovensky/rodina-socialna-pomoc/tazke-zdravotne-postihnutie/narodny-program-rozvoja-zivotnych-podmienok-osob-so-zdravotnym-postihnutim-roky-2014-2020.pdf>



serves in situations when life, health, property, public order are in danger or when assistance of Police Corps, firefighters or rescue services is needed.

The Centre welcomes the progress achieved within one year. It believes that Slovakia would continue with the established trend to gradually provide persons with disabilities with such conditions allowing them to exercise their rights and live their everyday life equally or comparably as persons without disabilities, irrespective of challenges resulting from their health condition.

4.5 Integration of Children with Disabilities within Education Process

Social integration of persons with disabilities is the main aim of special pedagogics in the European context. Generally, further development of school policy aims to provide children and youth in need of special care with the most optimal education offer taking into mind individual interests, abilities and conditions and to secure their maximum possible access to education and upbringing.¹¹⁹

Article 42 of the Slovak Constitution guarantees the right to education for everyone. Accordingly the school attendance is compulsory and its length shall be laid down by law. Citizens shall have the right to free education at primary and secondary schools and depending on the abilities of the individual and the potential of the society also at universities. The Slovak Constitution further states that law shall establish eligibility for financial assistance for students from public funds. In relation to persons with disabilities, Article 38(2) of the Slovak Constitution further guarantees that they shall enjoy special protection in employment relations and special assistance in training.

According to the School Act, a child/pupil with health disability is:

- a) child/pupil with disability,
- b) child/pupil who is sick or a child/pupil with weakened health,
- c) child with development disorders or with multiple disability.

Child/pupil with disability is a child/pupil with mental disability, hearing disability,

¹¹⁹ Conception of Education and Upbringing of Children with Disabilities, available in Slovak at: <https://www.minedu.sk/data/att/937.pdf>



visual disability, physical disability, impaired communication ability as well as a child/pupil with autism or other pervasive development disorders of multiple disability.

The aim of education and upbringing of pupils with disabilities, apart from general aims of education, is to teach them to develop their own compensation mechanisms as much as possible, to fully perceive and live their life and to undertake determined activities to create values.¹²⁰

Pursuant to the School Act, education and upbringing of children and pupils with disabilities is organised in schools for children and pupils with disabilities (the so-called special schools). It is also organised in other types of schools in special classes opened usually for children/pupils with the same health disability, while education and upbringing partially takes place in classes with other children/pupils or the child/pupil attends certain subjects or activities outside the special class. Education and upbringing of these children/pupils can also be organised in general schools, particularly in classes or groups with other children/pupils and, if necessary, a child/pupil follows an individual education programme. The school prepares this programme in cooperation with school facility of upbringing prevention and consultancy and a legal representative of the child/pupil is entitled to be informed about it.

Upbringing and education of children/pupils with disabilities is regulated by education programmes for children/pupils with mental, hearing or physical disabilities, children/pupils with impaired communication ability, autism or other pervasive development disorders, sick children/pupils or children/pupils with weakened health, deafblind children/pupils, children/pupils with development learning disorders, activity and attention disorders, multiple disability and behaviour disorders.¹²¹

Pursuant to the School Act, upbringing and education of children/pupils with disabilities is organised in nursery schools, primary schools, secondary schools, vocational schools and practical schools.

Furthermore, primary and secondary schools that are not special schools and provide education to more than 20 pupils/students with disabilities, excluding pupils/students with

¹²⁰ See: <http://www.statpedu.sk/clanky/statny-vzdelavaci-program-svp-pre-druhy-stupen-zs-vychova-vzdelavanie-ziakov-so-svvp/vychova/>

¹²¹ If a child/pupil with disability is precluded to received education in accordance with the educational programme under para. 2, the child/pupil follows an individual educational programme that respects his/her special education and upbringing needs (Section 94(3) of the School Act).



disabilities educated in special classes, hire special pedagogue, medical pedagogue, school speech therapist and school psychologist. This obligation is laid down in Section 94(4) of the School Act.

The Centre pays attention to integration of children/pupils with disabilities in general nursery schools, primary and secondary schools. Pursuant to data provided by the Ministry of Education¹²², from 160 309 children in nursery schools there were 555 children with disabilities. Out of a total number of 440 582 children in primary schools, 28 763 represent children with disabilities. In terms of secondary schools, only 9536 of 206 570 children were children with disabilities. The Ministry of Education stated that in the past year, there were 1 356 children in special nursery school and 165 children in classes at nursery schools. Special primary schools were attended by 17 574 pupils, while 9 357 children attended special classes at primary schools. Special secondary schools were attended by 5 858 students and there were only 68 students in special classes at secondary schools.

Accordingly, from the overall number of 807 461 children and students at nursery schools, primary and secondary schools, the number of children and students with disabilities educated in these schools is 38 854. At the same time, 34 378 children and students attend special nursery schools, special primary and secondary schools or special classes at nursery schools, primary and secondary schools.

The Ministry of Education further stated that several measures have been adopted in order to strengthen expert and support personal resources to secure integration of children with disabilities in mainstream regional education. These measures include amendment of the School Act by the above mentioned Section 94(4). Another measure had a form of a project call for 2017 “More Successful in Primary School” (“*V základnej škole úspešnejší*”). The project call was opened on 30 December 2016 by the Ministry of Education as intermediary body for priority axes Education within the Operational Programme Human Resources in order to support request oriented project through unrepayable financial contributions to enhance inclusive education at primary schools. Financial resources under the call serve for creation of new positions for pedagogic assistants and inclusive teams comprised of school psychologist, special pedagogue, social pedagogue and teacher assistants for pupils/students with disability.

Additionally, the National Institute for Education published two publications

¹²² In this subchapter, the Centre refers to data provided in the Statement of the Ministry of Education, Science, Research and Sport of the Slovak Republic regarding the Centre's request of 27 February 2018.



concerning the issue of education of children/pupils with disabilities on its website. The first publication on Application of education programmes for pupils with disabilities and pupils with general intellectual talent¹²³ addresses current recommendations concerning upbringing and education of children with disabilities and children with general intellectual talent who attend special schools, special classes and classes at primary schools and secondary schools together with other students (i.e. in school integration/individual inclusion).

The second publication on Application of education programmes for children with disabilities at pre-primary education¹²⁴ focuses on upbringing and education of children with disabilities at nursery schools, nursery schools associated to healthcare facilities, in special classes at nursery schools or together with other children (i.e. in school integration/individual inclusion).

The Centre asked the Ministry of Education to identify the most common barriers precluding integration of children/pupils with disabilities in nursery schools, primary schools and secondary schools for children without special education and upbringing needs. The Ministry of Education identified the following:

- a) insufficient capacities in nursery schools also for children with no disabilities,
- b) insufficient expertise of teachers in nursery schools, primary schools and secondary schools to ensure expert approach to education of children/pupils with disabilities,
- c) lack of expert and support services of special pedagogue, speech therapist, school psychologist, sign language interpreter, assistant teacher and other experts in nurseries, primary schools and secondary schools,
- d) material resources such as special education tools, compensation tools or resources to adapt the environment, lack of readiness of pedagogic employees and pupils/children with no disabilities for integration and acceptance of children/pupils with disabilities in their group, school or class,

¹²³ National Institute for Education: “Application of Educational Programmes for Pupils with Health Handicap and Pupils with General Intellectual Talent” (2017), available online in Slovak at: <http://www.statpedu.sk/files/sk/deti-ziaci-so-svvp/deti-ziaci-so-zdravotnym-znevychodnenim-vseobecnym-intelektovym-nadanim/intelektove-nadanie.pdf>

¹²⁴ National Institute for Education: “Application of Educational Programmes for Pupils with Health Handicap in Primary Education (2017), available online in Slovak at: <http://www.statpedu.sk/files/sk/deti-ziaci-so-svvp/deti-ziaci-so-zdravotnym-znevychodnenim-vseobecnym-intelektovym-nadanim/aplikacia-vp-deti-so-zdravotnym-znevychodnenim-predprimarne-vzdel.pdf>



- e) insufficient awareness of pedagogic employees, pupils/students with no disabilities and their parents about specific health disabilities of integrated pupils/students,
- f) insufficient awareness of parents of children/pupils with disabilities about options for education and upbringing of their children.¹²⁵

Inclusive education is education of children/pupils with disabilities or disadvantages in schools, which they would attend if they did not have any disadvantage. Within inclusive education, it is crucial to provide these children/pupils and their parents a certain form of assistance or support in order to adapt to circumstances of a “standard” environment. At the same time, it is necessary to support pedagogic employees of standard schools, promote friendly relations among children with disabilities and other children and make sure that all children learn to accept differences and tolerate them.

We should not let the barriers, fear from inclusion or beliefs that inclusive education of children with disabilities can negatively affect education of children with no disabilities win. Our society should not have problems to fulfil the goals of Article 24 of the CRPD”). We should not allow that its content remains barely a formal obligation.

Recommendations

The Centre recommends that:

01. The Ministry of Justice of the Slovak Republic amends the wording of Section 140 (e) of the Criminal Code, as amended by the term “disability” following the provision – *“out of hate of the group of persons or individuals due to their actual or putative affiliation to any race, nation, nationality, ethnic group, due to their actual or putative origin, colour of skin, gender, sexual orientation, political beliefs or religion”*.
02. The Ministry of Health of the Slovak Republic in cooperation with the Slovak Medical Chamber amend the definition of properly provided medical care pursuant to Section 4 (3) and following provisions of the Act No. 576/2004 Coll. on Healthcare and on Services Related to the Provision of Healthcare, as amended by the proper determination

¹²⁵ Statement of the Ministry of Education, Science, Research and Sport of the Slovak Republic regarding the Centre's request of 28 February 2018.



of functional defect, and determination of risk factors and causation of illness or functional defect.

03. The Ministry of Health of the Slovak Republic in cooperation with the Slovak Medical Chamber to amend Section 3 of the Act No. 576/2004 Coll. on Healthcare and on Services Related to the Provision of Healthcare, as amended by provisions of International Classification of Functional Defects (ICD) which should be used by medical personnel other than medical doctors.
04. The Ministry of Labour, Social Affairs and Family of the Slovak Republic ensures and supports the regular monitoring and actively searches for discriminatory practices and bullying at workplaces and raises awareness on impact of the environment to psychosocial burden.
05. The Ministry of Interior of the Slovak Republic continues with the established trend of elimination of barriers in buildings belonging to the resort.
06. The Ministry of Education, Science, Research and Sport of the Slovak Republic adopts measures ensuring sufficient personal resources of special pedagogues, speech therapists, sign language interpreters, teachers' assistants as well as other experts who would work in nursery schools, primary and secondary schools to secure effectively inclusive education.
07. The Ministry of Education, Science, Research and Sport of the Slovak Republic and the Ministry of Finance of the Slovak Republic provide material resources for nursery schools, primary schools and secondary schools necessary for inclusive education of children with disabilities.
08. The Ministry of Education, Science, Research and Sport of the Slovak Republic ensure preparation and sufficient awareness of pedagogic employees of nursery schools, primary or secondary schools concerning accessibility and specific needs of children with disabilities and with regard to specific disabilities.
09. The Ministry of Education, Science, Research and Sport of the Slovak Republic increase awareness of parents of children with disabilities concerning opportunities for inclusive education of their children.
10. The Ministry of Education, Science, Research and Sport of the Slovak Republic increase awareness of all children on the rights of persons with disabilities and contribute to raising them to accept persons with disabilities within the society or their groups.

5 Temporary

Countervailing Measures



TCM are specific measures and the most effective means to balance structural inequalities, discrimination, which are deeply rooted in the society and require proactive and individual approach. The underlying reason for adopting TCM shall be the ambition to secure equal opportunities in practice.

TCM shall target a particular group affected by structural discrimination. The target group, i.e. recipients of TCM, must be individualised by a specific feature – the ground of discrimination. Under the Slovak legislation, TCM can target various groups. One of them is the Roma minority in terms of TCM addressing socioeconomic disadvantages and aimed at elimination of discrimination and prejudices against this group. Another target group could be the Hungarian minority or the Ruthenian minority. TCM can also target women, young people, the elderly or persons with disabilities. Specific TCM can address multiple discrimination targeting for instance Roma women or Roma with disabilities.

The Centre annually covers the issue of TCM in its HR Reports¹²⁶ and focuses mainly on TCM projects or projects with certain features of TCM as measures capable to effectively eliminate or prevent disadvantages. The Centre analysed particular features of TCM in general and their legislative regulation in its former HR reports (mainly 2014 HR Report)¹²⁷.

For the purposes of this report, the Centre approached the selected public bodies and other relevant subjects with questions regarding adoption, implementation and cooperation on TCM in 2017. The Centre aims to provide a comprehensive overview of implemented projects, taking into account that TCM can only be effective if systematically implemented. Similarly as in the previous years, the Centre did not receive any report on the adopted TCM in 2017 upon initiative of a subject entitle to adopt TCM.¹²⁸ These subjects (mainly public bodies) inf adopted projects, which they consider TCM, only in response to the Centre's requests.

Successful and systematic implementation of TCM targeting any discriminated group has positive impacts on the majority and the society as whole. Awareness raising and good practice

¹²⁶ See: <http://www.snslp.sk/#page=2426>

¹²⁷ See:

http://www.snslp.sk/CCMS/files/Spr%C3%A1va_o_%C4%BDP_za_rok_2014_FINAL_na_net_ISBN.pdf

¹²⁸ Section 8a (4) of the Antidiscrimination Act.



examples on benefits of TCM, as well as promotion of tolerance in the society and towards authorities are crucial. Social and economic disadvantages limit opportunities for equal participation at life. Usually, if an individual faces socioeconomic disadvantages, these disadvantages affect more than one area and last for longer time, sometimes even the whole life.

5.1 Activities of the Ministry of Agriculture and Rural Development of the Slovak Republic Conducted in 2017

The Ministry of Agriculture, as a managing authority for the Integrated Regional Operational Programme 2014 - 2020, secured implementation of various calls relevant for the horizontal priority “Supporting equality of men and women and non-discrimination” in 2017. These calls also followed-up on measures aimed at balancing opportunities for disadvantaged groups.

Firstly, it was the Investment Priority No. 1.2.1: Enhancing attractiveness and competitiveness of public transport, including the implemented call for modernisation of rolling stock of public city transport. In terms of improved quality of services within the public transport, this call included acquisition of low-floor public buses to address the needs of disadvantaged groups (persons with disabilities and with limited mobility).

Within the Investment Priority No. 2.1: Investments to health and social infrastructure, the Ministry of Agriculture organised a call for application for non-repayable financial aid to support transition from institutional to community care within social and legal protection of children and social guardianship (the process of deinstitutionalisation).

The Ministry of Agriculture also implemented a call for non-repayable financial aid for modernisation of infrastructure of institutional settings providing acute health care in order to increase productivity and effectiveness.

