

Report on the Observance of Human Rights

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

2018



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List of Abbreviations

2030 Agenda – the 2030 Agenda for Sustainable Development

Act on Social Services – Act No. 448/2008 Coll. on Social Services and Amending and Supplementing the Act No. 455/1991 Coll. on Trades (Trade Licencing Act), as amended

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

Antidiscrimination Act – Act No. 365 Coll. on Equal Treatment in Certain Areas and on Protection against Discrimination and Amending and Supplementing Certain Acts

BSR – Bratislava Self-Governing Region

Building Act – Act No. 50/1976 Coll. on Land-Use Planning and Building Order (the Building Act), as amended

Centre – Slovak National Centre for Human Rights

Conception – Conception on the Protection of Customer Fulfilling the Requirements of Energy Poverty

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

CRPD – Convention on the Rights of Persons with Disabilities

CSTI – Slovak Centre of Scientific and Technical Information

Decree – the Decree of the Ministry of Environment of the Slovak Republic No. 532/2002 Coll. Providing Details on General Technical Requirements for Building and Details on General Technical Requirements for Buildings used by Persons with Limited Mobility and Orientation

Department of Crime Prevention – Department of Crime Prevention of the Office of the Minister of Interior of the Slovak Republic

EU – the European Union

Focal Point – National Focal Point for the OECD Guidelines

Government – the Government of the Slovak Republic

Human Rights Report – Report on the Observance of Human Rights Including the Principle of Equal Treatment in the Slovak Republic

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

Ministry of Culture – the Ministry of Culture of the Slovak Republic

Ministry of Economy – the Ministry of Economy of the Slovak Republic

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

Ministry of Finance – the Ministry of Finance of the Slovak Republic

Ministry of Health – the Ministry of Health of the Slovak Republic

Ministry of Interior – the Ministry of Interior of the Slovak Republic

Ministry of Justice – the Ministry of Justice of the Slovak Republic

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

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

MRC – marginalised Roma communities

NAKOM – National Focal Point for Business and Human Rights

NIP – National Investment Plan of the Slovak Republic for the Years 2018 – 2030

NP PRIM – National Project “Support of the pre-elementary education of children from marginalised Roma communities”

Nursery school – care facility for children up to three years of age

OECD Guidelines – OECD Guidelines for Multinational Enterprises

Office of the Deputy Prime Minister – Office of the Deputy Prime Minister for Investments and Informatisation of the Slovak Republic

Office of the Roma Plenipotentiary – Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities

Proposal of National Priorities – Proposal of the National Priorities of the Implementation of the Agenda 2030 for Sustainable Development

RAP – Regional Action Plan of the Bratislava Self-Governing Region on the Prevention and Elimination of Violence against Women

Council of Europe Recommendation – Recommendations of the Committee of Ministers to Member States CM/Rec(2016)3 on Human Rights and Business of 2 March 2016

RESC – Revised European Social Charter

School Act – Act No. 245/2008 Coll. on Upbringing and Education (School Act) and Amending and Supplementing Certain Acts, as amended

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

SSI – State School Inspection

SSJ – Slovak Syndicate of Journalists

TCM – temporary countervailing measure

UN – the United Nations Organisation

UN Guiding Principles – United Nations Guiding Principles on Business and Human Rights
Working Group – Working Group for the Implementation of the Agenda 2030 for Sustainable Development and Preparation of the National Investment Plan of the Slovak Republic for the Years 2018 – 2030

Introduction

Human rights are an integral part of life of every person, whether it concerns the rights of the child, elderly, foreigners, people in need, persons with disabilities, members of ethnic groups 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. Alongside the observance of human rights comes the need for tolerance and non-discrimination in the society. The Slovak National Centre for Human Rights (hereinafter referred to as 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 referred to as the “Act on the Centre”) effective as of 1 January 1994, in accordance with the Agreement concluded between the Government of the Slovak Republic (hereinafter referred to as the “Government”) and the United Nations Organisation (hereinafter referred to as the “UN”) 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.

The Centre has a unique position in the system of human rights institutions in the Slovak Republic and it acts in two defined but closely related fields. Firstly, it is the 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 Certain Acts, as amended (hereinafter referred to as the “Antidiscrimination Act”) determines the second area of work of the Centre. In accordance the Antidiscrimination Act, the Centre operates as the only Slovak equality body that also assess the observance of the equal treatment principle in the Slovak Republic.

Based on its status, the Centre monitors and evaluates the observance of human rights and fundamental freedoms and the principle of equal treatment in the Slovak Republic. In accordance with Article 1 para. 4 of the Act on the Centre, the Centre annually, by 30 April, prepares and publishes on its website the Report on the Observance of Human Rights Including the Principle of Equal Treatment in the Slovak Republic (hereinafter referred to as the “Human Rights Report”). This competence of the Centre is in line with para. 3 (a) iii of the Paris

Principles¹ (in the field of human rights) and the provisions of the antidiscrimination directives of the European Union (hereinafter referred to as the “EU”) (in the field of non-discrimination).²

Through the Human Rights Report, the Centre annually informs experts and public about problems and achievements in the field of human rights protection and the prohibition of discrimination identified in the previous calendar year. In its individual chapters, the 2018 Human Rights Report addresses selected human rights and freedoms that were subjected to public discussion in the past year, in the application of which some shortcomings were identified or a protection of which proved to be problematic in the previous year.

The first chapter brings an analysis of the state of the enjoyment of right to housing in general and, especially, in the context of frequent fires in Roma settlements. The second chapter addresses the right to education, whose most prominent example of violation is segregation in schools. The third chapter is also linked to the right to education and focuses on bullying and cyberbullying. The fourth chapter includes analysis of the state of implementation of the Agenda 2030 for Sustainable Development (hereinafter referred to as the “Agenda 2030”) in Slovakia and its connection to the area of human rights. The fifth chapter focuses on the issue of business and human rights, especially international obligations in this field. It includes the outcomes of survey concerning social responsibility, environmental and human rights policies of companies doing business in Slovakia. The sixth chapter follows up on the recommendations of the Centre concerning hate speech published in the 2017 Human Rights Report and evaluates the progress made in the previous year, especially in respect to prevention. The seventh chapter is devoted to gender equality, especially in relation to state policies. The rights of persons with disabilities are addressed in the eighth chapter, which analyses the negative impacts of new regulation on provision of social services in care facilities for children up to three years of age and the accessibility. The last chapter evaluates the adoption of temporary countervailing measures (hereinafter referred to as the “TCM”) in Slovakia.

The aim of the Human Rights Report is to provide an objective, true and current overview of the observance of human rights in Slovakia in the previous year as well as to provide recommendations to ensure the more effective protection and enjoyment of human rights and fundamental freedoms. When preparing the 2018 Human Rights Report, the Centre requested relevant information from the wide scale of public authorities, public institutions, and non-

¹ Resolution of the United Nations General Assembly OSN No. 48/134 of 20 December 1993 on the Principles Relating to the Status of National Human Rights Institutions (Paris Principles).

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

governmental organisations active in the area of human rights, which are necessary for the most precise evaluation of the human rights situation of Slovakia.

The 2018 Human Rights Report was discussed by the Administrative Board of the Centre in accordance with Article 3a para. 7 subpara. h) of the Act on the Centre at its session held on 24 June 2019.

List of Recommendations

Right to Housing

1. The Government of the Slovak Republic start the process of ratification of Article 31 of the revised European Social Charter.
2. The Ministry of Labour, Social Affairs and Family of the Slovak Republic draft and adopt a national strategy on prevention and solution of homelessness, in a participatory process that would engage independent experts and non-governmental organisations working with homeless people and including a complete mapping of the state of persons without shelter and home in the Slovak Republic.
3. The Magistrate of the Capital City of the Slovak Republic Bratislava support existing and emerging projects of non-governmental organisations, which are implementing the “housing first” approach and incorporate this approach to its own conception on the issue of homelessness.
4. All cities in the Slovak Republic implement the “housing first” approach to their own conceptions on the issue of homelessness.
5. The Ministry of Transport and Construction of the Slovak Republic support projects concerning construction of social housing through more efficient operation of the State Fond of Housing Development in the field of social housing.
6. The Ministry of Transport and Construction of the Slovak Republic emphasise the current unsatisfactory situation in the area of access to housing for vulnerable groups in the prepared Conception of State Housing Policy and engage independent experts and non-governmental organisations working with such vulnerable groups in the process.
7. The Ministry of Labour, Social Affairs and Family of the Slovak Republic adopt new legal regulation concerning the housing allowance in order to make it adequate and addressing.
8. The Ministry of Interior of the Slovak Republic and the Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities increase the efficiency of aid in case of extraordinary circumstances, such as fire in Roma settlements.

9. The Regulatory Office of Network Industries, the Ministry of Economy of the Slovak Republic, the Ministry of Finance of the Slovak Republic, the Ministry of Interior of the Slovak Republic and the Ministry of Labour, Social Affairs and Family of the Slovak Republic adopt the Conception on the Protection of Consumers Fulfilling the Requirements of the Energy Poverty.
10. Non-governmental organisations sensitise the society, mitigate prejudice and strengthen solidarity between Roma population and the majority.
11. The Ministry of Interior of the Slovak Republic through structural and investment funds support projects related to desegregation, de-ghettoizing and de-stigmatisation.

Right to Education

1. The Ministry of Education, Science, Research and Sport of the Slovak Republic in cooperation with the Slovak Centre of Scientific and Technical Information continue with regular survey of impacts of the population development in the Slovak Republic on education and take into account the results in relation to speed, allocation and time for creation of additional school capacities.
2. The Ministry of Education, Science, Research and Sport of the Slovak Republic, self-governing regions and municipalities eliminate the two-shift organisation of education in elementary schools, mainly in localities with high concentration of marginalised Roma communities, without further delay, by increased use of allocated funds, and thus, start continually decreasing the number of students receiving education such conditions.
3. The Ministry of Education, Science, Research and Sport of the Slovak Republic and founders of school facilities keep developing capacities and availability of quality preschool education, so that it is locally and substantively accessible for all children and provides opportunity for natural inclusion of children from socially excluded communities.
4. The Ministry of Education, Science, Research and Sport of the Slovak Republic in cooperation with the Ministry of Interior of the Slovak Republic, founders of school facilities and other local authorities having competencies in the field of education, flexibly take into account the demographic development and ethnic composition of the population years when adapting school districts with an aim to de-segregate education and free education of impacts of segregation in housing.

5. The Ministry of Finance of the Slovak Republic annually reserve sufficient financial means for the Ministry of Education, Science, Research and Sport of the Slovak Republic to meet the increasing number of requests of students and their legal guardians for allocation of assistant teachers and to create more job positions for school psychologists, speech therapists and special pedagogues.
6. The Ministry of Education, Science, Research and Sport of the Slovak Republic prepare and provide all pedagogic employees with innovative and effective specialised programmes designed for development of pedagogic skills, especially for the needs of students with special educational needs.
7. Schools and school facilities improve the ability to react to different needs of pupils without permanently categorising them.