More calls were implanted under the Investment Priority No. 2.2: Investment into education, training and professional formation, skills and life-long learning through development of education and training infrastructure in relation also to educating children from socially disadvantaged groups:

- 1) call for application for non-repayable financial aid for increased capacities and infrastructure of nursery schools,
- 2) call for application for non-repayable financial aid for increased number of students at



secondary vocational schools' practical education,

- 3) call for application for non-repayable financial aid for creation and improvement of technical facilities of language education classrooms, school libraries and different labs in primary schools.

Another call was organised within the Investment Priority No. 4.2: Investment into the water management sector aimed at fulfilling requirement of the EU environmental acquis in relation to increased proportion of population with improved access to drinking water also for disadvantaged groups. It concerned applications for non-repayable financial aid for enhanced drinking water supply, wastewater treatment and sewerage.¹²⁹

TCM in the abovementioned form aim to eliminate disadvantages due to disabilities, racial origin or ethnicity. They concern areas of personal transport, health care, social services, education and environment. The envisaged period of implementation is the programme period 2014 – 2020 (implementation of projects). Elimination or mitigation of identified disadvantages is realized in the form of non-repayable financial contributions for realisation of the projects.

5.2 Activities of the Ministry of Health of the Slovak Republic Conducted in 2017

In 2017, the Ministry of Health of the Slovak Republic (hereinafter the “Ministry of Health”) adopted and implemented TCM in the area of health through the organisation Healthy Regions, which is an organisation co-financed by the state. Target groups included disadvantaged groups, mainly members of MRC. The organisation Healthy Regions kept creating space for realisation of complex and sustainable measures to address the situation of disadvantaged groups at the national level in the area of health.

One of the key activities in this area is the continuous project Healthy Communities financed under the European structural and investment funds covered by the Centre in its previous HR Reports.¹³⁰ A long-term goal of the concerned programmes is to significantly

¹²⁹ From the answer of the Ministry of Agriculture and Rural Development of the Slovak Republic regarding the Centre's request of 9 February 2018.

¹³⁰ See: http://www.snslp.sk/CCMS/files/Spr%C3%A1va_o_%C4%BDP_2016_FINAL.pdf, http://www.snslp.sk/CCMS/files/Spr%C3%A1va_o_dodr%C5%BEiavan%C3%AD_%C4%BEudsk%C3%BDch_pr%C3%A1v_zarok_2015.pdf,



contribute to mitigating differences in health and improve access to health services and information, increased health literacy and responsibility of individuals for their health, which in conjunction with other measures contribute to integration of excluded groups in the society.

TCM aimed at elimination of social disadvantages focus on enhancing equal access to health care, basic health services and information. Comparably to other Central and Eastern European countries, health condition of Roma has been consistently worse than health condition of the general population and even critical. The worst health results are monitored in MRC, which cover around 40 % of the approximate number of 450 000 Slovak Roma. Non-governmental surveys conclude the worst subjective health assessment, demographic projections of the highest mortality rates and the shortest life expectancy in MRC. Exact clinical studies show a significant higher load of infection and non-infection diseases.

Long-term effect of health-endangering factors for a certain ethical group is always linked to historical consequences of social processes. These social processes include discrimination, racism and spatial segregation (sometimes by entire non-Roma generations), various forms of disinterest, dislike, self-underestimation and even voluntary segregation. People from Roma settlements consequently achieve lower education, show higher rates of long-term unemployment and have the lowest incomes.

More than 83 % employees of the organisation Healthy communities come from MRC. Up to 31 January 2018, the total number of employees was 222, including 19 persons working in the headquarters, 21 health awareness assistants' coordinators and 182 health awareness assistants. Participation of people from MRC at work of the organisation contributes to targeted element and effectiveness of its activities as well as to maximum participation of the target group at implementation of TCM.

The main activity of the National Project Healthy Communities remains realisation and development of health mediation in MRC. Its aims mainly include: decreased barriers in access to health care, increased health literacy and improved health-related behaviour (especially decreasing life-style related risks).¹³¹

http://www.snslp.sk/CCMS/files/Spr%C3%A1va_o_%C4%BDP_za_rok_2014_FINALna_net_ISBN.pdf,
http://www.snslp.sk/CCMS/files/Spr%C3%A1va_o_dodr%C5%BEiavan%C3%AD_%C4%BEudsk%C3%BDch_pr%C3%A1v_vr%C3%A1tane_princ%C3%ADpu_rovnak%C3%A9ho_zaobch%C3%A1dzania_a_pr%C3%A1va_die%C5%A5a%C5%A5a_2013-_web.pdf

¹³¹ Statement of MoH regarding the Centre's request of 14 February 2018.



The Centre welcomes information concerning the planned increase of employees within the project but repeatedly warns that rights of all employees, including the new ones, shall be protected.

5.3 Activities of the Ministry of Transport and Construction of the Slovak Republic Conducted in 2017

The Ministry of Transport provided grants for development of housing under the Act No. 443/2010 Coll. on Grants for Housing Development and on Social Housing, as amended. Eligible applicants for grant include municipalities, cities, self-governing regions and non-profit organisations established by them to provide generally beneficial services in the area of housing. Compared to the previous years, the limit of entitled costs for grants has changed since 1 January 2017, particularly concerning constructions fulfilling the strictest requirements for heat technology features of constructions.

Within the Housing Development Programme, the Ministry of Transport supported acquisition of rental flats in public sector and reconstruction of existing housing stock through grants from the Ministry of Transport and preferential loans from the State Housing Development Fund. The Ministry of Transport assesses impact of this support in terms of effectiveness and expediency of financial resources spent from the public budget and the number of supported rental flats, or number of reconstructed flats, both at national and regional levels. In combination of these two funding sources (grants and preferential loans), acquisition of approximately 2 000 rental flats and full or partial reconstruction of blocks of flats with approximately 28 700 flats were supported in 2017. The Ministry of Transport does not keep statistics on social background of final users of the contributions provided.

In 2017, the Ministry of Transport also adopted a measure to eliminate disadvantages based on nationality. Throughout the year, Železnice Slovenskej republiky (Railways of the Slovak Republic) placed signs with the name of a station (station building, not a railway stop) in Slovak and in the language of a national minority in those municipalities where a national minority represents at least 20 % of the population. A precondition was that the station concerned operated regular public personal transport. Although the measure cannot be considered TCM, as it does not eliminate inequalities, it supports cohabitation at territories with



mixed nationalities. This service also improves communication and orientation for passengers.¹³²

Regarding the activities of the Ministry of Transport, the Centre believes that continued support for construction of rental flats, particularly for abused women with children, families in social need, accessible housing for persons with disabilities, flats for adults getting out of orphanages and persons from MRC, is necessary. In the area of railway transport, increased accessibility of information on railway transport for persons with disabilities is required.

5.4 Activities of the Ministry of Culture of the Slovak Republic Conducted in 2017

The Ministry of Culture of the Slovak Republic (hereinafter the “Ministry of Culture”) continued implementing projects and measures supporting human rights protection and promotion in culture, contribute to eliminating discrimination and all forms of violence and enhance accessibility of cultural institutions and cultural formats to members of vulnerable groups. These projects and measures have some of the features of TCM.

The grant programme Culture of Disadvantaged Groups is an effective and functioning financial measure supporting social inclusion and cohesion. It enables fulfilment and development of cultural needs of persons with disabilities or disadvantaged groups. To support culture of disadvantaged groups, EUR 980 000 were allocated under the grant programme in 2017. Activities supported under the grant programme include cultural activities for persons with disabilities or other disadvantaged groups, including cultural activity of these persons and groups supporting equal opportunities and integration in the society, prevention and elimination of all forms of violence, discrimination, racism, xenophobia and extremism, education towards tolerance, enhanced social and family cohesion and development of intercultural dialogue. The grant programme aims at:

- a) supporting culture,
- b) supporting periodic press contributing to equal opportunities in the area of cultural activity and providing information on life and culture of persons with disabilities or other disadvantaged groups, publishing non-periodic press in the area of original,

¹³² Statement of MoT regarding the Centre’s request of 15 February 2018.



classic, expert and translation literature,

- c) publication of electronic media,
- d) publishing websites developing cultural activity of persons with disabilities or other disadvantaged groups.

The continuous national project Inclusion of Unemployed Persons to Reconstruction of Cultural Heritage is a measure adopted by the Ministry of Culture, the Ministry of Labour and the Central Office of Labour, Social Affairs and Family of the Slovak Republic to prevent poverty and social exclusion. It is funded from the public budget through Ministry of Culture's grant scheme. In 2017, 39 projects received EUR 778 000 in total under the grant programme Let's Renew Our Home.¹³³

5.5 Activities of the Ministry of Labour, Social Affairs and Family of the Slovak Republic Conducted in 2017

5.5.1 National project "From Practice to Employment" (*"Národný projekt Praxou k zamestnaniu"*)

The national project is being implemented in order to provide young people up to 29 years with an opportunity to gain or enhance their expert skills, knowledge and practical experience, taking into account level, field and specialisation of their education. Activities originally included a mentored introduction and practice at an employer, which opens a work position for this purpose for a duration of at least 9 months and signs a part-time work contract with a job seeker.

Since 1 April 2017, the national project has been modified to cover an option of the mentored training and practice also for full time for at least 6 months, while the newly opened work position can be subsidised for at least 6 months but maximum for 9 months. The mentored training lasts for the initial 3 to 6 months of employment and it should serve for gaining theoretical and practical skills and experience under the leadership of an experienced mentor selected among other employees. The practice lasts for 3 to 6 months depending on the period of the mentored training but fulfilling the requirement of employment for at least 6 months.

A target group covers a group of job seekers up to 25 years registered in the job seekers

¹³³ Statement of the Ministry of Culture regarding the Centre's request of 13 February 2018.



registry for at least 3 months and job seekers up to 29 years registered in the job seekers registry for at least 6 months. The financial contribution is provided to the employer to cover mentoring, overall salary costs for the employee and partial costs related to the employee's training and practice.

5.5.2 National project “Graduate Training as Starting Point for Employment” (“*Národný projekt Absolventská prax štartuje zamestnanie*”)

A target group of this project include job seekers up to 29 years who meet the school graduate definition, i.e. persons younger than 26 years who have successfully completed continuous vocational formation at the particular level of education in a daily form no longer than 2 years ago, have not had a regular paid employment since then and have been registered in the job seekers registry for at least 1 month. The activity No. 1 involves provision of a financial contribution for graduate training.

The activity No. 2 covers support for opening of a new job position through financial contribution for an employer, who employs a job seeker from the target group without undue delay, latest within 30 days upon termination of the graduate training. The employer shall open the job position for at least 9 months for the job seeker who undertook graduate training for him. This job position is financially subsidised for maximum 6 months and consequently the employer is obliged to maintain it at least for the following 3 months.

5.5.3 National Project “A Chance for the Youth” (“*Národný projekt Šanca pre mladých*”)

A target group covers unemployed young job seekers who do not continue with education nor participate at vocational practice, are younger than 29 years, and who have been registered in the job seekers registry for at least 12 consecutive months prior joining the project. The main activity includes provision of financial contributions to support creation of a job position for a long-term unemployed young people. The employer can provide a job tutoring if necessary in order to actively support and assist the employee in fulfilment of work tasks and adaptation to work. The role of tutor consists of personal assistance, advice, feedback and assistance in integration within the team.



The aim of the project is to improve position of young people under 29 years at the labour market, enhance their employability and increased employment rate, development of local and regional employment in the selected regions through supported creation of job positions for job seekers to increase and strengthen their practical and theoretical experience and gain working habits.

5.5.4 National project “Restart for Young Job Seekers” (“Národný projekt Reštart pre mladých uchádzačov o zamestnanie“)

Young job seekers under 29 years are provided individualised expert consultancy services in the scale of 30 hours or 13 sessions, which have a form of individual, group or individualised activities. These sessions focus on complex evaluation of the job seeker’s potential to succeed at the labour market, identification of barriers, setting up measures to increase chances to succeed and enhancing motivation to proactively resolve the unemployment situation. The consultancy process specifically addresses individual needs of young job seekers who are also provided a contribution for commuting and food in order to cover their expenses linked to participation in consultancy. The also project strengthened personal capacities and accessibility of expert consultancy services at offices of labour, social affairs and family (60 new expert consultants have been hired).

Provision of a financial contribution for active young job seekers covers those who find employment and are removed from the job seekers registry proving commencement of employment. The financial contribution is provided monthly for 1 to 12 months, depending on duration of the project. The aim of this measure is to increase motivation of young people under 29 years to find and maintain employment. Since April 2017, the measure has benefited 6 463 participants.

5.5.5 National project “Education of Young Job Seekers” (“Národný projekt Vzdelávanie mladých uchádzačov o zamestnanie“)

This project is implemented through an activity “Education of young job seekers”. The activity is divided into three measures:

1. Supporting re-qualification of young job seekers (REPAS+);



2. Enhancing key skills of young job seekers (KOMPAS+);
3. Education of young job seekers upon own initiative.

Re-qualification courses aim to address regional requirements of individuals. A job seeker can choose any re-qualification of his/her interest. Competence courses enhance the selected key skills relevant for the labour market – communication skills, personal development, computer skills and language skills. A job seeker can select any publicly accessible competence course of his/her interest.

Offices of labour, social affairs and family provide job seekers with a contribution for re-qualification or competence course to cover the course fee and a flat-rate contribution for necessary costs related to participation in a re-qualification or competence course.

In terms of education upon own initiative of young job seekers, a contribution is provided to a citizen who was a job seeker and who was removed from the job seekers registry due to commencement of employment or entrepreneurship thanks to completed education acquired upon his/her own initiative.

The aim of this project is to support employability of young people by formation for the labour market through education and preparation, re-qualification or enhancement of key skills.

5.5.6 Project “Family and Work II” (*“Projekt „Rodina a práca II“*)

The project is implemented through request-oriented projects. The call was initiated and the 1st round, including administrative support for projects, was completed. Currently, the applicants work on removing problems uncovered within the administrative control. Expert evaluation of projects applied in the 1st round will take place in the beginning of 2018. The specific aim of this project is to improve conditions for work-life balance and increase employment of persons with parental duties, mainly women. Eligible TCM or activities under this project include support of flexible forms of childcare to secure work-life balance and creation of effective measures to integrate mothers/parents with small kids into the labour market upon return from parental leave through flexible job positions. Compared to the original national project, the project includes support of innovative forms of care for children with health disabilities, with flexible child care supported also in the Bratislava Region.

The abovementioned measures aim mainly to eliminate inequalities based on gender, sex, age and disability in the area of employment. In terms of duration, the project includes



open calls with implementation period for project activities from 12 to 24 months. A concrete support of disadvantaged groups is realised through projects of programme initiatives.¹³⁴

Recommendations

The Centre recommends that:

01. The Ministry of Labour, Social Affairs and Family of the Slovak Republic allocate financial resources to support projects in the area of gender equality in a form of temporary countervailing measures within its grant schemes.
02. The Ministry of Agriculture and Rural Development of the Slovak Republic keep increasing capacities and accessibility of nursery schools through temporary countervailing measures particularly targeting socially disadvantaged communities and marginalised Roma communities.
03. The Ministry of Health of the Slovak Republic continues with the project Healthy Communities and secure sustainability of the results also upon its termination.
04. The Ministry of Transport and Construction of the Slovak Republic continue supporting construction and acquisition of rental flats, particularly for abused women with children, families in social need, accessible housing for persons with disabilities, adults leaving orphanages and members of marginalised Roma communities.
05. The Ministry of Transport and Construction of the Slovak Republic improve accessibility of information on railway transport of persons with disabilities.
06. The Ministry of Labour, Social Affairs and Family of the Slovak Republic participates at increased number of temporary countervailing measures aimed at equal opportunities for women at the labour market including their representation in leadership and management and in technical fields.
07. The Ministry of Education, Science, Research and Sport of the Slovak Republic and other stakeholders support and implement temporary countervailing measures projects targeting the Roma minority at all levels of education.
08. All stakeholders adopting temporary countervailing measures follow up on existing or completed measures when adopting new ones targeting the same groups.
09. All stakeholders implementing temporary countervailing measures pay due attention to

¹³⁴ Statement of the Ministry of Labour regarding the Centre's request dated 16 February 2018.



their evaluation and monitoring.

10. All stakeholders adopting temporary countervailing measures fulfil the obligation to notify and report the Centre on the adopted measures in line with the Antidiscrimination Act.

6 Discrimination of the Elderly



6.1 Providing Financial Services in the Banking

In respect to the observance of the equal treatment principle and the issue of discrimination of the elderly, the Centre has addressed the issue of linking the provision of financial services in banking sector to the age of applicant.¹³⁵

The current situation on the market of loan products can be evaluated as relatively inhomogeneous. In its 2015 HR Report, the Centre concluded that the approach of individual commercial banks when setting the client's age requirements – an applicant for a loan was diverse despite the set regulatory requirements of the prudent business. On the basis of its own findings and to protect human rights and fundamental freedoms, in its 2015 HR Report, the Centre recommended to the banks, while observing the rules of prudent business, to consider providing optional bank products and raising the age limit for the final loan maturity to the statistical average life expectancy in the Slovak Republic, to reconsider the criteria for loan drawdown and proceed to providing specialised loan products for applicants of age 62 (respectively 65) so the discriminatory treatment of this group of society is minimized. At the same time, to secure the transparency of criteria of the lending policies, the Centre recommended to the banks to introduce products for the target group of age 62 and older separately. To the National Bank of Slovakia (hereinafter the “NBS”), when conducting the supervisory mandate in the field of financial consumer protection, the Centre recommended to focus especially on the different treatment in the field of providing loan products based on other than objective and reasonable facts.¹³⁶

In 2016 and 2017, the Centre monitored the banking products provided by the commercial banks or by the branches of foreign banks on the Slovak financial market.

To potentially record positive changes in the area of linking the provision of financial services in the banking sector to the requirement of achieving certain age as well as to record

¹³⁵ Slovak National Centre for Human Rights: „*Report on Observance of Human Rights including the Principle of Equal Treatment for the year 2015*“ (2016) available online at <http://www.snslp.sk/#page=2426>

¹³⁶ *ibid*



potential acceptance of the 2015 recommendations, the Centre has decided to investigate the current situation in 2017. In this regard, the Centre requested individual commercial banks with a seat in the Slovak Republic and registered in the NBS registry¹³⁷ to answer the same questions as in 2015.

Out of 13 requested banks, 10 banks provided the Centre with an answer. Following banks did not provide us with the answer: Wüstenrot stavebná sporiteľňa, a.s., ČSOB stavebná sporiteľňa, a.s., and Sberbank Slovensko, a.s.

Banks which submitted their responses, provided the Centre with following information:

Prvá stavebná sporiteľňa, a.s.

In its statement, the bank did not provide specific information on the conditions of provision of its loan products and justified the age limits by the applicable legal regulation stating that, the NBS recommends to determine the maximum age limit of a client with consideration to the final loan maturity and average life expectancy of the applicant. The Act No. 483/2001 Coll. on Banks, as amended (hereinafter the “Act on Banks”) as well as the measures of the NBS require to act cautiously. The bank does not provide any specialised loan products to clients above the retirement age.¹³⁸

Slovenská záručná a rozvojová banka, a.s.

The bank focuses predominantly on businesses that is entrepreneurs – natural persons and undertakings – legal entities aiming at development of small and medium-sized enterprises. The bank does not consider the age of the applicant for a loan as a relevant factor when providing its loan products. The exception are specialised products for young and starting entrepreneurs where the upper age limit is set. The bank does not have any loan products for non-business clients.¹³⁹

Privatbanka, a.s.

The bank stated that it does not provide conventional mortgages or consumer credits or similar retail loans. It specialises on private banking. Therefore, the bank provides its clients with loans secured by the property in the private banking administration. If it comes to these loans, the age

¹³⁷ National Bank of Slovakia: „*Subjects of the Financial Market – Banks with a seat in the Slovak Republic*“ available online at https://subjekty.nbs.sk/?aa=select_categ&bb=19&cc=&qq=

¹³⁸ From the answer of Prvá stavebná sporiteľňa, a.s. to the questions of the Centre dated 29 January 2018.

¹³⁹ From the answer of Slovenská záručná a rozvojová banka, a.s. to the questions of the Centre dated 31 January 2018.



of the applicant is not determining and such loans are also provided to the clients of the retirement age.¹⁴⁰

OTP Banka Slovensko, a.s.

The bank provides loans with certain limitation to the applicant's age. The loan products designed to general population have the age limit set to the limit of 65 years of age of the debtor – the age by which the loan must be repaid. The bank justified the upper age limit by the laws which requires the banks, when reviewing the income of the consumer, to take into consideration expected decrease of the income due to starting receiving pension. OTP Banka Slovensko, a.s., does not provide specialised loan products for clients exceeding the retirement age.¹⁴¹

Tatra banka, a.s.

The bank set the maximum age limit at the repayment of the loan for all its lending products. As a reason for this restriction, it states the regulation of the supervisory public authorities (e.g. recommendations of the NBS) which set the rules for conducting prudent business and consumer protection. One of the basic tools of the consumer protection is an evaluation of the ability to repay the loan during the whole duration of repayment timeframe, including the possibility of the income decline after the retirement. Information on the age limits are confidential and the bank considers it being a subject of its trade secret. Tatra banka, a.s./Tatra Banka, a.s., branch Raiffeisen do not provide specialised loan products to the clients exceeding the retirement age.¹⁴²

Poštová banka, a.s.

When the application for a loan is submitted, the bank considers a complex scale of information about the applicant. It requires the client to meet also certain age requirements. The minimum acceptable age is 18 years of age and the maximum age depends on the individual loan product. The bank stipulates that it tries to be open to loan applicants, and therefore it has also loan products accessible for elderly. To the applicants of higher age, it provides a possibility to apply for a loan together with younger person – a co-applicant (co-debtor). The aim of the age limit is to protect client and the bank and to avoid problems caused by the inability of the client to

¹⁴⁰ From the answer of Privatbanka, a.s. to the questions of the Centre dated 30 January 2018.

¹⁴¹ From the answer of OTP Banky Slovensko, a.s. to the questions of the Centre dated 6 February 2018.

¹⁴² From the answer of Tatra banky, a.s. to the questions of the Centre dated 7 February 2018.



repay the loan at the end of productive age when income of the most people decline. Currently, the bank applies following standard age limits:

- Allowed overdraft: 18 to 65 years of age including. However, if client's overdraft was approved before the age limit was reached, the bank does not cancel the allowed overdraft after this age.
- Consumer loan: 18 up to 65 years of age on the day of submission of the application. At the time of repayment, the applicant cannot be older than 70 years.
- Home loan: 18 to up to 61 years of age on the day of submission of the application. At the time of repayment, the applicant cannot be older than 70 years.

However, the exceptions above the framework of these conditions are possible and depends on the individual assessment of an individual applicant. Poštová banka, a.s. does not provide specialised loan products designed solely to the persons older than the retirement age limit. Clients in such age can apply for standard loan products, if all other requirements are met.¹⁴³

Československá obchodná banka, a.s.

The Bank stated that, when providing the home loan and consumer loan, it set the age limit in which the loan must be repaid. If it comes to credit card loans and allowed overdrafts, the applicant cannot be older than 65 years of age at the time of submission of the application. Once approved, it is provided for an indefinite period of time. Unsecured consumer loans must be repaid by the time in which the applicant is 65 years of age. The consumer loan secured by a real estate property must be repaid by the time in which the applicant is 68 years old, respectively in cases of exceptional assessment by the time in which the applicant is 70 years old. The limits are set in accordance with the Act on Home Loans, Act on Consumer Loans and recommendations of the NBS.¹⁴⁴

Všeobecná úverová banka, a.s.

In respect to the legislation and internal policy of risk management, the bank provides loans with certain age limits. When determining the age limits, the bank applies: Measure of the NBS č. 10/2016 dated 13 December 2016, which stipulates the details on assessment of the ability of a consumer to repay a home loan (67 years of age at the loan maturity).

¹⁴³ From the answer of Poštová banka, a.s. to the questions of the Centre dated 13 February 2018.

¹⁴⁴ From the answer of Československá obchodná banka, a.s. to the questions of the Centre dated 15 February 2018.



- Measure of the NBS No. 9/2017 dated 14 November 2017 which stipulates the details on assessment of the ability of a consumer to repay a consumer loan (69 years of age - allowed overdraft, credit cards – 74 years of age in the case of consumer loan and 76 years of age in case of a hire purchase, that is the age at the maturity of a loan)

Všeobecná úverová banka, a.s. does not provide specialised loan products designed for people exceeding the retirement age.¹⁴⁵

Slovenská sporiteľňa, a.s.,

The bank stated that when providing loans to no-business clients (natural persons), it has a legal obligation, with professional care, to assess the ability of the client to repay a loan. At the same time, it should take into account the time for which the loan is provided and the income of the client, respectively the purpose of the loan and other financial and economic circumstances which can have an impact on the ability of the client to observe the obligations established by the loan agreement as well as other circumstances which can have an impact on the ability of the client to repay loan during the whole duration of the loan agreement. In this regards, it also takes into the consideration natural life cycle of the client with regard to the protection of the client and his/her family members against an excessive debt at the end of the productive age of the client. Most of the products do not have age limit. Slovenská sporiteľňa, a. s. perceives age limit of 75 years of age at the time of loan maturity as a breakthrough age when providing loan products. However, provision of a loan product at the higher age is not excluded.¹⁴⁶

All banks and branches of foreign banks providing to consumers obligatory banking products (basic bank product¹⁴⁷ that is a standardised current account¹⁴⁸). The basic bank account is claimable after meeting the statutory requirements, and therefore the bank cannot refuse to provide such service to a consumer.

Basic bank account is a result of transposition of the Directive 2014/92/EU of the European Parliament and of the Council. A consumer is entitled to this product if he/she is a

¹⁴⁵ From the answer of Všeobecná úverová banka, a.s. to the questions of the Centre dated 14 February 2018.

¹⁴⁶ From the answer of Slovenská sporiteľňa, a.s. to the questions of the Centre dated 16 February 2018.

¹⁴⁷ Section 27c of the Act No. 483/2001 Coll. on Banks, as amended.

¹⁴⁸ Section 27c of the Act No. 483/2001 Coll. on Banks, as amended.



consumer with the EU residency, including a consumer who is not having a residency on the territory of the Slovak Republic, asylum seeker and a consumer who was not granted with a residency but he/she cannot be deported. One of the statutory requirement is that the client does not have other bank account. If a person has opened other bank account which includes the same banking services as a basic bank account, the bank is obliged to provably inform the client about the possibility to open basic bank account at least once a year.

Banks and the branches of foreign banks are obliged to deal with any consumer who is a person with the residency in any EU member state, when applying for a bank account, in accordance with the equal treatment principle. In this regard, we would like to point out that the Act on Banks directly stipulates the prohibition of discrimination based on the discriminatory ground of nationality or the place of the residency of a consumer with the EU residency. Observance of this provision is in the substantive scope of the NBS which is a supervisory authority of the observance of this principle in respect to banks. In this regard, the Centre has turned to the NBS with several questions. According to the statement of the NBS's Department for the Supervision of the Financial Consumers Protection, there were no complaints registered in regard to the violation of the equal treatment principle in provision financial services by the subjects supervised by the NBS in 2017.

Despite the banks being the most significant intermediaries of financial operations on the financial market, the Centre concludes that no bank product is designed for the target group of applicants disadvantaged due to the upper age limit (except for the basic bank account regulated by Section 27(c) of the Act on Banks). The majority of banks does not provide loans and mortgages for applicants older than 65 years of age. These banks are also discriminating elderly clients (e.g. entrepreneurs, artists) who even after reaching the retirement age have a satisfactory income. Some banks allow exceptions which depends on the ability of a particular applicant to repay a loan after reaching the retirement age what is assessed by loan experts of the respective bank. Other banks does not admit any exception and the applicant must repay mortgage by the set age. Banks assess the applicants for loans strictly to be able to determine a level of risk linked with the applicant in question. The limitation of the repayment period of loan has an impact on the maximum amount of the loan.



To acquire the most accurate data on the observance of the equal treatment principle in the field of provision of banking services, the Centre also requested information from the Slovak Bank Association (hereinafter the “SBA”). The SBA does not specifically collect and evaluate data which would include relevant information. It only evaluate the information acquired during the alternative dispute resolution before the SBA. In 2017, the SBA dealt with multiple complaints whose subject matter was violation of the equal treatment principle (based on disability, ethnic origin or other status) where the applicants objected the bank's approach. The discriminatory practice was usually argued as a secondary argument.

The Anti-discrimination legislation was not taken into account during the official investigation, interviewing of the affected bank or during the cooperation with the Banking Ombudsman. Moreover, the Centre did not have information about the abovementioned complaints and the SBA did not refer these cases to the Centre. The SBA did not register any complaints arguing the discrimination on the grounds of age. Neither it has any information about the specialised banking products designed for the target group of clients who exceed the retirement age. It concludes that even though, the pension is a steady income, age and health of the client are risk factors when banks decide on providing a loan. Therefore, the banks are providing loan products to people up to 67 years of age, maximum to 70 years of age with short repayment period up to 5 years. Usually, these loan cover small sums.¹⁴⁹

The current demographic development shows the significant increase in the number of business owners older than 65 years. Older workers remain more often on the labour market what would be beneficial to consider when assessing the income of older applicants. It is a consideration of every bank and it depends on its policy, what requirements for the provision of financial services will specify whether the loan will be provided and will enter a contractual relationship. Therefore, every bank, when assessing the risk of the loan return, reviews the economic and social situation of the applicant, mostly his/her income. Provision of a loan cannot be legally vested. However, the upper age limit of the applicant without taking other individual specifics into account should not be the sole reason for the rejection.