Bullying and Cyberbullying in Schools

Schools, founders of schools and school facilities:

1. Ensure the monitoring bullying and cyberbullying at schools and help coordinators of prevention, class teachers and other teachers with the prevention, detection, elimination and resolution of these forms of violence among students or against teachers.
2. In accordance with the Regulation of the Ministry of Education, Science, Research and Sport of the Slovak Republic No. 36/2018 on Prevention and Resolution of Bullying, draft a respective strategy and an internal regulation of a headmaster on the prevention and resolution of bullying of pupils, which would take into the account specifics of the school, publish it as a part of school rules and ensure that all school employees, students and parents are familiarised with it.
3. Pay special attention to the issue of cyberbullying and safe usage of computers and the Internet as well as systematically teach pupils about Internet security.
4. Support and ensure further education for teachers in the field of information and communication technologies, Internet security as well as prevention and resolution of cyberbullying.
5. Inform parents at the parents' meetings about manifestations and consequences of bullying and cyberbullying, Internet security rules and about the school rules that are currently applicable in such situation. Familiarise parents with sanctions and the approach of school to incidents of bullying and cyberbullying and inform them about

the importance of cooperation with family in prevention and resolution of this phenomenon.

The State School Inspection when carrying out complex inspection at schools:

1. Pay attention to including prevention and resolution of bullying and cyberbullying in accordance with the regulation of the Ministry of Education, Science, Research and Sport of the Slovak Republic No. 36/2018 in internal materials of schools and to its implementation in practice.
2. Supervise application of concrete rules and methodologies set by the school rules in the field of prevention and resolution of bullying and cyberbullying.

Implementation of the 2030 Agenda for Sustainable Development in Slovakia

1. The Government and the Office of the Deputy Prime Minister for Investments and Informatisation of the Slovak Republic engage more representatives of human rights organisations to the Council of the Government of the Slovak Republic for the 2030 Agenda for Sustainable Development.
2. The Office of the Deputy Prime Minister for Investments and Informatisation of the Slovak Republic raise awareness about the process of implementation of the 2030 Agenda for Sustainable Development in Slovakia and increase efficiency of the participatory process for drafting the Visions and Strategies of the Development of Slovakia until the Year 2030 by ensuring stronger participation of civil society representatives on the process of implementation without further delay.
3. The Office of the Deputy Prime Minister for Investments and Informatisation of the Slovak Republic and the for the Council of the Government of the Slovak Republic for the 2030 Agenda for Sustainable Development take all necessary steps for inclusion of the national priority No. 6 – Rule of Law, Democracy and Security into updated version of the National Investment Plan of the Slovak Republic for the Years 2018 - 2030 in the scope discussed during the participatory process, which took place between March and May 2018.

Business and Human Rights

1. The Government of the Slovak Republic implement the Council of Europe Recommendation of the Committee of the Ministers to the Member States CM/Rec(2016)3 of 2 March 2016 on Human Rights and Business without undue delay.
2. The Government of the Slovak Republic implement the UN Guiding Principles on Business and Human Rights adopted by the UN Human Rights Council Resolution No. 17/4 of 2011.
3. The Ministry of Economy of the Slovak Republic, in 2019, adopt measures to improve effectiveness of the National Focal Point for OECD Guidelines and increase awareness on its role and means to resolve specific cases of violations of the OECD Guidelines for Multinational Enterprises.
4. The Government of the Slovak Republic, without undue delay, establish a working group to conduct a national baseline assessment of human rights impacts of business activities in Slovakia, which would allow for participation of the ministries concerned, business entities, representatives of the civil society and organisations for human rights promotion and protection and which would be given the task to prepare a draft action plan for business and human rights.
5. Business chambers, business unions and associations increase awareness of their members on possible impacts of their activities on human rights and motivate the members to adopt internal policies for prevention or elimination of negative impacts of their activities on human rights.
6. Business entities, regardless of their size, type of company and sector of operation, adopt policies for prevention or elimination of negative impacts of their activities on human rights and transparently inform stakeholders and public about their adoption and results.

Prevention Responsibility for Tackling Hate Speech in the Society

1. The Ministry of Education, Science, Research and Sport of the Slovak Republic, the Department of Crime Prevention of the Office of the Minister of Interior of the Slovak Republic, territorial self-governments and media pay due attention and implement recommendations of the Slovak National Centre for Human Rights concerning hate speech prevention.

2. The Ministry of Education, Science, Research and Sport of the Slovak Republic, the Department of Crime Prevention of the Office of the Minister of Interior of the Slovak Republic, territorial self-governments and media cooperate in the area of prevention against hate speech targeting particular groups of population.
3. The Ministry of Education, Science, Research and Sport of the Slovak Republic, the Department of Crime Prevention of the Office of the Minister of Interior of the Slovak Republic, territorial self-governments and media co-organise trainings and cultural events aiming to present specific cultures, particularly with regards to minorities living in Slovakia and foreigners.
4. Media do not polarise the society and sensitively inform about crucial social issues and incidents of members of minority groups living in Slovakia.
5. The Ministry of Interior of the Slovak Republic provide extra personal capacities to the Department of Crime Prevention of the Office of the Minister of Interior of the Slovak Republic so that it would be able to keep fulfilling all the tasks at the highest professional level.

Gender (in)Equality

1. The Ministry of Justice of the Slovak Republic actively lead dialogue and monitor public opinion about the Istanbul Convention aiming at fighting disinformation campaigns accompanying its ratification process.
2. The Government of the Slovak Republic, without further delay, ratify the Istanbul Convention.
3. The Council of the Government of the Slovak Republic for the 2030 Agenda for Sustainable Development to better incorporate the issue of gender equality as a part of the national priority No. 6 – Rule of Law, Democracy and Security.
4. The Ministry of Labour, Social Affairs and Family of the Slovak Republic continue in promoting the campaigns of the Coordination and Methodology Centre for Prevention of Violence against Women among young people on social media.

Rights of Persons with Disabilities

1. Entities operating nursery schools ensure accessibility of buildings, when required by

persons with disabilities in order to enable their access and free movement in the buildings where social services are provided.

2. Entities operating nursery schools, in cases when they cannot realise debarrierization e.g. due to financial reasons, adopt alternative measure to ensure access of persons with disabilities as well as their mobility in buildings where social services are provided.
3. The Ministry of Labour, Social Affairs and Family of the Slovak Republic oversee the adoption of such legislation changes under its agenda, which will implement state obligations in the field of accessibility in line with the Convention on the Rights of Persons with Disabilities.
4. The Ministry of Labour, Social Affairs and Family of the Slovak Republic adopt the timeframe and monitoring process to evaluate the removal of barriers concerning buildings and services of entities operating nursery schools.

Temporary Countervailing Measures

1. The Ministry of Labour, Social Affairs and Family of the Slovak Republic consider creating work plans and special programmes aimed at increasing job opportunities for older employees and for women at managing positions and in technical fields, similarly as it is designed for mothers with children in the national project “Family and Work”.
2. The Ministry of Culture of the Slovak Republic continue with the national project “Involvement of Unemployed Persons to the Restoration of the Cultural Heritage” and look for possibilities to use the acquired work skills of unemployed persons in favour of their better participation on the labour market.
3. The Ministry of Health of the Slovak Republic continue with the project Healthy Communities and ensure sustainability of the results achieved also upon termination of the project.
4. The Ministry of Health of the Slovak Republic search for further means to extend the existing network of activities of health awareness assistance for population from marginalised Roma communities within the project Healthy Communities.
5. The Ministry of Agriculture create and implement temporary countervailing measures to decrease the substantial regional differences and eliminate disadvantages particularly based on disability, race or ethnicity.
6. Bot’any municipality continue with the preparatory stage of the temporary countervailing measure to support equality in access to housing through construction

of employees' social housing and search for all available funding for its implementation.

7. The Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities, within the temporary countervailing measure of preferential employment of Roma applicants for teacher's assistant and professional employee, together with municipalities, seek means to secure sustainability of the job positions created also after termination of the project.
8. The Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities provide the successful Roma applicants hired under preferential employment rules applied within the temporary countervailing measure with assistance and support in commencing the studies to acquire the minimum pedagogic education.
9. The Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities support partner municipalities to implement the project in case they yet have not done so, while continuing with the temporary countervailing measure as well as through workshops and good practice examples.
10. All entities adopting temporary countervailing measures fulfil their legal notification obligation to notify the Centre and submit reports on the adopted temporary countervailing measures in accordance with the Antidiscrimination Act.



1 Right to Housing

Dignified, sustainable and safe housing is one of the basic human rights. Right to housing has formed part of human rights instruments since the 1948 Universal Declaration of Human Rights. After work, home represents a place where we spend the most of our active life. Therefore, it represents more than just four walls and roof above our head. A home is a place for rest and relaxation, food, self-development, building interpersonal relations and family, upbringing of children. The quality of housing directly impacts human health or development of children and youth who are living in the house and it is an indicator of the overall quality of life.³ Therefore, housing must play a key role in human rights-based research of society. Housing is more than goods and services. Housing is a human right. It is, thus, necessary to monitor to what extent it is enjoyed and what are strong and weak spots of practical application or failures of public administration concerning its application as well as to present and undertake new steps to improve its enjoyment.

Understanding of housing as a human right finds a significant support in many important international and European human rights instruments – from the 1948 Universal Declaration of Human Rights⁴ to the 2017 European Pillar of Social Rights of the EU. Therefore, housing as a human right can be found in many conventions, charters and other human rights instruments, which were proclaimed by the Slovak Republic and bind it.

On the UN level, the right to housing can be found in the following documents:

- a) International Covenant on Economic, Social and Cultural Rights,
- b) International Convention on the Elimination of All Forms of Racial Discrimination,
- c) International Convention on the Elimination of All Forms of Violence against Women,

³ Štreimikeine, Dalia: Housing Indicators for Assessing the Quality of Life in Lithuania. In: *Intellectual Economics*, 8 (19), p. 25 - 41, ISSN 1822-8038.

⁴ Article 25 para. 1 of the Universal Declaration of Human Rights (1948).

- d) International Convention on the Rights of the Child,
- e) International Convention on the Rights of Persons with Disabilities.

The right to housing can be also found in the Charter of Fundamental Rights of the European Union and in the European Pillar of Social Rights on the level of the EU. In the context of the Council of Europe, right to housing is complexly incorporated to Article 31 of the revised European Social Charter (hereinafter referred to as “RESC”). Article 31 of RESC guarantees the right to housing and represents steps to its efficient application, including regulated housing and active prevention and reduction of homelessness. RESC applies the principle, based on which individual states can opt which article of the charter they will adopt. The Slovak Republic signed RESC in 1997 and ratified it in 1999. However, the Slovak Republic did not adopt Article 31 on the right to housing, which represents a significant weakness in the protection of the right to housing in the Slovak Republic.

1.1 Overview of the state of the right to housing in the Slovak Republic

Obvious violations of right to housing are situations of homeless people or people living in an unsatisfactory housing⁵. These situations are usually framed with the term “homelessness”. This term includes people who have no place to live – “live on the street” or live in shelters or in other form of short-stay housing – people without shelter and people living in short-stay or temporary housing which is not their own home and place to settle down and establish social relations – people without housing. The issue of people whose right to housing is acutely endangered concerns also people living in unsatisfactory housing. Such people are living in habitations, which do not meet basic criteria for a normal family life (sufficient water, heat and light), do not have an opportunity to prepare warm food on regular basis or enjoy only shared access to kitchen, WC or bathroom. Finally, this group term also refers to people with uncertain housing.