In the past, the provision of loans to clients of higher age and repayment of home loans by clients older than 65 years was problematic. On the basis of information about the 2015 loan

¹⁴⁹ From the answer of Slovak Bank Association to the questions of the Centre dated 8 February 2018.



offer to the clients exceeding the retirement age and its comparison with the 2017 answers provided by the requested subjects, the Centre evaluated the current situation on the market as more favourable to elderly. The Centre concludes that the approach of individual commercial banks to setting the age limit for applicants varies. The general statements of some banks about complying with laws in the field of banking and consumer protection can be considered as a simplification of potential discrimination of loan applicants. On the banking market, there are still institutions which take into account that due to the aging population, the working life of population is being prolonged. These subjects restrict the age limit for provision and repayment of loans less and individually assess the ability to repay the loan, even in higher age and require the additional loan security.

In accordance with obtained information, while respecting regulation of banking activities, the Centre considers appropriate for the banks to take into account an option of introducing loan products which would be designed for clients exceeding the retirement age.

6.2 Discrimination of the Working Elderly

For several year, some members of parliament, analysts and media look into the discrimination of working pensioners by the legal regulation which does not allow pensioners to apply for non-taxable portion of the income. The request to relieve the pensioners of whole income taxation and to dedicate the attention to this question as a matter of constitutional equality was also highlighted by some experts and political representatives.

In this regard, the Centre registered multiple complaints from elderly arguing violation of their rights. On the basis of these complaints, the Centre has decided to pay attention to this serious issue. The pensioners who work have a part of their income taken away without a relevant connection to pension, for payoff of which all legal requirements were met. The result is a higher discriminatory tax burden of working pensioners in comparison with taxpayers in productive age. Questionable is the provision of Section 11 (6) of the Act No. 595/2003 Coll. on Income Tax, as amended (hereinafter the “Income Tax Act”) which states that *“the tax base of the taxpayer shall not be reduced by the allowance under subsection 2 above, if at the beginning of the tax period the taxpayer is in receipt of an old-age pension or retirement pension funded from a social insurance scheme, old-age pension savings scheme or if he/she is*



in receipt of a pension from a foreign mandatory insurance scheme of the same kind or a service pension²²) (hereinafter the “pension”) or if a pension was awarded to the taxpayer retroactively as of the beginning of the tax period or as of the beginning of the preceding tax periods and if the aggregate of the pensions above is in excess of the tax allowance referred to in subsection 2 above. If the aggregate of the pensions above is less than the tax allowance referred to in subsection 2 above, the tax base shall be reduced as provided in subsection 2 above only by the difference between the tax allowance referred to in subsection 2 above and the aggregate of the pensions paid out to the taxpayer.” The abovementioned measure puts persons who, in accordance to the Act No. 586/1992 Coll. on Income Tax, as amended, are having another income apart from receiving the pension to disadvantageous position in comparison to other tax payers who are not receiving a pension.

The higher income tax, from which the non-taxable minimum is not deducted represents legal and moral issue which, in connection to legal duty to observe the equal treatment principle and the prohibition of discrimination, is closely linked to the group of working pensioners in the Slovak Republic. The employees in productive age (tax payers) with active income and working and working invalid pensioners who, in contrast with working pensioners, can apply for a discount on the income tax. The non-taxable portion of the tax base can be defined as sums which are not subjected to taxation and which decrease the taxpayers' tax base by EUR 319.17 a month when certain legal requirements are met. The non-taxable portion tax base depends on the living wage as well as on the tax base of the taxpayer in question.

In accordance with Section 11(6) of the Income Tax Act, the taxpayer is not entitled to apply for the non-taxable portion of the tax base:

- If from the beginning of tax period (e.g. from the beginning of 2017), the taxpayer received pension, compensatory allowance or early retirement pension from the social insurance, pension insurance or a pension from foreign insurance of similar kind of insurance, service pension or pension of similar kind from abroad.
- If the taxpayer received the pension again from the beginning of the tax period, respectively from the beginning of previous tax periods.
- If the sum of this pension is in total higher than the non-taxable portion of the tax base per taxpayer.



If the amount of the pension does not exceed the sum of non-taxable portion of the tax base per taxpayer, that is EUR 3830.02, the tax base is cut by the sum given by the calculation EUR 3830.02 – the pension paid.

By 31 December 2017, there was 1 064 393 pensioners in the Slovak Republic (*table No. 4 “Division of Pensioners in Accordance with the Amount of their Pension in 2016”*). The majority of granted pensions in the Slovak Republic is very low and most of the pensioners are placed in difficult financial situation. According to the data of the Social Insurance Company, the average pension received in the Slovak Republic by 31 December 2017 was EUR 428.31.¹⁵⁰

Table No. 4: Division of Pensioners in Accordance with the Amount of their Pension in 2016¹⁵¹

the amount of pension in EUR	number of pensioners
to 76 eur	2477
from 76.10 to 110	3269
from 100.10 to 200	18 690
from 200.10 to 305	87 496
from 305.10 to 415	329 994
from 415.10 to 515	174 288
from 515.10 to 605	68 158
from 605.10 to 705	35 873
from 705.10 to 800	15 721
from 800.10 to 900	8595
from 900.10 to 1000	4653
from 1000.10	3605

In monetary terms, the Slovak pensions are low what is linked to low wages in comparison to the Western Europe standards. The average Slovak pension appears to be acceptable in

¹⁵⁰ Social Insurance Company: „Average Pension Amounts Received by Months“ (2016) available online at <http://www.socpoist.sk/priemerna-vyska-vyplacanych-dochodkov--v-mesiachoch-/1600s>

¹⁵¹ Pension Portal: „The Overview of Pension Amounts available“ online at <http://tradex.sk/dochodok-na-slovensku/prehľad-vysky-dochodkov/>



comparison with many other countries, since it makes up to 45.77% of the average salary (*table No.5 “Relationship between the Average Pension (by 31 December 2017) and the Average Monthly Salary in the Economy of the Slovak Republic”*). However, this indicator is considerable skewed. The average salary in the Slovak Republic is only 925 EUR and the rule is that 70% of population earn less than average salary in the economy of the Slovak Republic. The Slovak pensioner must adapt to significantly modest living after the retirement in contrast with Austrian or Swiss pensioners. After the retirement, the pensioners in the Slovak Republic are reaching the poverty line. At the retirement age, a person has three options: (i) to live from the received pension, (ii) to postpone the retirement and continue with economic activity or (iii) or to receive the pension and, at the same time continue to be economically active.

Table No. 5: Relationship between the Average Pension (by 31 December 2016) and the Average Monthly Salary in the Economy of the Slovak Republic¹⁵²

Year	Average Pension in the Slovak Republic in EUR	Average Salary in the Economy of the Slovak Republic in EUR (brutto)	The proportion of the Average Salary and the Average Pension in the Slovak Republic in %
2009	339.73	744.50	45.63
2010	352.54	769.00	45.84
2011	362,08	786,00	46,07
2012	375,89	805,00	46,69
2013	390,51	824,00	47,39
2014	400,18	858,00	46,64

¹⁵² Social Insurance Company: „Relationship between Average Received Pension (by 31 December 2017) and Average Monthly Salary in the Economy of the Slovak Republic“ (2016) available at <http://www.socpoist.sk/vztah-priemernej-vysky-vyplacneho-starobneho-solo-dochodku--k-3112--a-priemernej-mesacnej-mzdy-v-hospodarstve-sr/3166s>



Year	Average Pension in the Slovak Republic in EUR	Average Salary in the Economy of the Slovak Republic in EUR (brutto)	The proportion of the Average Salary and the Average Pension in the Slovak Republic in %
2015	411,06	883,00	46,55
2016	417,46	912,00	45,77

During the decision-making process, the pensioner must take into consideration multiple aspects. The extent of taxation in the case of additional economic activity is one of the most important to consider. The majority of elderly work during the retirement to preserve their existing standard of living that would not be possible to keep while only receiving the pension. The provisions of the Income Tax Act which raise the tax burden of the working pensioners are discriminatory. Discriminatory provisions are not only in conflict with applicable laws but they also represent a moral dilemma when legislator disadvantages the work of certain target group.

The tax disadvantage and sanctioning a person who is working because the person receives also the pension is clearly demotivating. Due to the higher extent of the taxation, pensioners often give up and stop working. Therefore, the state puts pensioners to a different position in comparison to other working population while there is no rational or objective reason to do so. It is not possible to ignore the fact that due to the aging population in the context of demographic changes, the longer working life becomes a must.

The significance of the increasing participation of elderly on the labour market and their employability as well as productivity is rising. The multiple EU member states have taken steps to support the integration of older workers on the labour market. It is important to change the stereotypical view on ageing which perceives elderly as a homogenous group of people without individualising differences and as a burden to the society because it receives the substantial proportion of public finances. It is not possible to look non-critically on the fact that working pensioners must prove their qualities and fight for their social status. Becoming a second



category employee is not fixed only by the approach of the society or manifestations of ageism but also by a legal provisions of an EU member state.

The harmony between the almost identical laws and the anti-discrimination legislation was already solved in the Czech Republic where the measure, due to which the working pensioners were not entitled to apply for the non-taxable proportion of tax base raised a significant resentment. In 2014, the Constitutional Court of the Czech Republic issued a statement¹⁵³ in which it decided that legal regulation which does not allow a person to apply for a tax relief in the amount of 24 840 CZK due to receiving the pension is unconstitutional. The provisions of Section 35ba (1) of the Act No. 586/1992 Coll. on the Income Tax in the wording of the Act No. 500/2012 Coll. stating “*the tax of the taxpayer is not reduced if a taxpayer in question received by 1 January of the year in question a pension covered by pension insurance or other foreign insurance of similar kind*” was repealed when the finding of the Constitutional Court of the Czech Republic was published in the Collection of the Findings of the Constitutional Court of the Czech Republic.

Given the abovementioned facts, it can be stated that the provision of Section 11(6) of the Income Tax Act is in the conflict with applicable antidiscrimination legislation because it puts people receiving pension and other income in accordance with the Act No. 586/1992 Coll. on the Income Tax, as amended to disadvantageous position in comparison with other taxpayers who do not receive pension.

Although, it can be agreed that imposing tax in accordance with Article 11(5) of the Bill of Fundamental Rights and Freedoms represents a legitimate intervention to the ownership rights, such a legitimacy is not given by the public interest in gathering financial means to ensure the coverage of various public goods but also by equal distribution of a tax burden. From this point of view, the provision in question will not stand due to the extreme disproportion (also known as a trolling effect) as well as due to a non-ancillary and ancillary equality. Reasoning that the working pensioners have living wage guaranteed by non-taxable pension cannot stand because these taxpayers have a portion of their income taken away, the portion which is unrelated to the received pension for which all requirements were met.

¹⁵³ Findings of the Constitutional Court of the Czech Republic No. 162/2014 Coll. dated 10 July 2014 available online at https://www.usoud.cz/fileadmin/user_upload/ustavni_soud_www/Aktualne_prilohy/PI-31-13_pro_Sb_hotovy_web.pdf.



The taxpayers having the same ability to pay taxes should be taxed equally regardless of whether they are receiving a pension or not. If it comes to the tax on income from the employment, it is correct to say that from the same income should the same tax should be paid.

6.4 Age Limit for Screening the Breast Cancer in the Slovak Republic (Discrimination of Elderly Women in the Field of Providing Health Care)

Currently, the breast cancer is the third most common cancer and one of the main causes of death of women to cancer in the world. This type of cancer represents 18% of all cancer illnesses in the population in the Slovak Republic. „*The breast cancer affects almost 6 – 7% of female population in the Europe and in the United States of America and represents 25 – 30% of all malignant carcinoma in women... The trend of mortality increases by 20 – 30% was recorded in the countries providing screening.*“¹⁵⁴ Early the cancer is discovered, the better are prospects to cure.

The most effective ways of discovering the breast cancer, and therefore decreasing its risks is conducting a mammography screening on a regular basis. “*The screening mammography is an organised continuous and evaluated activity leading to the early detection of malignant breast carcinoma by conducting breast screening examination of a group of women who does not show any direct signs of the breast carcinoma.*”¹⁵⁵ The aim of the regular preventive mammography screening examination is detection of the cancer in its early stages and decreasing female morbidity and mortality. The breast cancer screening conducted via mammography is the only functioning tool which is currently in disposition for the early diagnosing of breast cancer with proven impact on the lifesaving and decreasing the mortality to this type of cancer.

„*The aim of mammography screening programme in the Slovak Republic is to decrease the mortality to this illness by 30 – 35%. The main focus of the mammography screening programme in the Slovak Republic is to increase the number of examinations in the target group*

¹⁵⁴ Ondrušová, M.: “*Epidemiology of Malignant Breast Carcinoma*” Oncology (Bratislava), 2009, 4(2): 72–75 available online in Slovak at <http://www.solen.sk/pdf/47e42c4b9cd9f4cd1a197f826c9401f0.pdf>

¹⁵⁵ Pink Ribbon n.f. Screening Station available online in Slovak <http://www.ruzovastuzka.sk/main2018/mamograficky-skrining/skriningove-pracovisko#>



(attendance by 70 -75%).”¹⁵⁶

The scope of preventive care provided on the basis of the public health insurance is determined by the Act No. 577/2004 Coll. on the Scope of Healthcare Covered by Public Health Insurance and on the Reimbursement of Services Related to Provision of Healthcare, as amended. In this act, the periodicity and scope of preventive check-ups is set. The scope of gynaecology check-ups was amended by the Act No. 661/2007 Coll.

In accordance with the Annex No. 2 of the Act No. 577/2004 Coll. on the Scope of Healthcare Covered by Public Health Insurance and on the Reimbursement of Services Related to Provision of Health Care, as amended – The Scope of Preventive Check-Ups, every women of age of 40 to 69 years is entitled to breast cancer screening through preventive mammography examination which is fully covered by the public health insurance every two years. It is usually the first contact gynaecologist who recommends a patient to this voluntary examination.

The fully covered regular mammography screening of the breast cancer in the Slovak Republic is restricted to women no older than 69 years of age. Its refusal leads to the subjectively unsatisfied need of medical treatment as well as to the non-observance of the equal treatment principle in respect to the ADL in the field of health care provision. In particular, the discrimination on the grounds of age in the field of health care provision can be discussed.

The age specific diagram of the occurrence of breast carcinoma has its characteristics. The illness concerns young and pre-menopausal women only rarely. In the Slovak Republic, the age specific incidence has sharply climbing character as of the third decade of women's life. While, in comparison with the first period, the increase of occurrence is evident in all age categories and peaks at the age of 75 – 79 years.¹⁵⁷

The risk of breast cancer is increasing by age. Since the applicable laws restrict the circuit of insured to the persons in the age of 40 – 69 years, the older women are recommended self-examination or physical examination which cannot replace the mammography. The mammography is able to diagnose 75% of malignant breast carcinoma in the 5th decade and 90% of malignant carcinoma in women in 6th and 7th decade of their lives.

The process of population aging is non-reversible and will accelerate in coming decades. According to the research of World Health Organisation and Imperial College London, it is

¹⁵⁶ Bella, V., Kállayová, A.: “National Screening Programme of the Breast Cancer in the Slovak Republic” available online in Slovak at www.ruzovastuzka.sk/main2018/images/dokumenty/skrining.pdf

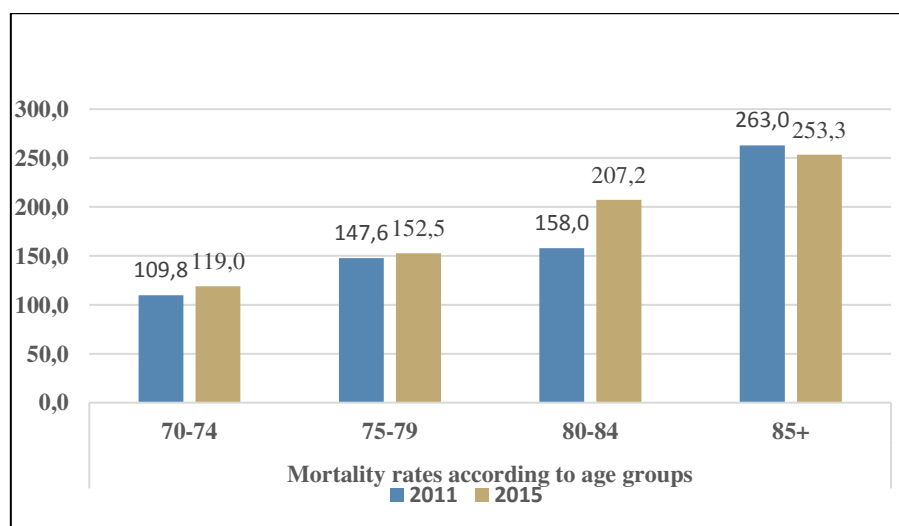
¹⁵⁷ Ondrušová, M., Kállayová, A., Lehotská V., Rauová K.: “Epidemiologic Indicators and Breast Carcinoma Screening Situation in Slovakia” (2011) In: Via Practica 8 (5)available online in Slovak at: http://www.viapractica.sk/index.php?page=pdf_view&pdf_id=5302&magazine_id=1



estimated that in 35 developed countries in the world, the estimated life expectancy will be exceeded 90 years by 2030.¹⁵⁸

The statistics show that in last years, the average life expectancy has also been climbing in the Slovak Republic and, in the case of women, it has currently reached 79 years of age. Although the prognosis has been improving significantly, the hope for healthy endowment, on which participates also the healthcare, still lags. Considering the development and prognosis indicators, it can be expected that the number of illnesses and deaths to non-infectious aetiology diseases will climb. It is expected that the international incidences of breast cancer in women will reach 3.2 million new cases a year by 2050. The increase in age-standardised incidence was significantly recorded among the age group of 75 – 84 years old. In accordance with this trend, it would be appropriate to increase the level of healthcare services and the prevention system to eliminate the discrimination of elderly women in the field of breast carcinoma screening. Given the abovementioned facts, the age settings lack the objective, rational and, most importantly legitimate reasoning.

*Table No. 6: Comparison of the proportion of age-specific mortality to malignant breast carcinoma in 70+ years old women based on narrower age groups in the Slovak Republic in the years 2011 and 2015.*¹⁵⁹



¹⁵⁸ Kontis V., Bennett J.E., Mathers C.D., Li G., Foreman K., Eyyati M.: „*Future Life Expectancy in 35 Industrialised Countries: Projections with a Bayesian Model Ensemble*“ (2017) The Lancet Volume 389, No.10076, p.1323-1335. available online at: [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(16\)32381-9/fulltext](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(16)32381-9/fulltext)

¹⁵⁹ National Centre for Healthcare Information



The results of large expert study concerning the mammography screening of the breast carcinoma presented at the 6th European Breast Cancer Conference –EBCC in Berlin states that the screening has a significant impact on the mortality to the breast cancer and is prosperous also to women in the age of 70 – 75 years. The analysis of certain studies shows the advantages and effectiveness of mammography screening in 80 years old and older women.¹⁶⁰

The analysis of the development of breast cancer provides important information for the optimal screening settings because based on the proportion of its occurrence in individual age groups, it is necessary to set the age of women who need screening. In many countries, including the Slovak Republic, the examination is conducted systematically and free-of-charge only by the age of 69 years of women. The centre considers the older women to be disadvantaged without a legitimate reasoning.

These facts were taken into account by the Czech Republic which decided not to restrict the elderly in the access to the screening. A pilot study focused on the evaluation of effectiveness of screening programme during which women older than 70 years were invited for the examination, revealed a high occurrence of the illness.

In line with similar findings in other countries, the upper age limit of female population being screened was shifted to higher age limit (Australia, United States of America, South Korea, Japan – 75+ years; Belgium, France, Sweden and Netherlands – 74 years and England – 70 years)¹⁶¹. Czech Republic shifted the age limit of mammography screenings in 2010. Therefore, all women older than 45 years have access to the screening without restrictions. The nationwide screening programme in the Czech Republic is free-of-charge for all mandatory insured women of 45 years old or older. The mammography screening is conducted every two years. A woman can undergo the mammography screening free-of-charge only when a request for the examination is submitted by general practitioner or gynaecologist.¹⁶²

The outstanding situation with the levels of mortality on the rise in all age groups in the countries of Eastern Europe indicates the importance of introducing intervention measures, mainly based on the organised population screening. According to the data of the CONCORD

¹⁶⁰ Jan Činčura: “Screening of the Breast Carcinoma for 75 Years Old Women?” (2008) In: Medical Tribune 16/2008, available online at <https://www.tribune.cz/clanek/12079-screening-ca-prsu-i-pro-lete-zeny>

¹⁶¹ Breast Cancer Screening Programs in 26 ICSN Countries (2012) Organization, Policies, and Program Reach Data are from a survey of ICSN country representatives conducted in 2012. Available online at <https://healthcaredelivery.cancer.gov/icsn/breast/screening.html>.

¹⁶² Decree on Preventive Check-Ups No.70/2012 available online at http://www.mzcr.cz/dokumenty/preventivni-prohlidky_8092_2956_1.html.



programme, the life expectancy after diagnosis of the breast cancer in the Slovak Republic did not substantially improve in the last decade and, in comparison with many other EU member states it has deepened.¹⁶³

Table No.7: The age-related specific mortality of women older than 70 years of age to the malignant breast cancer in the Slovak Republic in the years 2011 -2015¹⁶⁴

Women	2011	2012	2013	2014	2015
70 – 74	109.8	113.4	118.1	97.9	119.0
75 – 79	147.6	118.2	134.6	119.2	152.5
80 – 84	158.0	186.0	172.9	178.3	207.2
85+	263.0	200.6	271.7	248.0	253.3
70+	153.4	143.3	157.9	144.2	168.0

Table No. 8: The Average of age-standardised mortality to malignant breast carcinoma in women of 65 years of age or older in the years 2011 -2015.

Age Group	Mortality
65 – 74	95.5
75+	174.3

Commentary: In case of women older than 70 years of age in the Slovak Republic, the mortality twice that high than the standardised mortality to the malignant breast cancer carcinoma in women of 65 to 74 years of age was recorded.

Notes: Years 2011- 2015 are used because only these years were revised by the National Centre for Healthcare Information when considering the objective cause of death.

To the certain extent, relatively low survival rate of breast cancer is linked to its late detection. Last years, the Mammography screening was undergone only by 23% of women what points to the need of better awareness raising in general population without any age difference. As stated by the Strategic Framework for Health for the Years 2013 – 2030:

¹⁶³ Organisation for Economic Cooperation and Development: “Slovakia: Country Health Profile” (2017).

¹⁶⁴ National Centre for Healthcare Information



„Currently, in comparison with other EU member states, the Slovak Republic is achieving low level of the healthcare efficiency. One of the main consequences is lower number of years of healthy life of the Slovak population in contrast with the average of the EU member states. Conducting preventive programmes is one of the measures to increase the quality of healthy life in the Slovak Republic. It aims to detect early stages of health disorders by preventive check-ups and screening programmes.”¹⁶⁵

In respect to the patients' rights, the Centre points out to the fact that *“the right to protection of health and healthcare in the Slovak Republic is ensured...in accordance with the equal treatment principle. Based on the equal treatment principle, the discrimination based on the grounds of gender, religion or belief, marital status and family status, skin colour, language, political affiliation or other conviction, union work, national or social origin, disability, age, property, lineage or other status.”¹⁶⁶*

In the context of accessibility to free-of-charge mammography screening for older women, it is necessary also to take into account the fact that the need to preserve health of older people is stipulated by multiple documents adopted by international organisations. The most important can be considered the 2002 International Plan of Action adopted at the Second World

Assembly on Aging in Madrid. The Madrid International Plan of Action on Aging ranks developing policies on the prevention of unsatisfactory health of elderly among the priority trends and goals in the field of supporting health and comfort during the whole duration of life. One of the measures leading to its fulfilment is ensuring that the elderly have financially accessible programmes of primary prevention and medical check-ups specifically focused on women and men at their disposal.¹⁶⁷

The low survival rate of the breast cancer is, to certain extent, linked to its late detection. Given the prognosis, it can be expected that the number of illnesses of non-infectious aetiology will be increasing. Due to this fact, it is suitable to improve the level of healthcare services and

¹⁶⁵ Ministry of Health of the Slovak Republic: “Strategic Framework for Healthcare for the Years 2014-2030” (2013) available online at <http://www.health.gov.sk/?strategia-v-zdravotnictve>

¹⁶⁶ Ministry of Health of the Slovak Republic: “Patients' Rights” available online in Slovak at https://www.slovensko.sk/sk/agendy/agenda/_prava-pacienta-1/

¹⁶⁷ Political Declaration and Madrid International Plan of Action on Ageing. Second World Assembly on Ageing, (2002) p.36 available online at: <https://social.un.org/ageing-working-group/documents/mipaa-en.pdf>



the prevention system aiming at the elimination of discrimination of elderly women in the field of breast cancer screening. Therefore, the Centre recommends paying attention to necessity to allow women of 69 years of age and older to access the organised, quality and free-of-charge mammography screening of breast cancer in the Slovak Republic to improve the early diagnostics and detect the breast cancer in the earliest stage possible.

Recommendations:

The Centre recommends that:

01. Banks re-evaluate the current criteria for providing consumer loans for clients older than 65 years of age and, while observing the quantitative rules of prudent business, start to provide specialised loan products so that the risk of discrimination treatment with this group of society would be minimised.
02. Banks consider increasing the age limit for the final maturity of loans to the statistically average life expectancy age in the Slovak Republic in order to increase the accessibility of loan products to elderly.
03. Banks design loan products specifically for the target group of people being 62 years old or older.
04. Banks specify the circumstances under which providing a loan to clients of retirement age is acceptable already in the general terms and conditions.
05. Ministry of Finance of the Slovak Republic takes concrete steps to ensure the harmony between provisions of Section 11(6) of the Income Tax Act and applicable anti-discriminatory legislation.
06. Ministry of Health of the Slovak Republic initiates the retrospective in-depth analysis of data collected during the on-going screening of breast carcinoma in the form of descriptive epidemiology study aiming at identification of hypothesis on the impact of the examination on the mortality by age cohorts and evaluate the cost benefit of the on-going screening.
07. Ministry of Health of the Slovak Republic compares the differences in the standardised mortality to breast carcinoma in women older than 69 years of age who did not undergo the screening and women of the same age who undergo the screening in other countries.



08. Ministry of Health of the Slovak Republic verifies the set hypotheses in a prospective analytical study focused on defining the age cohort (including age group 69 years and older).
09. Ministry of Health of the Slovak Republic considers amending the act No. 577/2004 Coll. on the Scope of Health Care Covered based on Public Health Insurance and on the Reimbursement of Services Related to Provision of Health Care, as amended – Annex 2 “The Scope of Preventive Check-Ups and include the possibility to access the free-of-charge mammography screening without upper age limit every two years, in case of women at risk even more often.
10. Ministry of Health of the Slovak Republic pays attention to securing the organised mammography screening in the Slovak Republic, to its management and to systematic evaluation of already collected data with a focus on drafting expert opinions and recommendations for clinical practice and to an option of extending the target group without upper age limit.

7 Prevention from Increasing Extremism



Pursuant to Section 1(2)(a) and (b) of the Act on Establishment of the Centre, the Centre monitors and evaluates human rights and gathers and upon request provides information on racism, xenophobia and anti-Semitism in the Slovak Republic. Data collection in this area can focus on those information concerning particular manifestations of extremism in the society but also those on prevention mechanisms. The second group of information is equally important since it covers information aimed at prevention of increased radicalisation of the society causing racist, xenophobic, anti-Semitic or other extremist incidents.

The following subchapters analyse current prevention mechanisms for fighting extremism, evaluate their implementation and the level of involvement by relevant stakeholders in this area. The Centre thereby underlines the irreplaceable role of proper implementation of prevention mechanisms for fighting extremism in the society.

With increased extremisms in the society, the interest level concerning activities of law-enforcement bodies, primarily responsible for investigating crimes of extremism¹⁶⁸, also increases. A lot has been published on repressive aspect of fighting extremism, including news articles, expert studies as well as regular media news concerning fight against extremism through repression measures.¹⁶⁹ Awareness raising on impacts of radicalisations in the society is particularly important to effectively address increasing numbers of extremist opinions. Prevention of extremism through modified educational programmes and proper methodology of education processes at primary schools and secondary schools is a precondition for decreasing levels of radicalisations in the society. In terms of this, the Centre underlies the irreplaceable role of public bodies and local self-governments, schools, human rights institutions, civil society and media together with social media providers.

¹⁶⁸ See Section 140a of Criminal Code.

¹⁶⁹ See e.g. <http://www.snslp.sk/#page=2787> alebo <https://www.minedu.sk/prevenicia-prejavov-extremizmu-a-vychova-k-demokratickemu-obciansstvu-na-skolach/>



7.1 Prevention and Its Role

Prevention of extremism-related criminality is a key factor in decreasing level of manifestations of extremism. One of the primary tasks under the rule of law is to prevent criminality and secure public order.¹⁷⁰ Radical or extremist expressions can attain to a crime and are often results of improper upbringing of an individual in his or her home or school environment. In these regards, the Centre appeals to the need for adoption of systematic measures aimed at increasing effectiveness of upbringing and educational processes at primary and secondary schools. It is in schools where attitudes and opinions of a young person are being formed from early age. Apart from quality education, schools should also provide such conditions for complex development of the youth that would be in line with the principles of a democratic state.