People without shelter are clearly the most vulnerable group, since they do not have access to anything what could be considered as an adequate housing or home. In such case, the violation of right to housing is the most visible. These people are living in much marginalised

⁵ This term can be understood as a habitation which is overpopulated and, at the same time, meets at least one requirement of housing deprivation such as a lack of light, no private bathroom and indoor WC or there is water leaking in the premises. Such habitations are not equipped by what we consider the basics for a standard family and social life and which endanger the conditions for physical and mental health. The Eurostat is measuring this term under the indicator of *severe housing deprivation rate*.

conditions and outside of the interest of relevant authorities responsible for resolving their situation. It usually remains in the hands of non-governmental organisations. One of the basic problems representing an obstacle to the complex and systematic solution is a weak overview of the scope of violation of the right to housing concerning this target group. In 2011, there were approximately 23 483 people without shelter.⁶ The research conducted by the Institute for Labour and Family Research and the Ministry of Labour, Social Affairs and Family of the Slovak Republic (hereinafter referred to as the “Ministry of Labour”) concluded that, only in Bratislava, there are approximately 2064 homeless people.⁷ There are no data available for the year 2018. However, based on information provided by the organisations working with this group of people, there is no reason to expect any change in this value. The Centre considers important that the situation of people without home and shelter is complexly researched and mapped so that the findings can serve as a basis for conceptual work in this field.

In terms of improving the situation of people without home and people without shelter, application of the approach “housing first” has proven well also in the Czech Republic. The pilot project in the town of Brno has proven to be financially efficient and the project succeeded in almost 96% cases.⁸ This approach is also preferred by many non-governmental organisations in Slovakia, which are actively working with people without home or shelter. In Bratislava, the civil society organisation Vagus was the first to apply the approach – “housing first”.⁹ The Centre considers the approach – “housing first” for a solution incorporating human rights-based approach to problems of people without home and shelter. Therefore, the Centre not only supports the existing initiatives of the non-governmental organisation, which also prefer this approach, but it also believes that this approach should be preferred by responsible authorities on local, regional and national level. The fact that the Slovak Republic has not yet drafted strategy on solving the issue of homelessness yet constitutes an obstacle to addressing this issue conceptually. The Centre considers this fact as a substantive shortcoming in this field.

When assessing the current state of the right to housing in the Slovak Republic, the

⁶ Gerbery Daniel: “People without housing” In: *Preparation and Implementation of Empirical Research, Analysis of Tools on Preventing and Solving Homelessness* (2015, Institute for Labour and Family Research), based on data of the Statistical Office of the Slovak Republic.

⁷ Ondrušová D.et all: “Final Report on Census of People without Housing in Bratislava in the Year 2016” (2016, Institute for Labour and Family Research), available in Slovak at: www.ceit.sk/IVPR/images/IVPR/vyskum/2016/Ondrusova/zaverecna_sprava_scitanie_ondrusova_2016.pdf (last accessed on 18 March 2019).

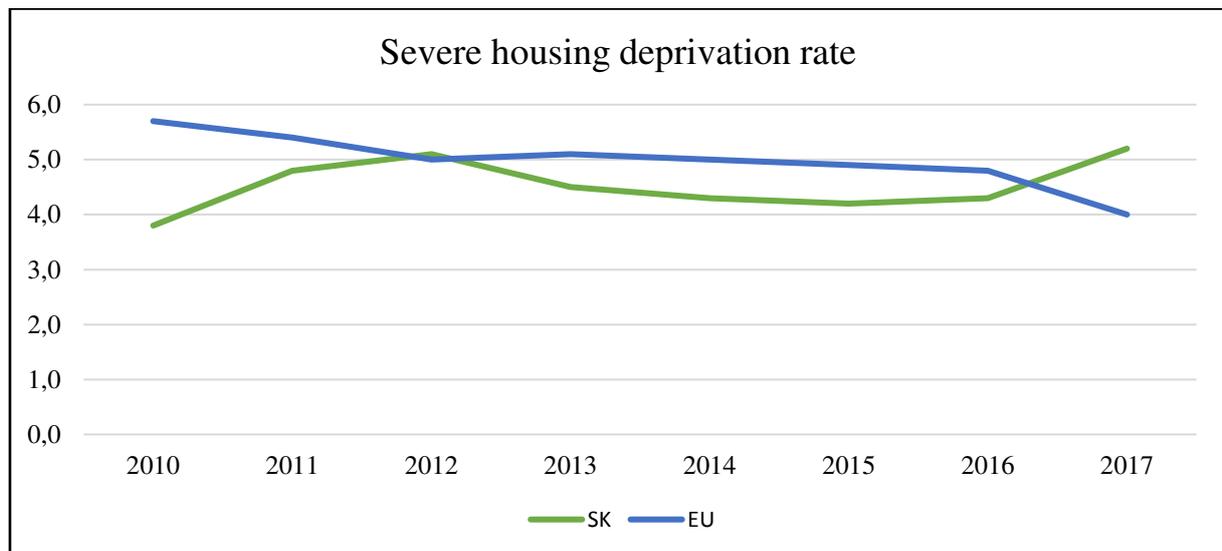
⁸ Available in Czech at: www.brno.cz/brno-aktualne/tiskovy-servis/tiskove-zpravy/a/vysledky-rocniho-vyzkumu-rapid-re-housing-use-tril-milion-a-pul-z-verejnych-prostredku-vetsina-lid/ (last accessed on 18 March 2019).

⁹ The project is based on the approach “housing first” and is implemented by the civil society organisation Vagus Bratislava, Nové Mesto. Available online at: www.vagus.sk/housing-first-cverna/21/o-programe/ (last accessed on 18 March 2019).

situation of people living in uncertain housing and situation of people living in unsatisfactory housing should be also taken into consideration. Systems of the so called “social housing”, which give access to housing to all people who cannot access private (commercial) house ownership due to the financial or personal reasons, should be available (not only) for those people.

Severe housing deprivation is a statistical indicator, which tracks the ratio of people living in overpopulated conditions, and who at the same time face at least one indicator of housing deprivation such as lack of light, no private bathroom and indoor WC or leaking water to the premises. These are unsatisfactory habitations. This indicator tracks predominantly people living in uncertain housing and people living in unsatisfactory housing. Based on this indicator, which is also evaluated by the Eurostat, it is possible to monitor the state of right to housing in relation to these groups of society. In 2017, 5.2 % of the population was affected by housing deprivation (chart No. 1).¹⁰ The Centre finds the absolute increase in this indicator from 2009 as well as the increase in comparison with the EU average to be highly alarming.

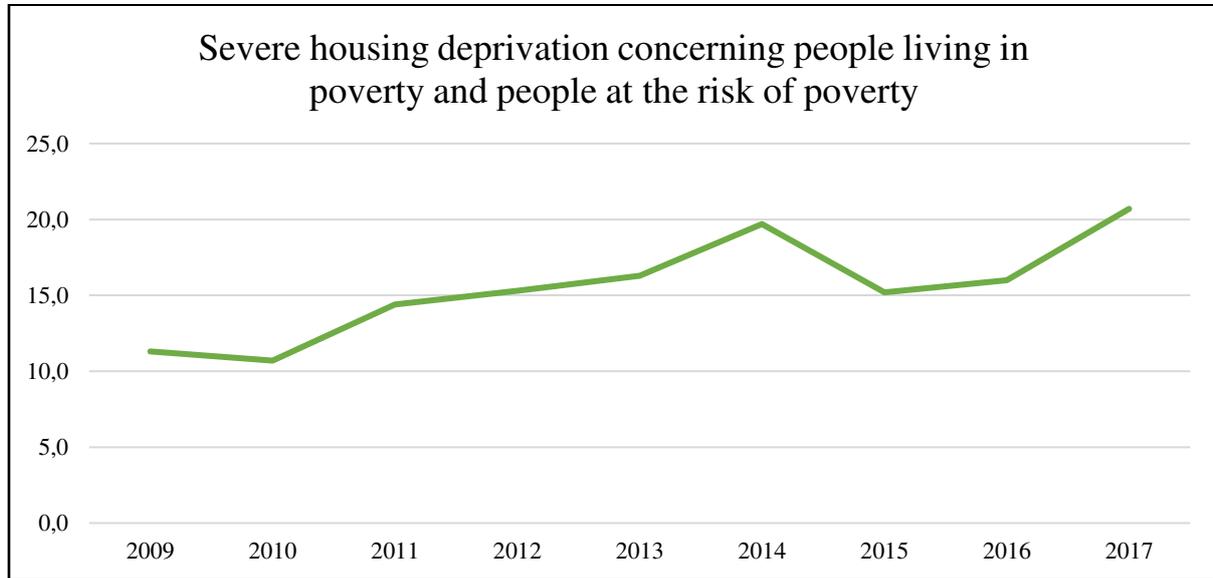
Chart No. 1: Severe housing deprivation rate, source: Eurostat, 2018



The overall indicator of severe housing deprivation is only slightly above the EU average. It is necessary to look at the most affected groups of society groups.

¹⁰ Eurostat: “Income and Living Conditions Database”, available online at: ec.europa.eu/eurostat/web/income-and-living-conditions/data/database (last accessed on 18 March 2019).

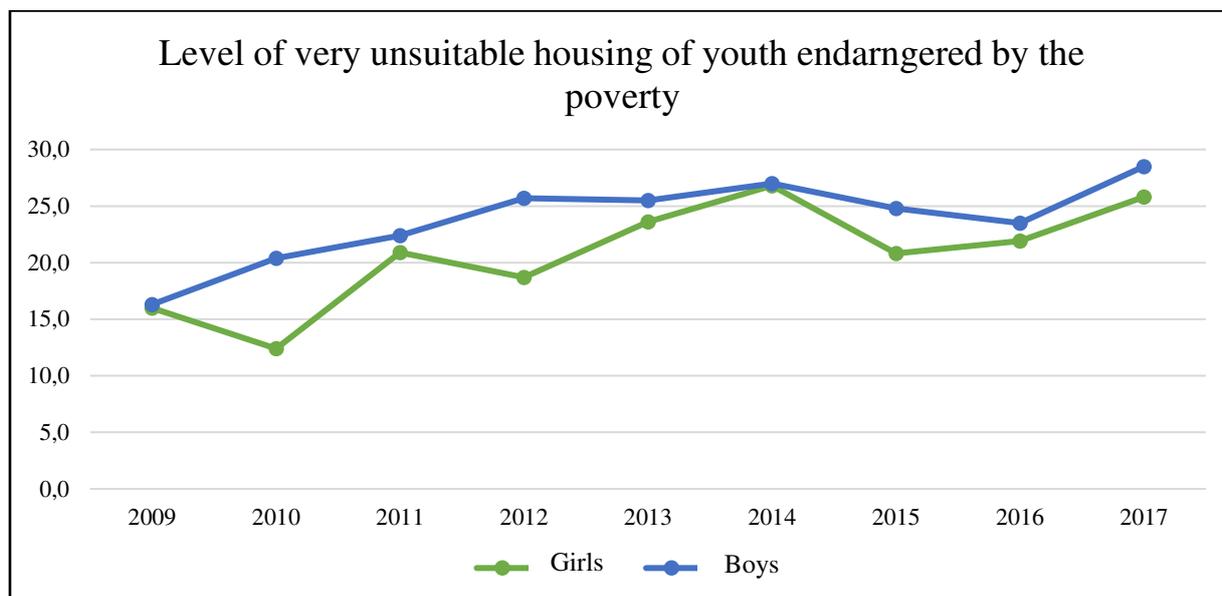
Chart No. 2: Severe housing deprivation concerning people living in poverty and people at the risk of poverty, source: Eurostat, 2018



In the Slovak Republic, people mostly affected by the housing deprivation are those who are living in poverty or those endangered by poverty, i.e. persons whose income is less than 60% median income.¹¹ These communities have the biggest problem to enjoy their right to housing and/or are living in unsuitable conditions. In 2017, it was 20.7% people (Graph No. 2). The most endangered are young people living in poverty or endangered by the poverty. Up to 28.5% of boys younger than 18 years of age and 25.8% of girls younger than 18 years of age live in very unsuitable housing. What is even worse is that this trend has been increasing every year. In 2009, 16.3% of boys lived in very unsuitable conditions and 16% of girls lived in poverty (Chart No. 3).

¹¹ Median income is an income that is exactly in the middle of the income scale. It is also known as a middle income. Half of the inhabitants earns more than a median income and half of the inhabitants earn less than a median income. The median income fluctuates around 80% of the average salary.

Chart No. 3: Level of very unsuitable housing of youth endangered by the poverty. Source: Eurostat, 2018



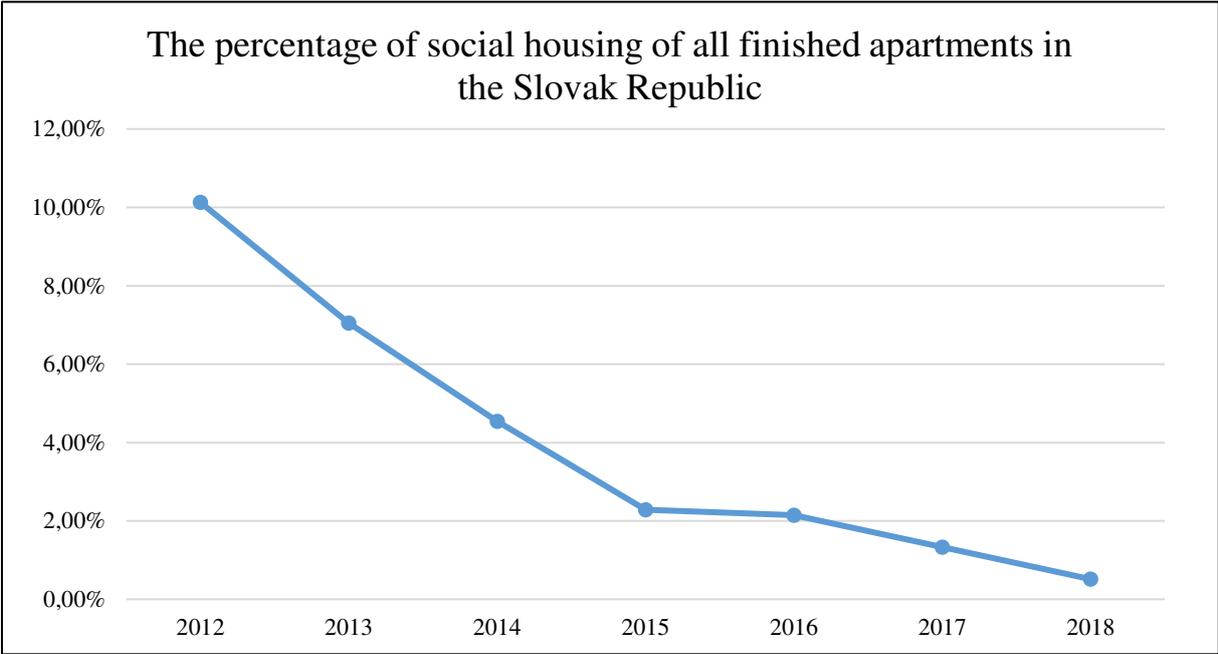
Persons living in poverty or people endangered by poverty usually belong to communities that, in general, are endangered by material deprivation and marginalisation. In practice, this means that their access to healthcare, quality education, healthy food or to enjoyment of other human rights is substantially worsen. In such context, it is impossible to overlook the situation of marginalised Roma communities (hereinafter referred to as “MRC”), which fulfil the definition of serious housing deprivation. The Centre considers alarming that, in Slovakia, the access of people living in poverty or people endangered by poverty is deteriorating in long-term. It is necessary to adopt systematic measures on all levels – national, regional and local so that the communities living in poverty or which are endangered by poverty would have access to suitable housing and the negative trend reflected in the past eight years is reversed.

One of the regular measures ensuring the right to housing for endangered or excluded communities is availability of alternatives to personal ownership of a property, such as a system of social housing. The Conception of State Housing Policy until 2020 equals social housing to public or public rental housing. According to the Conception of State Housing Policy until 2020, the aim of social housing is “to increase availability of housing to those, who cannot secure their own housing or those who have it is very problematic to do so.”¹² When monitoring data concerning construction of public rental (social) housing in Slovakia, an extreme decrease

¹² Conception of State Housing Policy until 2020, p. 20 available in Slovak at: www.mindop.sk/ministerstvo-1/vystavba-5/bytova-politika/dokumenty/koncepcie/koncepcia-statnej-bytovej-politiky-do-roku-2020-zip-5-29-mb (last accessed on 14 March 2019).

of the amount as well as ratio of constructed public rental houses can be noticed. While in 2012, the social housing apartments represented 10.13% of all apartments built, in 2018, it was only 0.51% apartments. In the last six years, the amount and ratio of social housing apartments has been annually decreasing (Chart No. 4).

Chart No. 4: The percentage of social housing of all finished apartments in the Slovak Republic



Access to housing for endangered communities in Slovakia has been worsening for the last six years. At the same time, less social housing apartments, which could serve to endangered communities, are being constructed. Social housing is one of the elementary tools facilitating access to dignified housing for endangered groups of our society. Therefore, it is necessary that the sufficient amount of social housing apartments is available for all endangered groups. The Centre believes that the decreased construction of social housing apartments is a very negative phenomenon, particularly in the situation when an increasing number of endangered groups does not have access to dignified housing. It is vital to reverse this trend. Construction of social housing is a long-term tool to improve access to the right to housing for endangered groups in our society.

1.2 Roma and the right to housing

The Centre paid attention to the persisting issue concerning housing of Roma also in its 2017 Human Rights Report.¹³ Based on the research conducted by the Regional Centre of the United Nations Development Fund¹⁴ in 2010, 10% of Roma households forming the research sample lived in habitations described as a dwelling from various materials. In segregated communities, it was 20.5% of the households. The same research found out that up to 26% of Roma households lived in a space with less than 5m² per household member.¹⁵ The extent of spatial, social and institutional segregation substantially affects the Roma way of life. The mechanism of transferring socially dependant Roma families to apartments intended for non-payers caused a significant drop in the quality of housing and behaviour of Roma in question, which caused complex degradation of the surrounding territory. Segregation of Roma is also evident from the fact that they are pushed out from centres of cities to suburbs.¹⁶

In case of MRC in housing emergency, severity of the situation of has multiple aspects. It affects a large group of people. Whole families with large number of small children face the worse forms of homelessness after being evicted from public rental apartments, illegal dwellings or segregated settlements. Hence, even children are exposed to homelessness and there were several cases of children dying due to bad living conditions.¹⁷

In cities and towns, there are several issues concerning Roma living in concentrated clusters. In these Roma localities, the level of disintegration and social and economic issues keep increasing, which further deepens social isolation and marginalisation of Roma concerned. The worsening situation of Roma is documented by poverty, high unemployment, bad housing situation, low level of education, worse health conditions and increase in criminality and issues with majority.¹⁸ In surveys, Roma say that the dissatisfaction with their housing is mostly connected with overcrowded apartments rather than with their technical condition. To a certain extent, the overcrowding of Roma settlements can be also caused by practicing the so called “long-term visitations”, which is also documented by the statements of municipalities to the requests of the Centre.

¹³ See: http://www.snslp.sk/CCMS/files/sprava_2017_eng.pdf

¹⁴ Available at: www.undp.org/content/undp/en/home.html

¹⁵ The Report on the Living Conditions of Roma Households in Slovakia, 2010, Bratislava: UNDP, 2012, p. 92-94. Available at: www.employment.gov.sk/files/undp-sprava-2010_na-web.pdf

¹⁶ MUŠINKA, A.: Roma Living. In Vašečka, M. ed.: Čačipen pal o Roma/Comprehensive Report on Roma. Bratislava (Institute for Public Affairs), 2002.

¹⁷ BEŇOVÁ, N., MATIAŠKO, M.: Right to Housing, SOCIA, 2018.

¹⁸ ŠUVADA, M.: Roma in Slovak towns. Bratislava, Department of Politics, Matica slovenská, 2015.

Bad social conditions, faced by majority of families from concentrated Roma settlements, trigger other negative phenomena that further enhance issues in such localities. One of such issues are frequent fires. In 2018, fires hit Roma settlements in Hrabušice, Batizovce, Poprad – district Matejovce, Kuzmice and Richnava. Fires in Roma settlements take place on annual basis and it is expected that the situation will not change in the near future.¹⁹

There are several causes to these fires. Inhabitants of brick houses as well as inhabitants of wooden huts keep ignoring the safety rules. Dwellings are often located in overcrowded territories and have incorrectly installed stoves, which dissipate smoke through inappropriate chimneys. The risk of fire increases in case of solid fuel and other material heating as well as incorrect manipulation with open fire. However, the Centre considers the social segregation as the most essential issue. Housing is a direct indicator of the standard of living. Unsuitable housing also contributes to putting the MRC settlements at risk during natural disasters, including fires when unsuitable quality of habitats and overcrowding cause threat to life. The Updated Action Plan of the Strategy of the Slovak Republic for the Integration of Roma until 2020 for the Area of Housing for the Years 2019 – 2020²⁰ aim at “Increasing the efficiency of intervention covered by public resources in case of extraordinary situations and threat to the security of MRC”.

People are not only lacking financial means for heating but they also face higher heating costs in dwellings. According to the Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities (hereinafter referred to as the “Office of the Roma Plenipotentiary”), the issue of energy poverty²¹ is significant. Moreover, towns and cities do not have any experience in implementing the Conception on the Protection of Customer Fulfilling the Requirements of Energy Poverty (hereinafter referred to as the “Conception”).