Prevention from the so-called extremist criminality cannot be linked solely with activities of the Criminality Prevention Unit at the Office of the Minister of Interior of the Slovak Republic (hereinafter the “Criminality Prevention Unit”) as could be wrongly understood from media and press releases that often point at activities of the Criminality Prevention Unit.¹⁷¹ Prevention from extremist criminality forms part of prevention against extremist attitudes or expressions. Prevention from increased extremism in any form includes many stakeholders who contribute with their particular tasks to a sustainable situation, stagnation and even decreasing occurrences of racism, xenophobia, anti-Semitism or other extremist expressions. Social prevention is a general prevention of all social and pathologic phenomena and aims to create favourable social conditions in the economic and cultural area, upbringing and education, employment, leisure time, improved living conditions, humanisation and improved quality of life in the society as whole and for individual social groups as well as for socialisation, resocialisation and social integration of individuals. Social prevention creates such conditions preventing a person to become a penetrator of a crime or to continue with

¹⁷⁰ Daniška, G., Strémy, T., Vráblová, M. at all.: “*Kriminológia*”. (3rd Ed. 2016, Aleš Čeněk) p. 147.

¹⁷¹ See available media news at: <https://domov.sme.sk/c/20608499/ministerstvo-pripravuje-reformu-boja-proti-extremizmu.html>; <https://aktualne.centrum.sk/slovensko/politika/prevenicia-aj-represia-proti-extremizmu-komiksami-ci-protiteroristickej-jednotke.html>; or a press release available in Slovak at: https://www.minv.sk/?prevenicia_aktuality&sprava=spolocne-proti-extremizmu-koncert-organizovany-ministerstvom-vnutra-sr



criminal activities.¹⁷²

The theory of criminology¹⁷³ distinguishes primary, secondary and tertiary social prevention. Primary prevention includes preventive educational activities in schools, professional training of teachers or pedagogic employees or various debates.¹⁷⁴ Thus, a key role in preventing extremist and radical opinions lays on school environment and methodologies of educational and upbringing processes at primary and secondary schools. This argument is supported by the fact that among those who join extremist groups are mostly young people.¹⁷⁵

Media pay little attention to education of young people at schools. On the contrary, implementation of repressive measures to suppress already existing manifestations of racism, xenophobia, anti-Semitism or other forms of extremism is enjoying much more media attention. Repression undoubtedly has a potential of prevention in case it sends a clear message to the society on limits of the freedom of speech in line with the related jurisprudence. In terms of this, current results and situation in relation to practice of judicial authorities in Slovakia are unfortunately not convincing. Despite identification of relevant court decisions, the Centre is concerned by minimum media attention to the related cases. The overlying reason behind application of criminal law in practice is to achieve minimum occurrence of crimes in the society, which is supported by imposition of sentences that should serve for individual and general prevention. Quoting Jeremy Bentham, criminality, including extremist criminality, can be prevented by establishing such environment when a power of sentence overrides the pleasure of committing crimes.¹⁷⁶

The Centre calls for judicial authorities to send a clear message to the society concerning the freedom of speech, which has its limits unlimited in a democratic state. Jurisprudence on crimes of extremism in connection with media information and published anonymous court decisions in this area would indeed contribute to prevention of this type of criminality.

¹⁷² Daniška, G., Strémy, T., Vráblová, M. at all.: “*Kriminológia*”. (3rd Ed. 2016, Aleš Čeněk) p. 149 – 150.

¹⁷³ There are several definitions of criminology. See Daniška, G., Strémy, T., Vráblová, M. at all.: “*Kriminológia*”. (3rd Ed. 2016, Aleš Čeněk) p.17 and following.; or Kaiser, G.: “*Kriminologie. Úvod do základů.*” (1994 Praha, C. H. Beck)

¹⁷⁴ Daniška, G., Strémy, T., Vráblová, M. at all.: “*Kriminológia*”. (3rd Ed. 2016, Aleš Čeněk) p. 150.

¹⁷⁵ See also results of the project of the Institute for Public Affairs, available in Slovak at: http://www.ivo.sk/buxus/docs/publikacie/subory/Mladi_a_rizika_extremizmu.pdf

¹⁷⁶ Lyons, L.: “*Historie trestu*” (2004, Svojtla & Co) p. 108.



7.2 Good Practice Examples?

As stated above, prevention mechanisms are paid few media attention. It is true that criminality prevention is not a hot topic for media that would increase readership and related profits. On the other hand, the impact of media on public opinion is significant. Therefore, responsibility for increasing extremist expressions in the society is also born by media. Headings in Slovak media do not address information on preventive mechanisms to fight racism, xenophobia or anti-Semitism. On the contrary, instead of information on the need for systematic prevention mechanisms, media tend to inform purely about existing incidents of extremism.

It is indeed important to assess whether individual projects and prevention mechanisms have potential to attract a reader as well as general public interest. Significant attention is given to the work of the Criminality Prevention Unit. The Centre believes that work of other public bodies responsible for prevention of extremisms in the society should be equally subjected to media scrutiny. In terms of this, the Centre also calls for effective and systematic cooperation between the Criminality Prevention Unit and respective units of the Ministry of Education, paying attention not only to formal adoption but also to effective implementation of preventive mechanisms.

In July 2017, the Criminality Prevention Unit published information on prepared reform concerning fight against extremism. It further informed about allocation of the EU funds in the amount of EUR 8 million for this agenda.¹⁷⁷ Such information could relate to promising practice, however, the Centre is concerned that only EUR 0.5 million from the abovementioned funding has been awarded to awareness raising and educational activities. In a wider context it must be stated that more than EUR 1.5 million has been awarded to main research tasks and analyses. While extremists and radical groups have already been targeting school settings in order to manipulate opinions of young people¹⁷⁸, state institutions seem to prefer analyses and research from necessary implementation of preventive mechanisms in educational processes at schools.

Based on the abovementioned, the Centre believed that wider cooperation among the Criminality Prevention Unit, the Ministry of Education and self-governments is crucial in order to set up appropriate methodologies for upbringing and education at schools and achieve its most effective implementation. The Centre calls for the responsible actors to pay due diligence

¹⁷⁷ See: <https://domov.sme.sk/c/20608499/ministerstvo-pripravuje-reformu-boja-proti-extremizmu.html>

¹⁷⁸ See: <https://domov.sme.sk/c/20525901/slovenski-branci-v-skole-opat-trenovali-deti.html>



to development of upbringing parts of the education process, which are often undermined.

The Centre welcomes the activity of the Ministry of Education that published a state educational programme defining compulsory content of upbringing and education for gaining skills at schools. Inter alia, it refers to civic education since primary schools and regulates content of this subject as well as programme of various activities and open opportunities for development of individual educational skills of pupils.

Curricula of civic education comprise also those activities targeting cognitive skills of pupils, addressing terms such as searching for, inquiring, scrutinising and discovering, which are crucial for recognising and understanding the presence. In terms of this, pupils should not only be passive actors of education consuming final knowledge to be learnt and reproduced. Civic education contribute to creation and development of social and civic awareness of pupils. It provides them with necessary knowledge and skills, which would enable them to orientate in the social environment and standard life situations. It helps pupils to better understand themselves and assists them in the process of socialisation. It helps them to understand better their family, school, municipality, region, Slovakia and EU. Civic education teaches pupils to think and act democratically, to know their rights and duties as well as to defend rights of others. Pupils gain basic knowledge in the area of law, state and economic life of the society and they are encouraged to active civil participation and critical thinking.

By a thorough analysis of activities of responsible institutions in the area of criminality prevention, including prevention from extremism, the Centre concluded that their work is not conceptual and systematic when it comes to adopting measures to improve upbringing and educational processes at primary and secondary schools. The adopted measures lack sufficient attention of media, causing doubts of the public whether such measures should be even adopted and implemented. When adopting measures to prevent extremism among the youth, attention is usually paid to training of pedagogic employees in the area of human rights and freedoms. However, if pedagogic employees lack sufficient skills, the mere acquisition of further knowledge in the area of human rights and freedoms does not in itself give a sufficient guarantee for prevention from extremism among the youth. This is closely linked to assessment of good practice examples. One of the indicators could be more frequent media reports on



increasing extremism in Slovakia.¹⁷⁹ Currently, there are no news reporting to the contrary, i. e. on decreasing numbers of such incidents. One of the underlying causes is underestimation of preventive mechanisms in upbringing processes at Slovak primary and secondary schools. Responsibility for the current situation is indeed born also by founders of schools, municipalities and self-governing regions.

Since November 2017, the Methodical and Pedagogical Centre in Prešov provides a training program “Development of skills of a pedagogic employee in the area of prevention from extremism”.¹⁸⁰ This program seems to follow up on activities conducted by the Ministry of Education already before 2017.¹⁸¹ Its aim is to support and develop professional competences of pedagogic employees in order to properly implement prevention mechanisms into educational processes to decrease level of extremist expressions. Since the project is only in its initial stage, the Centre cannot objectively assess its results. The Centre, however, underlines the need for adoption of systematic steps improving educational process at schools with active and effective cooperation among the Criminality Prevention Unit, the Ministry of Education, municipalities and self-governing regions.

7.3 Research of the Slovak National Centre for Human Rights

In 2017, the Centre conducted a research “Racism and Xenophobia among Young People in Slovakia”¹⁸² aimed at gathering information concerning racial and xenophobic opinions of young people. The research gathered data at 21 schools across Slovakia (1 323 pupils and students in between 11 – 19 years of age) and brought about interesting facts on attitudes of the youth towards individual national, ethnic, cultural or religious groups. Hate, racist and xenophobic manifestations are more frequent in Europe and in Slovakia while preferences of extremist political parties grow. The Centre hence look at how the situation is perceived by young people attending schools in Slovakia.

¹⁷⁹ See e.g.: <http://www.teraz.sk/slovensko/extremizmus-zaznamenal-na-slovensku-prud/284911-clanok.html>; <https://www.ta3.com/clanok/1114123/extremizmus-na-slovensku-zaznamenal-prudky-narast.html>

¹⁸⁰ See e.g.: <https://mpc-edu.sk/node/3803>

¹⁸¹ This would include a Methodical guidance for employees of counselling facilities within the Ministry of Education, Science, Research and Sport of the Slovak Republic, which focuses on prevention of extremism, xenophobia and other forms of intolerance in schools. Similarly, Research Institute of Child Psychology and Psychopathology in Bratislava issued a publication “Educating controversial topics – Professional development package for effective education of questionable issues”.

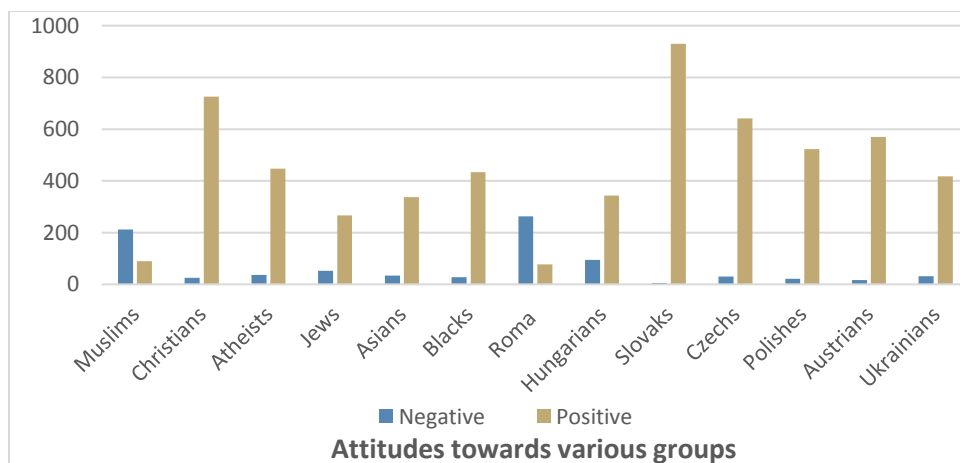
¹⁸² Available online at: http://www.snslp.sk/CCMS/files/Vyskum_SNSLP_ras_xen_2017-FINAL.pdf.



The analysis focused on attitudes of young people towards religious groups (Christians, Atheists, Muslims, and Jews), racial or ethnic groups (black people, Asian people, Roma) as well as towards people from neighbouring countries based on their nationality (Slovaks, Czechs, Hungarians, Ukrainians, and Austrians). A positive finding of the survey certainly is that more than 81 % respondents agreed with the statement “all people are equal”. Almost 62 % respondents agreed that it is favourable for the society if it is composed of people of various racial, cultural, ethnic and religious origin. Despite this, more than 80 % respondents are aware of the fact that there are negative prejudices against various groups of people around them.

In terms of religious groups, 40.29 % respondents admitted that they negatively perceived Muslims. This attitude is not surprising, since opinions of people are highly influenced by media, which often biasedly blame Muslims for terroristic attacks in Europe. Such generalisation incites to attitudes of hatred towards all members of a particular group. More than 10 % respondents also have negative attitudes towards Jews, however 55 % of neutral answers is higher than concerning other religious groups. More than 34 % respondents has positive attitudes towards Jews. The biggest proportion of young people, 70 %, in total, positively perceived Christians.

Regarding racial and ethnical groups, surprisingly, positive perception of black people (55 %) prevails over positive perception of Asian people (44,9 %). Only 14 % respondents have positive attitudes towards Roma and in general, this group was considered the most problematic in the society. Concerning nationalities, young people are the most positive towards Slovaks (83,37 %), followed by Czechs, Austrians and Polishes. On the contrary, the most problematic is their perception of Hungarians followed by Ukrainians.





Xenophobic attitudes appeared most significantly with regard to the question on safety. More than 33 % respondents stated that they did not feel safe in the presence of people of different cultures, religion or nationality.

The research brought about many valuable findings responding to current debates. It represents a comprehensive overview of issues related to racism and xenophobia among the Slovak youth, which yet has not been sufficiently researched. The results can be used as an insight into how young people perceive our society and aim to contribute to ongoing debate on manifestations and dangers of extremism, xenophobia, anti-Semitism as well as ethnic, linguistic, cultural and religious diversity in our society. The research can also serve the Ministry of Education or the Criminality Prevention Unit as well as local self-governments for enhancement and further development of preventive mechanisms at schools.

7.4 Importance of Preventive Mechanisms Online

Neglecting proper implementation of prevention mechanisms is one of the underlying causes of widespread extremists and intolerant expressions in the society. Internet remains a space for expansion of hate speech. Thus, particular attention must be paid to content on social networks and online discussion fora since the line between hatred and extremist conduct is thin.

The Centre monitored the issue of hate speech also in its 2016 HR Report with regard to freedom of expression and its limits in terms of online hate speech. In 2017, the Centre recorded a huge amount of cases presented in media when a content of hate speech breached moral values and rules of the society however as such it did not entail to a misdemeanour or a crime of extremism. Online platforms and wide range of media fail to inform about situation in the world objectively. It is, therefore, crucial that social networks providers effectively fight against illegal hate speech online with an aim of their full elimination at their websites.