According to Article 9 para. 3 subpara. f) of the Act No. 250/2012 Coll. on Regulation of the Network Industries, the Regulatory Office for Network Industries drafted the Conception for the regulatory period of 2017 – 2021, in cooperation with the Ministry of Economy of the Slovak Republic (hereinafter referred to as the “Ministry of Economy”), the Ministry of Finance of the Slovak Republic (hereinafter referred to as the “Ministry of Finance”), the Ministry of

¹⁹ In 2017, in Rožkovany, a settlement near Sabinov. In 2016, in Košice, a settlement of Mašličkovo, and in Sačurovo.

²⁰ The Strategy for Integration of Roma until 2020 is a basic policy document in the field of integration of Roma in Slovakia. The strategy was adopted by the Decree of the Government of the Slovak Republic No. 1 of 11 January 2012, which also introduced the first action plan – the Revised National Action Plan of Decade of Integration of Roma 2005 – 2015 for the Years 2011 – 2015.

²¹ The term “energy poverty” refers to the proportion of the income of a person or a household spent for energy cost per month respectively per day.

Labour and the Ministry of Interior of the Slovak Republic (hereinafter referred to as the “Ministry of Interior”). The Conception indicates possibilities to address the issue of energy poverty on a nationwide level and opportunities arising from the competences of the office and other public authorities. Currently, the Conception is being processed and consulted with the respective ministries and it is ready for the inter-ministerial commenting procedure.²²

Under the Conception, measures that can contribute towards the elimination of energy poverty on a secondary level include:

- Increasing literacy, active education, regular school attendance. This measure considerably increases job prospects.
- Drafting new legislation on the contribution to housing, which would also include contribution to payment of energy costs. Introducing the contribution to housing as a part of new legislation will contribute to decreasing the load of housing cost of low-income households as well as to decreasing the poverty risk.
- In terms of the energy efficiency, it is necessary to continue supporting the reduction of energy consumption of energetically poor inhabitants by reducing the heat consumption through insulating flat and family houses.
- Creating legislative environment for installing equipment – smart measuring systems to energetically poor household that allow managing the consumption of electricity subscribers, using the electricity for heating off peak when a lower tariff applies.

The following part provides an overview of towns and cities that were hit by fires in 2018 and the approach of the territorial self-governments concerned to resolving the situation.

1.2.1 Richnava

Richnava municipality is located in the Košice Self-Governing Region, Gelnica District. There are 2600 inhabitants, out of which up to 77% are Roma.²³ Richnava is located on one side of a road opposite to Kluknava municipality, where the majority of inhabitants are non-Roma. Between these two municipalities, a Roma settlement is located. Two thirds of the Roma settlement are located on the cadastral territory of Kluknava, however, the inhabitants are Richnava residents. Due to this, the situation in the settlement is complicated and the Office of

²² Statement of the Regulatory Office for Network Industries to the request of the Centre of 29 January 2019.

²³ Atlas of Roma Communities in Slovakia (2013), available in Slovak at: www.employment.gov.sk/files/slovensky/rodina-socialna-pomoc/socialne-sluzby/atlas_rom-kom.pdf

the Roma Plenipotentiary has attempted to resolve the territorial division of the settlement.

In November 2018, during the fire of a house located in the settlement in Richnava, five people died, including four children. The fire has started early in the morning and hit a four-bedroom brick house. It resulted in a roof fall. According to the answers of Richnava municipality to the questions of the Centre²⁴, the municipality is not aware of the results of the official investigation of causes of the fire. The municipality also stated that there were predominantly brick houses in the Roma settlement. Houses are simple; usually have one room and no bathroom or toilet. A minority of houses is built from various materials and few others are wooden huts. The majority of households in the settlements have solid fuel heating.

The fire started despite the fact that Richnava has been regularly conducting the preventive controls since 2015, based on the Plan of Preventive Fire Controls in Family Houses for the Years of 2015 - 2019. At the same time, it raises awareness among inhabitants of the Roma settlement on safe heating through field social workers, who are aware of the conditions in the settlement, personally know and live with the local community.

The Centre considers the Resolution No. 383/2018 of 30 October 2018 adopting the Land Use Plan of the Municipality and the Generally Binding Resolution No. 4/2018 pronouncing the legally binding part of the land use plan of Richnava to be positive steps addressing the territorial issues. The land-using documentations are processed by Kluknava municipality. Moreover, Richnava municipality also joined the national project “Supporting the Land Settlement in Marginalised Roma Communities”.²⁵

1.2.2 Kuzmice

Kuzmice municipality is located in the Prešov Self-Governing Region, Trebišov District. There are 1 700 inhabitants, out of which 17.6% are Roma.²⁶ In the beginning of December 2018, a fire hit a family house in the settlement. The house was inhabited by a family with children, which managed to get out of the house on time. No health or life injuries were endured. The fire also expanded to the neighbouring family house, which was located only approximately one meter from the house on fire. Both houses were constructed from various

²⁴ Statment of Richnava municipality to the request of the Centre of 4 February 2019.

²⁵ Available in Slovak at: www.minv.sk/?pozemky-vysporiadanie-MRK

²⁶ Atlas of Roma Communities in Slovakia (2013), available in Slovak at: www.employment.gov.sk/files/slovensky/rodina-socialna-pomoc/socialne-sluzby/atlas_rom-kom.pdf

materials and parts, which made firefighting more difficult.

According to the statement provided to the Centre by Kuzmice municipality²⁷, one of the families remained living in the front part of the house, which was liveable after the reconstruction with the help of a mayor. The other family was provided with a substitute housing.

The municipality also stated that houses in the settlement were built from unfired bricks, bricks and blocks. Every household is equipped by a solid fuel oven. The most frequent issues endured by the municipality when conducting field social work concern housing, finances as well as social security and health.

In the area of prevention, the municipality released the Fire Regulations of the Municipality of Kuzmice on 15 April 2017. Accordingly, the mayor is entitled to conduct preventive fire controls and set up controlling groups and the supervisor of the fire control of the town.²⁸

The Centre values the approach of the mayor of the municipality, who attempted to resolve the situation and personally helped to repair the destroyed house, as a municipality concerned always plays a key role in such situations.

1.2.3 Hrabušice

Hrabušice municipality is located in the Košice Self-Governing Region, Spišská Nová Ves District. It has 2 440 inhabitants, out of which 41.6 % are Roma.²⁹ On 1 December 2018, a fire hit two wooden huts. Both huts accommodated 19 people, including a deaf-mute family. The fire started during the day so neighbours noticed it and warned inhabitants of the huts, giving them enough time to escape the fire. The municipality provided the inhabitants of destroyed huts with substitute housing at the parsonage, where they got clothes donated by other inhabitants of the municipality and food provided by a local school. The municipality also assisted the victims with the eviction of the firebox.

The mayor stated to media that there were brick houses and wooden huts in the municipality inhabited by people living at the edge of poverty and without financial means to

²⁷ Statement of Kuzmice municipality to the request of the Centre of 22 January 2019.

²⁸ Available in Slovak at:

www.kuzmice.eu/e_download.php?file=data/editor/129sk_1.pdf&original=poziarny%20poriadok.pdf

²⁹ Atlas of Roma Communities in Slovakia (2013), available in Slovak at: www.employment.gov.sk/files/slovensky/rodina-socialna-pomoc/socialne-sluzby/atlas_rom-kom.pdf

secure better housing.³⁰ In such houses and huts, the inhabitants use anything on the offer for heating. Chimneys are constructed in a way endangering lives, while the risk is usually unnoticed. Despite the fact that voluntary firefighters and local civil order service keep raising awareness on a daily basis, some people are unteachable. Majority of the people living in the settlement does not work, waiting for benefits and contributions to arrive. Due to this, many of these people live in huts on unsettled lands and do not meet the requirements for receiving a housing allowance.³¹

As the burned dwellings were located on an unsettled land, the mayor planned to construct three container houses on a land owned by the municipality, where a local nursery school used to be located. The majority population living nearby the land concerned rejected the possibility to accommodate the Roma families in the neighbourhood. Roma from the burned dwellings were also not accepted among other Roma living in the municipality. At the meeting of the town council, a new location for housing for the Roma families in question was approved. The location was previously used as a landfill and is close to the burn out dwellings.

During December 2018, the municipality removed waste from the landfill, adjusted the terrain and installed the container houses. The municipality and the respective families signed the rental contracts for two years. The Košice Self-Governing Region partially contributed for the substitute housing.

Concerning the refusal to accept Roma from the burnt huts by the inhabitants of the municipality, the Centre points out to the outstanding prejudice against Roma that are deeply rooted and prevalent among all members of population.

³⁰ For more information see: spis.korzar.sme.sk/c/22001981/elektrina-v-osadach-by-mohla-predist-poziarom-chatrci.html, spis.korzar.sme.sk/c/22009191/umiestnenie-unimobuniek-v-hrbusiciach-rozdelilo-romsku-komunitu.html

³¹ Housing allowance is provided when a person is in a material need to cover the costs of housing. A person in material need is entitled to the housing allowance when meeting the following conditions:

- is an owner of apartment or family house, tenant of an apartment or family house, or a tenant of a room at the facility intended for permanent living,
- is an owner of an apartment, tenant of an apartment or owner of a family house, tenant of a family house and pays the costs of housing and submits a proof of payment of these costs for the last six consecutive calendar months or submits a debt recognition agreement and agreements on instalments, in case there are any arrears for the costs concerning housing,
- is a retirement pension beneficiary or other pension allowance and social allowance if a person is older than 62 years old,
- has a lifelong right to use apartment or family house,

For the purposes of the housing allowance, housing also covers housing connected to provision of care in the social services facilities for a full year and living in an apartment or family house, in which a person in a material need has the lifelong right to use.

1.2.4 Batizovce

Batizovce municipality is located in the Prešov Self-Governing Region, Poprad District. There are 2240 inhabitants, out of which 26.9% are Roma.³² Just like in Kuzmice, there was also a fire in the beginning of December 2018. The fire hit a temporary wooden semi-detached house and a car parked nearby. The fire did not injure anybody. The fire was preceded by a fire, which hit three dwellings in November 2018.

According to the information provided by the town of Batizovce³³, the cause of the fire in the Roma settlement was an unprofessional installation of wiring. After the fire, the owners of the unliveable dwelling remained to live abroad and others moved to their relatives.

The municipality stated that houses inhabited by Roma living in the settlement were built from blocks, bricks and wood, and that rooves were constructed from metal plates. In most cases, it is residual materials or materials from old buildings that were demolished or reconstructed. As for the heating, usually wood, old wooden furniture, briquettes or pallets are used for the solid fuel heating.

The leadership of the municipality tried to raise awareness among the local Roma. Every year, the local radio broadcasts a programme about fire prevention in the heating period as well as in time of summer. The municipality urges its inhabitants not to build houses illegally, which is directly connected to self-supporting unprofessional instalment of wires and heating disregarding the safety regulations. Municipal social workers raise awareness in the local Roma settlement too. At the same time, through the voluntary fire brigade, the municipality controls heating once a year, paying special attention to safety rules concerning solid fuel heating.

The municipality also stated that it was trying to integrate Roma into the life of the majority. It participates in various projects and creates new job positions for job seekers and offers the possibilities to gain higher financial contribution in material need through small municipal services. The municipality added that it often faced the lack of interest or high sickness among its Roma population, which reflects the high number of employable inhabitants of the settlement.

The municipality considers the high number of wild dogs without owner living close to the settlement, which represents an obstruction to a good access to the settlement as well as illiteracy of the inhabitants of the settlements and dependence on the municipal employees, who

³² Atlas of Roma Communities in Slovakia (2013), available in Slovak at: www.employment.gov.sk/files/slovensky/rodina-socialna-pomoc/socialne-sluzby/atlas_rom-kom.pdf

³³ Statement of Batizovce municipality to the request of the Centre of 18 February 2019.

must often resolve issues in the field, as the most frequent problems. The Centre points out that after the fire, the family moved in with relatives. Moving of multiple Roma relatives to one house or apartment is one of the reasons behind the increasing concentration of Roma in certain areas of municipalities and towns.

1.2.5 Poprad

In the end of February 2018, a fire hit the neighbourhood of Poprad - Matejovce, in particular at Staničná Street. The fire damaged the statics of dwellings being in proximity with the burnt object, so the damaged dwellings became unusable. 120 people lost their home, including 74 children.

According to Poprad – city district Matejovce³⁴, the MRC has 500 inhabitants. This group is considered by the city of Poprad risky due to unsuitable state of dwellings, which usually do not meet the required safety regulations. The city knows that the population of socially disadvantaged background does not have sufficient financial means or a financial reserve, therefore, their property is usually not insured. In case of emergency, the situation is even more complicated because Roma living in Matejovce live in older dwellings built from bricks, which are not cared for and respective dwellings are deteriorating and are becoming dangerous. The inhabitants keep constructing wooden huts or huts from metal plates, bricks and other materials to the existing dwellings. Most often, they use solid fuel heating by wood or other inflammable materials.

The city of Poprad also stated that according to the expert opinion on the fire of dwellings of the District Directorate of Fire Brigade and Rescue Corps No. 4416/5 of 22 February 2018, the fire was caused by radiant heat of the incorrectly installed flue of a solid flue stove and violation of the respective safety regulation. This district, particularly Matejovské Square No. 5, was also hit by a fire on 21 February 2018, due to the same cause of fire.

The city also stated that the inhabitants of the dwellings, which were unsuitable for habitation after the fire, moved to a gym of the local elementary school. Later, the inhabitants moved to commercial premises of the local cinema and on 29 March 2018, they moved to container houses at Staničná Street. A family with multiple family members (ten people, including two children) was immediately provided with substitute housing on 21 February

³⁴ Statement of the city of Poprad to the request of the Centre of 14 February 2019.

2018, at Levočská Street, where social housing units of the city are located. The city of Poprad gradually built water, electricity, sewer connection for the inhabitants of the container houses at Staničná Street. The sanitation is secured in common containers with water and sanitary facilities (WC, shower) with drinking water.

During the crises, the city of Poprad secured all basic needs of the inhabitants of the burnt dwellings (shelter, food three times a day) through the Slovak Red Cross – society Poprad. It also ensured the conditions to carry out basic hygiene and non-stop services of field workers. Moreover, the security services were ensured through the Roma Civic Patrols and Police Corps of the city. Children attending school were provided with a school bus. Social workers were providing help with exercising rights, applying for IDs, performance of institute of special beneficiary, organising volunteers to evict fireboxes and accompanying inhabitants in question to medical care. In cooperation with non-profit organisations, the city organised collection of clothes, food, sanitary items and, in cooperation with volunteers it organised free time activities for children. Social workers also helped with submitting application for humanitarian aid, which was provided to 22 families in the amount of 12 300 EUR.³⁵ The city of Poprad was responsible for meeting all requirements of the humanitarian aid subsidies. Together with the families concerned, the city ensured that necessary electronics, furniture and other household items were bought. In accordance with the Act No. 417/2013 Coll. on the Assistance in Material Need, as amended, the city of Poprad provided inhabitants, upon meeting all requirements, with a one-time allowance in a material need to purchase the basic household equipment. In many cases, it was a stove or heater.

In order to prevent fires, the Agreement on provision of shelter in the container houses includes provisions on the obligation to adhere to fire regulations. Social workers give advice on fire hazards, such as open fire, and on how to behave in case of fire. The city of Poprad raises awareness of inhabitants on safe heating not only through fieldwork but also through a TV channel Poprad and through newspapers Poprad.

Despite the fact that the inhabitants of the district of Matejovce trust the social workers and often turn to them in respect to various issues, the social workers face numerous issues when working in the field. For instance, abuse of benefits, truancy, lack of care for children, no motivation to work (including small municipal services), no motivation to resolve the unsuitable living situation, lack of hygiene and occurrence of pathologies such as gambling,

³⁵ In accordance with Article 9 para. 1 and 2, the humanitarian aid subsidies can be awarded to any person in crises or extraordinarily adverse social situation. In the current fiscal year, the applicant is entitled to the maximum subsidy of 800 EUR.

alcoholism or delinquency, high birth-rate of young mothers not ensuring suitable environment for a child.

The city of Poprad seeks to promote positive outcomes of its work with Roma inhabitants. For instance, through the institute of specific beneficiary, the tenants of container houses pay the rent on time and do not cause the city any debt. Poprad created in the district concerned a Roma Civil Patrol with six members. It belongs to the municipal police corps and is positively perceived mostly in respect to security. The town took also part in the national project “Social Work in the Field and Field Work in Municipalities with the Presence of MRC”³⁶. Within this project, the city employed three social workers working in the field and one field worker (two of them are Roma). Apart from this, two Roma social workers with university education are employed at the Department of Social Work of the Municipal Office.

In January 2019, the city of Poprad adopted specific measures to change the land use plan and it is interested to apply for the EU structural funds to build a community centre, permeable housing and a nursery school in the district of Matejovce as well as to implement other specific measures aimed at MRC.

The Centre welcomes the activities of the city of Poprad implemented in the wider context rather than only aiming to resolve the consequences of fires in the district of Matejovce. The Centre is convinced that activities aimed at Roma are also beneficial for other inhabitants of the city.

Recommendations

The Centre recommends that:

1. The Government start the process of ratification of Article 31 of the revised European Social Charter.
2. The Ministry of Labour draft and adopt a national strategy on prevention and solution of homelessness, in a participatory process that would engage independent experts and non-governmental organisations working with homeless people and including a complete mapping of the state of persons without shelter and home in the Slovak Republic.

³⁶ Available at: www.minv.sk/?NP-TSP

3. The Magistrate of the Capital City of the Slovak Republic Bratislava support existing and emerging projects of non-governmental organisations, which are implementing the “housing first” approach and incorporate this approach to its own conception on the issue of homelessness.
4. All cities in the Slovak Republic implement the “housing first” approach to their own conceptions on the issue of homelessness.
5. The Ministry of Transport support projects concerning construction of social housing through more efficient operation of the State Fond of Housing Development in the field of social housing.
6. The Ministry of Transport emphasise the current unsatisfactory situation in the area of access to housing for vulnerable groups in the prepared Conception of State Housing Policy and engage independent experts and non-governmental organisations working with such vulnerable groups in the process.
7. The Ministry of Labour adopt new legal regulation concerning the housing allowance in order to make it adequate and addressing.
8. The Ministry of Interior and the Office of the Roma Plenipotentiary increase the efficiency of aid in case of extraordinary circumstances, such as fire in Roma settlements.
9. The Regulatory Office of Network Industries, the Ministry of Economy, the Ministry of Finance, the Ministry of Interior and the Ministry of Labour adopt the Conception on the Protection of Consumers Fulfilling the Requirements of the Energy Poverty.
10. Non-governmental organisations sensitise the society, mitigate prejudice and strengthen solidarity between Roma population and the majority.
11. The Ministry of Interior through structural and investment funds support projects related to desegregation, de-ghettoizing and de-stigmatisation.



2 Right to Education

The issue of segregation in the educational process in the Slovak Republic does not only concern schools and education system. It is one of the manifestations of a broader social issue of segregation³⁷ that is present in the Slovak Republic. Ethnic segregation of Roma is a well-known problem that developed over time in Slovakia's historical context. Years of cumulating segregation, unaddressed by the state established and support cyclical stereotypes in the lives of Roma. Segregation in housing leads to segregation at schools, which often results to obtaining education of lower quality and lower level in terms of the National Classification of Education.³⁸ Unequal opportunities to achieve the best education possible lead to inequality at the labour market and to a higher dependability on the welfare system. Higher unemployment rates in regions populated by Roma³⁹ compared to other regions also translate to lower average income for households and families, which leads to segregation in housing.

Transferring segregation and its consequences onto the next generation of young people has yet not been successfully prevented. Its status and consequences can be quite accurately specified. Elimination of all consequences of segregation within a short time and completely is an unreal goal. More so, potential achievement of desegregation or partial mitigation of the issue of segregation does not have to be fixed and can worsen into re-segregation. Process of adoption and stipulation of state policies, which in the past led to

³⁷ Segregation – from lat. *segrego* - to separate, to recuse, to distance, means to separate a part of citizens, mostly due to racial, ethnic but also religious reasons. If separation is not voluntary but it is directed, rather supported or not addressed by the majority, segregation can constitute discrimination in specific areas. It also applies to the area of education and upbringing.

³⁸ Available at: www.minedu.sk/data/files/3772.pdf

³⁹ Roma in these regions are disadvantaged. In competitive work environment of a specific municipality, district or region and the presence of consequences of long-term unemployment, Roma with lower education are less successful at the labor market.

creation and deepening of segregation, shall lead to its elimination, active support of desegregation and adoption of measures aimed at potential continuous regress.

Education is one of the key areas as far as the hierarchy of state activities and administration is concerned. Its importance is generally accepted and undisputed. Consequently, the area of education should serve as a tangible and perspective mean to fight segregation as such and a place for interrupting the cyclical process of lifelong and permanent segregation. In order to do this, it is necessary to eliminate segregation practices and their consequences in this particular area, which decrease opportunities for professional and personal success. Temporary elimination or limitation of segregation is not sufficient, continuous oversight and follow-up are necessary for segregation not to appear ever again.

Slovakia and its outlook towards the future in the context of population, economic, environmental and technological challenges, which already exist and will only intensify, cannot afford further deterioration of the current status, neither its stagnation. Positive societal development and progress in all areas, including education and maximal use of potential of the entire educated population, are needed. Achieving the highest possible level of education and knowledge is not possible without elimination of segregation, disadvantaging and discrimination. Collective general acceptance is crucial together with tolerance, fight against prejudice with the support of and input from every individual, family and community. The concept of “separate but equal”⁴⁰ was wrong and backwards already at the time of its establishment more than one hundred years ago and does not have any perspective in Slovakia in the 21st century.

2.1 Identified cases of segregation

In 2018, the Centre continued its cooperation with the State School Inspection (hereinafter referred to as “SSI”) in the area of protection and promotion of human rights, namely in the area of protection and monitoring the rights of children. The cooperation focuses on the rights of the child within education and upbringing of children with special educational needs and in establishment of conditions of inclusive education for students from socially disadvantaged backgrounds. SSI informed the Centre about findings of school inspection.