The Centre particularly highlights justified protection of the freedom of speech, which is necessary for development of any democratic society. However, incorrect interpretation of its limits remains problematic. The extremist groups often claim that their members are victims of censure. A vast part of the society, which has no information about crimes of extremism, hidden symbolism and various symbols originating in war times can get a feeling that each deleted post is a result of censure.



Guidance on where is the line between the freedom of speech and hate speech can be found in the established jurisprudence of international judicial authorities. Distinguishing what is acceptable and setting up indicators to define certain expressions as unprotected by the freedom of speech is often an unsolvable riddle for providers of social networks and online discussion fora themselves.

Social networks and other platforms contribute to uncontrollable spread of information of various content, even such that can cause poised debate, create or deepen prejudice against different groups of society including those groups that do not represent minorities in Slovakia. Partial responsibility for spreading hate speech online is thus also born by providers of social networks who create open online space or allow extremists to promote hate speech. A hidden potential of hate speech is that its content can radicalise the society and spread hatred towards certain groups. Adoption and implementation of concrete prevention mechanisms is hence important to decrease the number of hate speech online in the future. Social networks and discussion fora providers should use prevention measures to send a message to members of extremist groups that “their” online space is not a space to manipulate opinion of the youth in order to spread hatred neither a place to commit crimes.

The Centre appreciates efforts of internet technology companies to fight increasing hate speech online and establishing cooperation among providers of the biggest social networks. Outcomes of this cooperation include adoption of the so-called code of conducts reacting to current situation. The Centre is aware of the fact that extremist groups use online space to spread hatred and recruit new members. Therefore, more prompt the reaction of responsible administrators at social networks and discussion fora to prevent spread of such hatred is, the lower numbers of people join the existing extremist groups. The Centre takes into account the fact that hate speech penetrators are becoming more sophisticated and seek to use various indirect means and hidden ciphers to identify with extremist groups. Hence, prevention mechanisms must be formed even more consistently and responsibly.

A good practice example can be found in activities of the non-governmental organisation Digital Intelligence (Digitálna inteligencia, digiQ), which calls for reporting of hate speech through its online forum. DigiQ subsequently evaluates content of the reported expression. If this is found potentially dangerous and in breach with the so-called codes of



conduct on the Internet, digiQ further cooperates with Facebook or YouTube in order to delete the hate speech content.

Another promising practice to fight extremism online from 2017 is a call of the President of the Slovak Republic for submission of projects on data collection and fight against increasing hate on the Internet.¹⁸³ The aim of the winning project “#somtu” (“#Iamhere”) organised by a group of young people is to bring decency, empathy and facts into online discussions.

The Centre believes that cooperation among social networks providers, civil society, NGOs and public bodies should be more coordinated and include mutual assistance in addressing hate speech online. This is closely link to the work of media, who should pay due diligence to prevent indirect promotion of activities of extremist organisation or other radical groups. Already in its 2016 HR Report, the Centre recommended that media inform the public sensitively and objectively about the migration crises to prevent increasing hate speech and radicalisation in the society. It is disturbing that tabloid information overrun objective information, which leads to such media news that respond to the “needs” or opinions of readers.

In terms of prevention at social networks and online discussion fora, it is inevitable to adopt and duly evaluate codes of conducts online and to define effective steps to be taken when hate speech is identified. The Centre finds it equally important that discussion fora of individual media contribute to identification of radicalised individuals and groups participating in discussions under anonymous identities in order to manipulate public opinion and spread hatred. To do so, cooperation with public bodies responsible for prevention from extremism is pivotal.

The Centre would also welcome closer cooperation among the public and private sector, providers of online services and information and technology companies, which can contribute to identification of authors of hate speech online through modern technologies.

Recommendations

The Centre recommends that:

01. Media sensitively inform on current problems in the society and prevent contributing to hate speech occurrences and increasing radicalisation in the society.
02. Social media administrators and website providers in cooperation with the Criminality

¹⁸³ More information about the winning project is available at: <http://somtu.sk/>



Prevention Unit at the Office of the Minister of Interior of the Slovak Republic adopt codes of conduct online clearly stating that their websites do not tolerate promotion of hatred in any form.

03. The Ministry of Education, Science, Research and Sport of the Slovak Republic pay due attention to upbringing of growing youth at schools and warn against dangers and risks related to spreading of hatred towards certain groups of people through education at primary and secondary schools and through respective curricula.
04. The Ministry of Education, Science, Research and Sport of the Slovak Republic pay due attention to development of educational skills of pedagogic employees by implementing particular measures and publishing their impacts.
05. The Ministry of Education, Science, Research and Sport of the Slovak Republic, the Criminality Prevention Unit at the Office of the Minister of Interior of the Slovak Republic and self-governments closely cooperate in adopting particular and effective preventive measures and regularly inform the public about their implementation.

8 Asylum



The issue of international migration and the right to asylum was debated also in 2017, although with mass migration being calmed down, the interest in these issues has also decreased. Key issues in this area remain mechanisms for refugees' relocation, reception of refugees and implementation of other means to support and assist the most affected countries.

In terms of human rights, long-term problems persisted also in 2017, in particular incidents of human smuggling, insufficient, poor legal aid for asylum seekers, procedural mistakes in asylum procedures, discrepancies in interpretation of relevant legislation, observance of the rights of minor migrants and their detention.

Certain improvements can also be identified. However, these were mainly caused by the decreasing number of migrants in general and not by direct active resolution of existing problems. As such it can be noted that there are now sufficient housing capacities for refugees.

Enhanced observance of human rights of migrants and asylum seekers in Slovakia together with allegations of their violations across the EU Member States reflected in the fact that the EU Agency for Fundamental Rights reassessed targeted countries to monitor in 2018. Slovakia was replaced by Croatia due to the alarming situation therein.

8.1 Observance of the Right to International Protection in the Slovak Republic

Slovakia is one of the countries with low numbers of migrants and refugees seeking international protection¹⁸⁴ and it is considered mainly as a transit country. Irrespective of personal motivation of migrants and refugees, who do not see Slovakia as a final destination, this situation is a result of various objective factors precluding attempts to irregularly cross the borders¹⁸⁵ and departing migration routes away from the Slovak territory. This is mostly linked to the membership in the EU and the Schengen area due to which:

- 1) the overall length of the protected external state border shortened and
- 2) the protection of the Schengen border in Slovakia intensified.

¹⁸⁴ Section 2 of the Act on Asylum.

¹⁸⁵ Victims of illegal activities are often refugees themselves. In 2017, the Police Force recorded 71 cases of human smuggling, particularly concerning persons from Iraq, Iran, Syria, Afghanistan and Pakistan, who applied for asylum in some of the EU Member States. Available at: <https://www.minv.sk/?tlacove-spravy-2&rok=2017>



Another underlying reason is also a geo-political situation in the neighbouring countries that also limit passage of traditional migration routes through Slovakia. This concerns the Eastern Borders migration route affected by the conflict in Ukraine¹⁸⁶ and the Western Balkan route, which is significantly affected by construction of barriers at southern Hungarian borders since 2015.¹⁸⁷ Low number of migrants crossing or coming to Slovakia in general is subsequently reflected in the number of submitted applications for asylum or subsidiary protection (hereinafter the “asylum application”).

In terms of the European migration crisis escalating in 2015, we can identify influx of refugees, asylum applications or granted asylums related to the EU relocation and resettlement programmes aimed at mitigating impacts of the crisis in the mostly affected countries and manifestations of the so-called flexible solidarity.

According to Eurostat data¹⁸⁸, in the monitored period Slovakia had the lowest number of registered applicants for international protection among the EU Member States. In 2017, Slovakia also had the lowest number of granted asylums and subsidiary protections. Certain differences can be seen when comparing numbers of international protection granted, although Slovakia belong to countries that often directly grant asylum instead.¹⁸⁹ In terms of subsidiary protection, Slovakia is one of three countries with the lowest number of approved applications. Nationalities of the applicants in Slovakia mirrored the most common groups of applicants for international protection with the whole EU.

Available statistics of the Migration Office of the Slovak Republic¹⁹⁰ reveal that in the period between 1 January 2017 and 31 December 2017, 166 asylum proceedings started, while 153 cases concerned first-time applicants. In 2017, asylum was granted in 29 cases and subsidiary protection in 25 cases. Asylum was rejected (by a first instance decision) in 58 cases and in 35 cases applications for asylum or subsidiary protection were rejected as manifestly ill-

¹⁸⁶ This conflict increased the number of migrants from Ukraine, but on the other hand, it precludes migration from the third countries through Ukraine towards western countries. Migrants are forced to seek other routes. In 2017, several cases of irregular border crossing (including attempts of smuggling) at the border between Slovakia and Ukraine. In majority of the cases, the persons concerned faced administrative expulsion from Slovakia. In two cases, the persons concerned applied for asylum in Slovakia. See: <https://www.minv.sk/?tlacove-spravy-2&rok=2017>

¹⁸⁷ Secondary migration in 2017 lead mainly from Hungary to Germany. Available at: <https://www.minv.sk/?tlacove-spravy-2&rok=2017>

¹⁸⁸ Available online at: http://ec.europa.eu/eurostat/web/products-datasets/-/migr_asywithm

¹⁸⁹ In 2017, more asylums were granted by 9 EU Member States.

¹⁹⁰ Available online at: <https://www.minv.sk/?migracny-urad-mv-sr>



founded or inadmissible. In 73 cases, proceedings have been terminated.

The highest numbers of first-time applicants for international protection in Slovakia represent people from Afghanistan (23), Iraq (11), Syria (11) and Pakistan (10). Asylum was mostly granted to applicants from Cuba (8), Syria (7), Iraq (3) and Cameroon (3). Subsidiary protection was mostly granted to applicants from Ukraine (7), Afghanistan (6) and Libya (5).

In 23 cases asylum was granted for humanitarian reasons¹⁹¹, in 5 cases it was granted for family reunification¹⁹² and in one case on ground of persecution¹⁹³.

Concerning human rights violations in 2017, in terms of the right to international protection, two contextual levels can be identified:

- 1) Slovak context: period since the beginning of asylum procedure as regulated under the Act No. 480/2002 Coll. on Asylum and amending and supplementing certain acts (hereinafter the „Act on Asylum”) – since a foreigner’s proclamation that he/she seeks asylum or subsidiary protection – until its termination by a decision on granting or rejecting the international protection.
- 2) The migration crisis context: period before the asylum procedure and relocation of asylum seekers to Slovakia.

Findings below were concluded upon analysis of relevant Slovak legislation and international regulations binding for Slovakia as well as in relation to obligations under its membership of international organisations, mainly UN and EU. The analysis also focused on available documents of relevant Slovak institutions and public bodies competent to grant decisions in asylum procedures, responsible for their process or entitled to intervene within asylum proceedings, particularly the Migration Office of the Slovak Republic, the Police Corps and courts. Key source of information were also materials of Slovak NGOs providing legal advice and assistance to migrants and refugees as well as reports of international organisations underlying possible violations in Slovakia or within the broader European context.

8.2 Legal Regulation of Asylum

Basic regulation of asylum in Slovakia is laid down in the Act on Asylum that covers

¹⁹¹ Section 9 of the Act on Asylum.

¹⁹² Section 10 and Section 20(2) of the Act on Asylum.

¹⁹³ Section 8 of the Act on Asylum.



issues related to international protection. Under the Act on Asylum, international protection¹⁹⁴ means provision of asylum or subsidiary protection. Asylum¹⁹⁵ means protection of a foreign national from persecution due to the reason stated in the international convention¹⁹⁶ and subsidiary protection is a protection from serious harm in the country of origin¹⁹⁷.

The Act on Asylum regulates asylum procedure and conditions for provision of asylum as well as reasons for rejection. Asylum is granted to an applicant who a reasonable fear from persecution in the country of origin has based on his/her race, nationality or religion, political opinion or membership of a certain social group due to which he/she cannot or does not want to return to this country. Asylum is also granted to an applicant who is persecuted for exercising his/her political rights and freedoms in the country of origin.¹⁹⁸ Applicant can also be granted asylum for humanitarian reasons^{199,200} or for family reunification²⁰¹.

Asylum is rejected if the applicant fails to fulfil requirements for asylum or under grounds listed in Section 13 of the Act on Asylum. These grounds include for instance suspicion that the applicant has committed a crime against peace, war crime or crime against humanity, serious crime of non-political character outside Slovakia prior applying for asylum or is guilty for crimes that are violating UN goals and principles.

Since provision of asylum is fixed to one of the five reasons, its definition does not cover all cases when a person is forced to seek protection outside the country of origin. In such cases, a person can apply for subsidiary protection under Section 13a of the Act on Asylum. The Ministry of Interior grants subsidiary protection if there are serious presumptions that a person would be subjected to real serious harm in case of return to the country of origin, unless the act states otherwise. Subsidiary protection provides protection in cases when a person is in danger of death penalty²⁰², torture, cruel, inhuman or degrading treatment in his/her home country or if there is an ongoing war conflict in his/her home country.

¹⁹⁴ Section 2(a) of the Act on Asylum.

¹⁹⁵ Section 2(b) of the Act on Asylum.

¹⁹⁶ Convention Relating to the Status of Refugees.

¹⁹⁷ Section 2(c) of the Act on Asylum.

¹⁹⁸ Section 8 of the Act on Asylum.

¹⁹⁹ Under regulation of the Minister of Interior of the Slovak Republic of 21 February 2014 concerning the Act on Asylum, which states in Section 13 that humanitarian reasons cover cases of unsuccessful seriously ill applicants whose return to the country of origin could cause significant physical or psychical suffering or death.

²⁰⁰ Section 9 of the Act on Asylum.

²⁰¹ Section 10 of the Act on Asylum.

²⁰² The Slovak Republic, EU nor the Council of Europe recognise the death penalty.



Prohibition of discrimination is an underlying principle also in asylum procedures in line with international human rights treaties (e. g. International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, International Convention on Elimination of All Forms of Racial Discrimination, Convention on the Rights of the Child and others) and national legislation (Constitution and the Antidiscrimination Act).

There are very strict exceptions from the principle of non-discrimination under the Antidiscrimination Act. Section 4(1) (a) of the Antidiscrimination Act states that this act does not apply to different treatment regarding entry and stay conditions for foreigners within Slovakia and their treatment regulated under special legislation, except from citizens of EU Member States or citizens of signatory countries to the Agreement on the European Economic Area or citizens of the Swiss Confederation, stateless persons and members of their families. Procedural safeguards and rights granted to all migrants irrespective of their legal status must, however, be respected also in terms of these exceptions. Any other different treatment must be appropriate, reasonable and serve a legitimate aim. The Antidiscrimination Act reflects the Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (Article 3) according to which the directive does not cover difference of treatment based on nationality and is without prejudice to provisions and conditions relating to the entry into and residence of third-country nationals and stateless persons on the territory of Member States, and to any treatment which arises from the legal status of the third-country nationals and stateless persons concerned. Accordingly, the Slovak legislation is more favourable than the EU regulation when it comes to stateless persons and members of their families.²⁰³

There are several organisations active in providing help to persons at various stages of asylum procedures such as International Organisation for Migration (IOM)²⁰⁴, Human Rights League²⁰⁵ or Legal Aid Centre²⁰⁶. Their aid covers mainly provision of information, legal aid, assistance with integration as well as assistance in return to persons who were not granted international protection.