⁴⁰ Case Plessy v. Ferguson, 163 U.S. 537 (1896), supported racial segregation in public places including schools, under the condition that segregated institutions and services are equal in quality. The case is known in connection with the term “separate but equal”.

In the school year 2017/2018, SSI discovered the use of segregation practices in education of Roma students in 4 schools inspected, in particular in:

- Ján Francisci Elementary School, Levoča,
- Elementary School with Kindergarten, Pod lesíkom 19, Šarišské Michaľany,
- Elementary School, Komenského 2, Svit,
- Elementary School, Školská 389, Sačurov.

SSI submitted the Centre upon request complex reports with findings of the school inspection in all of the four aforementioned schools. A personal meeting between representatives of the Centre and SSI was held to discuss the segregation practices identified and the broader overall situation in segregation. As a follow up, the Centre held personal visits to the schools concerned to map the situation in schools during ongoing school time and mainly to personally interview the higher management of these schools (director, vice director). The purpose of these meetings was not only to assess the current state of segregation findings of SSI, but also to clarify historical developments of the educational process in terms of non-discrimination and its perspectives for the future.

2.1.1 Elementary School Komenského 2, Svit

SSI, the School Inspection Centre Prešov conducted a school inspection between 28 November 2017 and 1 December 2017 at the Elementary School at Komenského 2 in Svit. In its report from the school inspection no. 7056/2017 – 2018, SSI states that when dividing classes for second, third, fifth, sixth and seventh years, the school created classes that were exclusively comprised of Roma students. These classes had a significantly higher concentration of students with disabilities than other parallel classes. Such division had clear signs of segregation contradicting the principles and goals of education under the Act No. 245/2008 Coll. on Upbringing and Education (the School Act) and amending and supplementing certain acts, as amended (hereinafter referred to as the “School Act”).

The school originated from the former national school and former high school in Svit, which split into two nine-grade schools. During its existence, the school underwent multiple renovations on its building but also changed its name. In 1963, the capacity was increased from 80 to 100 students. In 1965, additional facilities for polytechnic workshops and after school club were completed. In the school year 1968/1969, the school had 40 classrooms, 50 teachers and 1254 students. In the school year 2018/2019, the school has 26 classrooms, 13 for the first

grade and 13 for the second grade. 509 students attend the school. Out of 26 classrooms, 4 are special classrooms (for children with special educational needs).

During a personal visit of the Centre's representative, the headmaster of the school recused herself from the reports of the alleged segregation at the school. Currently, special classrooms are attended by Roma students exclusively, other classrooms also include Roma students, except from the class 8.A, which is attended exclusively by students of majority population. After findings of the school inspection, the school has been conducting a large-scale re-diagnostic of students (around 80 cases). In order to assess whether it is necessary to put all students into special classes. The school also employed school psychologist and social psychiatrist.

The headmaster emphasized that division of students to special classrooms is conditioned by a recommendation from an expert employee from the field of psychology and by the consent of the student's parents. There is no arbitrary enrolment of Roma students to special classrooms. The school is, however, trying to include and integrate students from special classrooms, e.g. by joining classes such as physical education with other classrooms or organising art competitions and extracurricular activities with active participation of both students from marginalized Roma communities (hereinafter referred to as "MRC") and those from majority population.

The Centre states that establishment and existence of special classes with exclusively Roma students is a result of multiple circumstances. The first factor is segregation in housing which leads to segregation in education. If the number of cities or regions with rising proportion of Roma population and decreasing representation of non-Roma keeps increasing, it will have a direct impact on ethnic composition of schools. The perspective of achieving numerous schools with exclusively Roma students is not unreal. As long as there are exclusively Roma classrooms, there is a possibility of creating exclusively Roma grades, consequently resulting in exclusively Roma schools. Such case, although only potential at the moment, features a failure of desegregation obligations of the state. The speed of decline of non-Roma students with the decrease of their total and proportional share has an ascending tendency.

Another factor is the issue of students with disabilities and their inclusion in education. Successful inclusion of students with disabilities among students without disabilities and establishing inclusive school communities assumes adequate organizational, personal and dimensional resources in the system of school management. If these do not exist, or if the newfound capacities are primarily used for solving the ethnic segregation, students with disabilities gain little space for integration among their peers. In terms of students with

disability from MRC, we can talk about multiple discrimination or additional disadvantaging compared to healthy Roma students.

The third factor is in identification of a health problem of a child in relation to the educational process. Apart from education side, this problem has also social, upbringing and medical context. Students from MRC can fall under multiple categories and have multiple disadvantages overlaps; hence, an effective and quality system of diagnostics, health condition and social skills assessment needs to be coordinated. Diagnostics has to be periodical and take into account progress or regress, in order to prevent permanent categorisation of a child. In this instance, the Centre welcomes a large-scale re-diagnostics of students from the Elementary School at Komenského Street 2 in Svit, but further adds that it is necessary to carry out these measures systematically and in coordination with other coordinated activities and actions of paediatricians, psychologists and social workers.

2.1.2 Elementary School with Kindergarten, Pod lesíkom 19, Šarišské Michaľany

SSI, the School Inspection Centre Prešov, conducted a school inspection between 5 March 2018 and 9 March 2018 and on 12 March 2018 in the Elementary School with Kindergarten, Pod lesíkom 19, Šarišské Michaľany. The report of the inspection no. 7090/2017-2018 shows that changing rooms for students were located in the entry halls. For classes 1 to 9 marked “A”, the changing rooms were positioned at the main entrance, for other students, especially those from MRC, the changing rooms were positioned at the side entrance, which lay the grounds for space division if these students. The report further states that lunches for students from socially disadvantaged backgrounds from MRC were served after the 4th period during lunch breaks in a duration of 25 minutes, while lunches for other students were served after the end of all classes (after 5th or 6th period).

SSI stated in its report that the elementary school had 23 classes. Students from MRC were enrolled in all classes, however, their percentage was not equal in all classes. Such division of classes, changing rooms and division of education violated the principles of education and upbringing under the School Act.

Current school premises were completed in 1976. It was designed for 18 classes with relevant special classes. Today, the capacity is not adequate, since the number of students is continuously rising. In the past 40 years, the school underwent multiple organisational changes, from the original elementary school with 9 grades, through elementary school into the joint

legal entity elementary school with kindergarten since 2004. The school has its own school circuit with Ostrovany municipality and is currently attended by 395 students, out of which 272 are from MRC.

Based on the aforementioned statistics, the headmaster emphasized that the majority of students belongs in fact to an ethnic minority, which in her own opinion precludes segregation on the grounds of ethnicity. The headmaster addressed the relevant points of the SSI's report, stating that the school did not have changing rooms but rather small cabinets – two for each class, one for boys and one for girls. The school is attended by a large number of students from MRC from a nearby settlement of Ostrovany, while a large number of these students does not have basic hygienic habits and often transfer various parasites, such as lice and fleas. The headmaster therefore justified the space division of these cabinets with hygienic reasons and the public health interest, which is also supported by parents of students, who do not come from Ostrovany (both from the minority and the majority).

At the time of the SSI's inspection, students from socially disadvantaged backgrounds from MRC were assigned the time to take lunch after the fourth period, while other students got their lunch after the end of fifth and the sixth period. The headmaster justified such organisation of lunch breaks by the public transport schedule. Students having lunch after the fourth period mostly come from the nearby settlement of Ostrovany and the aim was to urge them to take their lunch earlier, in order to make their bus home in time so that they would not have to wait for the next one, since there are large time lapses between these connections. During the visit of the Centre's representative, the lunch break has already been joined for all students after the fourth period.

Students from MRC as a minority form a majority in the school, in the third grade out of 72 students only 8 are non-Roma. SSI contested the representation of the majority in each class. In the current situation, the ambition to divide non-Roma students between other classes was met with lack of understanding by both parents and students. The headmaster takes into account the emotional ties within each classroom and does not want to force divisions in the community of students.

In cooperation with the mayor of Šarišské Michaľany, the school is trying to create the best conditions possible for students from MRC, who often after being admitted to the first grade do not speak Slovak, lack basic hygiene habits and come to school in inadequate or ruined clothing. The school organises various charity collections, helps these students with clothing and aspires to assess each student individually, in cooperation with their own pedagogic

employees or teachers hired within the project “School open to all”⁴¹. The school is also trying to integrate students by organising common ski trips and other field trips or by joining classes such as physical education. Under the school order, the building opens at 7:30, but the school accommodates the needs of students from Ostrovany, whose school bus arrives before 7:30, in order not to make them wait outside.

In terms of the cabinets, the Centre states that the solution to competing legal provisions for health protection and the right to desegregated education has to be proportional but responsible. A common cabinet for all boys and a cabinet for all girls from one class is not a suitable hygienic solution either. Lowered hygiene standards of some students and the creation of hygiene chart only deepen this issue, since common cabinets for multiple students make it easier for parasites and illnesses to spread. Apart from creating an individual storage space for each student, community and social work with the MRC is necessary, as is it showcased in the project “Healthy Communities” presented in the chapter 9 of this report.

With regards to the lunch timetable and its following modification, the Centre states that it is an example supporting the claim that it is necessary to address the causes of segregation rather than its consequences. If this is not the case, the causes tend to become objective constants and the consequences tend to become their necessary accessories. If the cause for divided lunch times as a segregation practice was the transportation of students, a suitable solution is the adjustment of lunchbreaks for all students.

Ethnic composition of classes and requests of some parents not to change it or on the contrary to change the composition of class communities, have deeper connotations, similar to the case of Elementary School at Komenského 2 Street in Svit. If a parent requests a change or retention of a class community, dissatisfaction could trigger drain of students to another school. Such situation lacks perspective solution and has solely a negative outlook. There is a clash of social limitations to resolving school segregation, which are further described in subchapter 2.2 of this report.

⁴¹ The national project financed under the European Social Fund, which aims to lower and prevent a premature termination of obligatory school attendance, supports access to quality preschool, elementary and high school education including formal, non-formal and ordinary means of education for the purpose of reintegration to the educational process and preparation for future profession. A specific goal of this project is to increase inclusiveness and equal access to quality education and improve the results and skills of children and students. Available at: npsov.mpc-edu.sk/

2.1.3 Elementary School, Školská 389, Sačurov

On 29 January 2018, SSI, the School Inspection Centre in Prešov, conducted an inspection in the Elementary School at Školská 389 in Sačurov. The report of the findings of school inspection no. 7076/2017-2018 show, that the school had 25 classrooms, out of which 13 were attended only by students from MRC. In the remaining 12 classrooms, students from MRC were represented in smaller numbers. SSI found that the division of students into 1st, 2nd, 3rd, 5th and 6th grades was based on their ethnic origin. While creating parallel classes, the school took into account the aliquot representation of majority students and students from MRC only in the minimum extent. Due to separated education, the school precluded certain students to be a part of the mainstream education process with other students. Such measures showed characteristics of segregation and violated the principles of education and upbringing under the School Act.

The first elementary school in Sačurov was established in 1947. After its opening, the school had 3 classrooms, a staff room, a small office, an apartment for the headmaster and had a capacity for 158 students. There are currently 417 students attending the school with 60 % coming from MRC. The school has 27 classrooms, with 13 special classes, which comprise exclusively students from MRC.