²⁰³ Debrecéniová, J: “*Antidiskriminačný zákon, komentár*” (2008) p. 350.

²⁰⁴ See: www.iom.sk

²⁰⁵ See: www.hrl.sk

²⁰⁶ See: www.cpp.sk



8.3 Analysis of the Observance of the Right to International Protection

8.3.1 National context in the Slovak Republic

In terms of asylum procedure, the moment of expression of will to get asylum in Slovakia is crucial for determination of the starting moment of the asylum procedure. In 2017, the trend of irregular border crossing continued. In majority of the cases, the persons detained faced administrative expulsion from Slovakia. In two cases, the persons concerned applied for asylum in Slovakia. Organised smuggling of asylum seekers in some of the EU Member States were also recorded.²⁰⁷

In 2017, Human Rights League paid significant attention to the rights of minor migrants, particularly in terms of detention of entire migrant families and their placement in respective settings. The underlying reason was a recommendation of UN to improve the relevant practice in this area. Human Rights League aims to promote alternative measures to detention mitigating negative impacts of detention of the family on children. Its secondary aim is to gain detailed statistical data concerning the age of detained persons.²⁰⁸

The Supreme Court of the Slovak Republic issued three rulings concerning international protection in 2017. In terms of the Slovak legal order, these rulings are particularly significant, since lower courts and administrative bodies deciding on applications for international protection are obliged to observe them.²⁰⁹ Significant rulings from 2017 include the following:

- **Decision in case 1Sžak/5/2017 of 23 May 2017**, arguments from the reasoning:
 - Reasons for rejection of international protection can include such facts that come out during the procedure from the application itself or from statements of the applicant; hence, it is not substantial whether the applicant marks these facts as grounds of his/her application for international protection since the applicant cannot be expected to have such knowledge of the asylum law to be able to qualify his/her statements in terms of possible grounds for international protection. A substantial fact is whether the applicant states relevant information regarding possibilities to be granted any form of

²⁰⁷ Available online at: <https://www.minv.sk/?tlacove-spravy-2&sprava=policia-zaznamenala-v-roku-2017-najviac-nelegalnych-migrantov-od-vstupu-sr-do-schengenskeho-priestoru>

²⁰⁸ Available online at: <https://www.hrl.sk/sk/iniciativy-a-kampane/aktualne/deti-nepatria-do-vazenia>

²⁰⁹ Lower courts can defer from these decisions only with justification reasoning such deferral.



international protection during the asylum procedure.

- If an administrative body decides on rejection of asylum, it is obliged to decide concurrently on provision or rejection of subsidiary protection. If the administrative body decides on rejection of asylum due to manifestly ill-founded application under Section 12(1) (a) of the Act on Asylum, the obligation to assess possible risks of return to the country of origin under Section 2(f) of this Act still apply.
- **Decision in case 10Sžak/16/2017 of 25 October 2017**, arguments from the reasoning:
 - It is not an obligation of the applicant for asylum to prove his/her persecution by any other evidence apart from his/her reliable testimony.
 - On the contrary, it is an obligation of the administrative body in reasonable doubt to gather all evidence available rebutting or challenging credibility of the applicant.
 - Similarly, it is not an obligation of the applicant for asylum to subsume his/her fear from persecution under particular grounds stated in the Act on Asylum, which is for consideration of the administrative body. If the applicant for asylum keeps one story line throughout the proceeding on international protection and his/her testimony can be thus assessed as consistent and in line with available information regarding the country of origin, irrespective of certain small discrepancies, then such testimony should be decisive.

Regarding relevant rulings of regional courts in 2017, the following are worth mentioning:

- **Judgement of the Regional Court in Bratislava in case 8SaZ/1/2017 of 16 June 2017:**
 - In case there are discrepancies in testimonies of the applicant for asylum, the defendant is obliged to seek to eliminate such discrepancies. Only if the applicant is unable to duly explain the discrepancies in his/her testimonies under circumstances allowing him/her to do so (e. g. when provided interpretation into a language he/she is able to understand and communicate in), the defendant (administrative body) can assess his/her credibility.
- **Judgement of the Regional Court in Bratislava in case 8SaZ/3/2017 of 28 June 2017:**
 - Assessing reasonability of the fear from persecution is closely linked to other criteria. Evaluation of provision of asylum is a prospective conduct based on possible persecution in the future upon the applicant's return to the country of origin. Regarding the term "fear", it must be stated that Section 8(a) of the Act on Asylum refers to



subjective feelings of the applicant in terms of reasonability of fear from persecution as an objective component while not requiring real persecution in the past. It only establishes the need to investigate a possibility of future persecution, applying average probability. The administrative body shall prove or rebut accuracy of the applicant's statements by irrefutable establishment of exact circumstances regarding the statement of the applicant for asylum or at least by such level of probability that does not cause reasonable doubts about accuracy of the administrative body's opinion.

- **Judgement Regional Court in Bratislava in case 8SaZ/4/2017 of 4 October 2017:**

- In case any of the parties can provide or rebut a certain fact, the only evidence remaining for the applicant is his/her testimony and a key factor is thus assessment of his/her overall credibility.

The abovementioned rulings point out various procedural problems and shortcomings of asylum procedures. Human Rights League repeatedly warned against insufficient legal aid for applicants for asylum as well as problematic interpretation of legislation.

Due to the decreasing number of applicants for asylum, there were sufficient housing capacities for asylum seekers provided in 2017 and services available improved (preparation of leisure time and education centre for unaccompanied minor migrants), which had been criticised in past.²¹⁰

8.3.2 European context – migration crisis

Regarding the migration crisis, traditional problematic issues remained in 2017. The first area concerns the lack of will of the Visegrad group to fulfil quota of the relocation schemes aimed at assisting the countries mostly hit by the influx of migrants. This relates to the protection of the right to asylum, protection from expulsions and observance of the right to dignity and the freedom from torture, inhuman or degrading treatment or punishment as stated in the EU Charter of Fundamental Rights. In September 2017, the Court of Justice of the European Union dismissed the action brought by Slovakia and Hungary against the provisional

²¹⁰ Available online at: <http://fra.europa.eu/en/theme/asylum-migration-borders/publications>



mechanism for the mandatory relocation of asylum seekers of 2015.²¹¹

The second area is promotion of possibility to choose or reject applicants for asylum based on prospects of their future integration in the Slovak society and security of the country as allowed by the Council Decision establishing provisional measures in the area of international protection for the benefit of Italy and Greece of May 2015²¹². It is highlighted that vulnerable applicants should have preference. By the end of 2017, 16 asylum seekers (mothers with children) were relocated to Slovakia from refugee camps in Greece.

The third area concerns accenting other forms of assistance, mainly secondments of members of the Police Corps in crisis areas with significant influx of migrants or provision of technology.²¹³

8.4 Good Practice Examples

Several examples of active participation of Slovakia and good practice could be identified in 2017, despite low numbers of applicants for international protection in Slovakia.

These activities can be divided based on their timeframe:

1. long-term obligations started prior to the European migration crisis escalating in 2015,
2. short-term (ad hoc) reacting to mass migration influx.

Another division can be done based on territorial character of the activities:

1. activities mainly conducted in Slovakia in cooperation with other international stakeholders,
2. participation at activities outside Slovakia.

Good practice examples in terms of timeframe and territorial aspect

	Short-term	Long-term (repeated)
Within	Memorandum on cooperation with	Assisted voluntary returns

²¹¹ Available online at : <https://euractiv.sk/section/spravodlivost-a-vnutro/news/sudny-dvor-eu-zamietol-zaloby-slovenska-madarska-na-kvoty/>

²¹² Available online at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1502372454883&uri=CELEX%3A52015PC0286>

²¹³ Available online at: <https://www.minv.sk/?tlacove-spravy-6&sprava=v-otazkach-migrantov-sme-solidarni-s-ceskou-republikou-madarskom-a-polskom>



Slovakia	Austria (21 July 2015 – 21 July 2017)	Resettlement programmes
Outside Slovakia	Participation of members of the Police Corps – Foreign Unit at bilateral secondments Participation of members of the Police Corps – Foreign Unit at missions of the European Border and Coast Guard Agency (Frontex) Individual secondments of members of the Police Corps within the EU	Participation of members of the Police Corps – Foreign Unit at Frontex missions – Poseidon, Triton ²¹⁴ Secondment of European Asylum Support Office (EASO) experts

Activities addressing unequal burden on target or transit countries within the so-called European migrant crisis were mostly based on bilateral agreements with:

1. EU Member States,
2. third countries²¹⁵,
3. Frontex²¹⁶.

Members of the Police Corps have also been seconded to Frontex missions in the Mediterranean Sea (Poseidon and Triton), which originated before 2015 but required reinforcement. Frontex mission profiles were defined as: border surveillance, 1st and 2nd line control, experts on identification papers, dog professionals, escorts, registration of migrants and screeners.²¹⁷

In 2017, bilateral cooperation between Slovakia and Austria based on the Memorandum on cooperation terminated. This cooperation aimed to assist Austria in managing influx of migrants. Due to the decrease of migrants in Austria and mitigation of the crisis situation, the Memorandum was not prolonged or followed-up by a similar agreement.

Resettlement of refugees has been organised since 2009 based on an agreement of the Government of the Slovak Republic, the Office of the UN High Commissioner for Refugees

²¹⁴ Operation Triton replaced the terminated Operation Mare Nostrum.

²¹⁵ Mainly Greece and Macedonia for the purposes of joint working teams.

²¹⁶ Secondments of members of the Police Force in Greece within return programmes to Pakistan.

²¹⁷ Available at: <https://www.minv.sk/?tlacove-spravy-2&sprava=policia-zaznamenala-v-roku-2017-najviac-nelegalnych-migrantov-od-vstupu-sr-do-schengenskeho-priestoru>.



(UNHCR) and IOM. Resettlement is organised through the so-called humanitarian transfer from third countries through Slovakia, most often to USA, Canada and Norway. Another activity conducted in cooperation with IOM are assisted voluntary returns of unsuccessful applicants for asylum to countries of origin.

Last but not the least, the Centre highlights the decision of the Supreme Court of the Slovak Republic²¹⁸ awarded as a judicial decision of the year 2017. It concerned a case of a detained applicant for asylum from Afghanistan and her three minor children. Despite the fact that the Act on Residence of Foreigners in Slovakia allows detention of an applicant for asylum only in exceptional cases, if other measures less severe cannot be used, in the particular case, the conditions for detention were not met since the Department of Criminal Police failed to sufficiently assess alternatives to detention. **The detained foreigner declared that she disposed of finances in the amount of EUR 6 500, hence, she could provide a monetary guarantee as an alternative to detention. The Supreme Court's senate based its reasoning on the jurisprudence of the ECtHR, which held in several cases (e. g. Popov v France²¹⁹, Mubilanzila Mayeka v Belgium²²⁰, Muskhadzhiyeva v Belgium²²¹) that putting children in settings depriving them of their personal liberty violated the Convention on the Rights of the Child and Article 3 of the European Convention on the Protection of Human Rights and Fundamental Freedoms.**

Finally, with regards to the abovementioned ruling, the Centre refers to General Comments No. 22 and No. 23 jointly adopted by the UN Committee on the Rights of the Child and the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families underlying that immigration detention of children violates their rights. General Comments of the UN Committee on the Rights of the Child serve as authoritative interpretations

²¹⁸ File No.: 10Sza12/2016, see:

<http://www.sudcovia.sk/attachments/article/2432/Judik%C3%A1t%20roka%202017.pdf>

²¹⁹ Judgement of the European Court of Human Rights in case Popov v France of 19 January 2012, Application number 39472/07 and 39474/07

²²⁰ Judgement of the European Court of Human Rights in case Mubilanzila Mayeka and Kaniki Mitunga v Belgium of 12 October 2006, Application number 3178/03

²²¹ Judgement of the European Court of Human Rights in case Muskhadzhiyeva and others v Belgium of 19 April 2010, Application number 41442/07



of the Convention on the Rights of the Child for the signatory states, including Slovakia.²²²

Recommendations

The Centre recommends that:

01. The Ministry of Interior of the Slovak Republic and the Police Corps of the Slovak Republic fully respect their human rights and ensure due observance of international treaties and human rights conventions, particularly the Geneva Convention Relating to the Status of Refugees and the European Convention on the Protection of Human Rights and Fundamental Freedoms, in all actions concerning refugees and migrants.
02. The Ministry of Interior of the Slovak Republic and the Ministry of Justice of the Slovak Republic ensure and respect access to fair, speedy and effective asylum procedure for all applicants for asylum, the right to information, the right to effective remedy and the best interest of a child.
03. The Ministry of Interior of the Slovak Republic inhibit and prevent inhuman or degrading treatment in relation to detention of migrants and refugees at borders, particularly when it comes to minor migrants and refugees.
04. The Ministry of Interior of the Slovak Republic desist from the practice of detaining children based on the immigration status of their parents in line with the recommendations of the UN Committee for the Rights of the Child.
05. The Ministry of Interior of the Slovak Republic guarantee the right to adequate standard of life, education and healthcare to all children of applicants for asylum and/or refugees.
06. The Ministry of Interior of the Slovak Republic adopt a state integration programme for persons with international protection, which would promote effective integration and serve as prevention from extremism and radicalisation.
07. Public bodies and all human rights organisations active in Slovakia participate in awareness raising and promoting accurate information on human rights of refugees and immigrants, particularly in terms of current situation and growing xenophobia.
08. Public bodies and all human rights organisations active in Slovakia ensure and cooperate

²²² UN Committee for the Rights of the Child and UN Committee for the Rights of Migrant Workers and Members of Their Families, Joint general comments No. 22 and No. 23 of 16 November 2017. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=7&DocTypeID=11



at provision of alternatives to detention to families with children in order to provide maximum possibilities for children to stay with their family members or guardians without the need to prove availability of inadequately high daily financial allowance.

09. Public bodies and all human rights organisations active in Slovakia cooperate at adoption and implementation of integration programmes for persons seeking or enjoying international protection.
10. All human rights organisations active in Slovakia stand up against violations of human rights of migrants and refugees, promote tolerance and empathy towards refugees and migrants, including their protection in reception centres and other housing facilities.
11. All human rights organisations active in Slovakia advocate against suppression of human rights by security measures and borders protection.
12. All human rights organisations active in Slovakia support national and regional cooperation aimed at human rights protection, provision of humanitarian aid, promote understanding towards refugees and migrants also through media and participate in intercultural dialogue and common activities.

Slovak National
Centre for Human
Rights

2018