After the inspection, the school conducted a large re-diagnostics of students enrolled in special classes, with an ambition to find out whether it is possible to transfer some students into classes with standard educational regime. Enrolment of students in special classes is conditioned by a recommendation of an expert employee and consent of the parents. Upon completing the re-diagnostics, the headmaster identified students transferrable to other classes, but their parents refused. The headmaster stated that to transfer students from one class to another solely to meet the aliquot representation of all ethnic groups, is a non-systematic and illogical solution. According to the director, such measures appeal even more as segregation, which leads to students from the majority population leaving to attend other schools.

The school is primarily trying to integrate students into the standard educational process. It hired special pedagogues, conducts re-diagnostics more frequently over the course of the school year, organises field trips for students from special and standard classes in order to boost friendships between students. The school also cooperates with community centres and aims to deepen its relationship with parents. Not only does the school hold regular parent-teacher assemblies, but it also holds meetings for parents in order to communicate with them towards motivating their children and urge parents to be more invested in school happenings.

The Centre is confident that case of segregation is a consequence of segregation in its broader sense. Without positive progress in relation to the basic causes of segregation, all ambitions of the school will be partial and ineffective in the end, while maintaining trends of composition of school communities and overall issues of the Roma community.

2.1.4 Ján Francisci Elementary School, Levoča

On 12 February 2018, SSI, the School Inspection Centre Prešov, conducted an inspection in the Elementary school at Jána Francisciho Street 11 in Levoča. The report of the school inspection No. 70006/2017-2018 states that the school has 18 classrooms. At the time of the inspection, out of 433 students registered at this school, only 322 really attended it. 111 students (out of which 104 were from MRC) attended school outside of Slovakia. There was no single class at school that was not attended by students from MRC. Proportion of students from MRC in classrooms varied between 11 % and 100 %. Enrolment of students into each years was more or less equal, except from the second year.

In class 2.B, 26,3 % students were from MRC, while in class 2.A students were exclusively from MRC. According to the headmaster's statement, creation of a class exclusively comprised of students from MRC was not an aim of the school. Upon the admission procedure to the first grade in September 2017, there were three students from the majority. However, upon requests from their legal guardians the school decided that these children were allowed to start attending school outside Slovakia. Consequently, these students did not start attending the class, which resulted in it being exclusively attended by students from MRC. During enrolment of students into classes, a part of students from MRC was placed in a separate class, which over the course of two years resulted in social division from the majority. Such measures showed signs of segregation, which violated the principles of education and upbringing under the School Act.

When completing this report, the Centre was unable to obtain any additional information relevant to this issue, despite active ambition to organise a face-to-face meeting with the school management. The Centre will continue requesting personal meeting in order to obtain all facts relevant to the discovered segregation. The Centre deems it necessary to obtain an explanation for the rate of students from MRC upon their admittance to two classes of the first year (to find out how many students from MRC are in one class and what percentage of students were/are the three other students), as well as to find out and specify other relevant facts, which were

present in other elementary schools monitored with the aim to subsume them to overall causes of segregation as a whole.

2.2 Factors of segregation

As was discovered in the abovementioned cases of discrimination at schools, the vast majority of segregation cases is not black and white. One could say that segregation does not have an origin nor a main source in a deliberate conduct of a given school, nor its management or employees aim to segregate or discriminate the students. Motives leading to segregation practices are based in population and ethnic composition of the student community, conditions and spatial possibilities of a given school, but also paradoxically in the school's ambition to apply specific provisions of the School Act and other provisions of the Slovak legal framework. Such processes include enrolment of students into special classes, including the entire process that precedes the enrolment. The Centre has already devoted its attention to this issue in its previous Human Rights Reports.⁴² Schools' ambitions such as these often result in clashes between two opposing rights, two or more groups of obligations of a school that affect two or more groups of students.

Solutions of schools adopted were not always adequate and non-discriminatory. The proportionality of a violation of one right did not correspond to the need to protect another right or a protected interest. The follow-up modifications confirmed that there was always a more adequate solution to a given issue. This also proved to be a case in adapting the lunch schedule in Šarišské Michaľany.

Segregation does not occur only in a form of direct discrimination, which is an act or omission resulting in a person being treated less favourably than another person in a comparable situation.

School segregation, or discrimination as a whole, can also have a form of indirect discrimination, i.e. a neutral provision, decision, directive or practice that disadvantages or could disadvantage a person compared to another person.

Indirect discrimination, as far as its effects on a discriminated subject are concerned, is

⁴² 2016 Human Rights Report, Chapter 5.2, available at: http://www.snslp.sk/CCMS/files/2016_HR_Report_SNCHR_eng.pdf; 2017 Human Rights Report, Chapter 4.5. Available at: http://www.snslp.sk/CCMS/files/sprava_2017_eng.pdf

not less serious than direct discrimination or any other form of discrimination. The fact that this form of discrimination occurs regularly in the area of education, arises from the fact that the requirements under the Slovak legal framework and the Antidiscrimination Act are specifically formulated towards inclusion, non-discrimination and desegregation, which lowers the number of cases of direct discrimination.

Indirect discrimination does not occur, when a provision, decision, directive or practice is objectively justified by the protection of a protected interest (such as the protection of other rights and freedoms), is proportionate (an acceptable rate between the protection of a protected interest of one person and limiting the right of another person) and necessary for achieving this interest (there is no possibility to apply another, less disadvantaging provision or a provision which does not disadvantage at all). Indirect discrimination, as shown in the aforementioned cases, is not just a result of a school’s conduct by itself. Other bodies mandated in the area of education are also responsible – such as the Ministry of Education, Science, Research and Sport of the Slovak Republic (hereinafter referred to as the “Ministry of Education”) as a central administration body.

School segregation, as previously stated, has its roots in housing segregation or spatial segregation. Disproportionate result caused by the majority population brings spatial issues to schools, worsening the situation over time, which often results in a two-shift organisation of education. The Ministry of Education provided the Centre with a statistical table prepared by the Centre for Scientific and Technological Information (hereinafter referred to as “CSTI”)⁴³ based on the available data.

Table no. 1 Elementary schools – education in two shifts up to 15 September 2018 (between 2013 and 2018), source: CSTI

	Total number at schools		2 nd shift applies in		Average %	
	classes	students	classes	students	together	in 2 nd shift
2013	530	10 127	158	2 964	19,1	18,8
Prešov Self-Governing Region	245	4 538	80	1 503	18,5	18,8
Košice Self-Governing Region	285	5 589	78	1 461	19,6	18,7
2014	604	11 496	154	2 987	19,0	19,4

⁴³ The Centre for Scientific and Technological Information is an organization directly managed by the Ministry of Education and serves as a national information center for science, technologies, innovation and education and national scientific library of Slovakia. It coordinates activities and provides services of interdisciplinary research and innovation centers and national infrastructures for research, development, innovation and education. Available at: www.cvtisr.sk/cvti-sr-vedecka-kniznica/o-cvti-sr/zakladne-informacie.html?page_id=409

Prešov Self-Governing Region	294	5 308	74	1 500	18,1	20,3
Košice Self-Governing Region	310	6 188	80	1 487	20,0	18,6
2015	617	11 770	152	2 797	19,1	18,4
Prešov Self-Governing Region	272	5 001	65	1 198	18,4	18,4
Košice Self-Governing Region	345	6 769	87	1 599	19,6	18,4
2016	685	12 580	163	2 876	18,4	17,6
Prešov Self-Governing Region	380	6 927	85	1 426	18,2	16,8
Košice Self-Governing Region	305	5 653	78	1 450	18,5	18,6
2017	776	13 964	168	2 960	18,0	17,6
Prešov Self-Governing Region	425	7 492	91	1 587	17,6	17,4
Košice Self-Governing Region	351	6 472	77	1 373	18,4	17,8
2018	784	14 423	191	3 342	18,4	17,5
Prešov Self-Governing Region	439	7 865	116	1 992	17,9	17,2
Košice Self-Governing Region	345	6 558	75	1 350	19,0	18,0

The table no. 1 clearly shows that education was organised in a two-shift regime between 2013 and 2018 only in two out of eight regions of Slovakia, namely the Prešov Self-Governing Region and the Košice Self-Governing Region. These are the two regions with the highest proportion of Roma in Slovakia, together with the Banská Bystrica Self-Governing Region.⁴⁴

In the given period between 2013 and 2018, the percentage of students educated in two shifts was between 18 to 20 %. This relatively stable development cannot be viewed in a positive light. In its program resolution, the Government committed to eliminate gradually two-shift organisation of education at elementary schools, mainly in regions with high concentration of MRC, which very closely correlates to segregation and discrimination. The issue of education in two shifts is included in the Implementation Plan of the National Programme for Education and Upbringing Development⁴⁵ adopted by the Government Resolution No. 302/2018 (Article 12). The Ministry of Education claims that elimination of two-shift education at elementary schools, mainly in regions with high concentration of MRC, together

⁴⁴ Available at: www.minv.sk/?atlas_2013

⁴⁵ Available in Slovak at: www.minedu.sk/data/att/13285.pdf

with its proposed resolution, is also included in two following implementation plans for the period between 2018 to 2027, with an estimated costs of 10 million EUR.⁴⁶

The Ministry of Education calculated that, in 2017, it allocated 400 000 EUR for Chorvátsky Grob municipality for the project “Financing construction of the Elementary School at Javorová alej 1, Chorvátsky Grob, external station of Elementary School with Kindergarten, Školská 4, Chorvátsky Grob”. This resulted in 11 new classes for 188 students. The city of Senec was awarded 100 000 EUR for “Establishment of new elementary school via reconstruction of school dormitories - block B of secondary vocational school for automotive and entrepreneurship at Kysucká Street in Senec”. This reconstruction resulted in 18 new classes for 500 students. The school is currently attended by 171 students. No further funding was provided in the years 2017 and 2018.⁴⁷

Another measure, which can contribute to inclusion of in school communities and improvement of their academic and social skills, is provision of teacher assistants. In 2018, the Ministry of Education provided 23 499 644 EUR for staff costs of teacher assistants for children with disabilities, which is 7 625 239 EUR more than in 2017.⁴⁸

The Ministry of Education claims that financial resources from its budget and the budget of the Ministry of Interior allocated annually for teacher assistants for students with disabilities upon requests of founders of the schools concerned are not the only way for schools to provide personal support to students with disabilities in regional schools. In compliance with the current fiscal regulations, it is possible to draw from the resources allocated to specific schools, while higher coefficients apply to students with disabilities when enumerating personal difficulty.⁴⁹

In 2018, the Ministry of Education provided for the purpose of educating students with disabilities at elementary schools increased normative financial resources, apart from the basic normative (basic average normative is 1573,45 EUR), including the increased normative corresponding to personal and service difficulty of educating a student, depending on the group under which the student falls, as follows:⁵⁰

⁴⁶ Statement of the Ministry of Education, Science, Research and Sport of the Slovak Republic to the request of the Centre of 22 February 2019

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ibid.

Group	Coefficient	Normative increase in EUR
2.	1,930	1 463,31
3.	2,265	1 990,41
4.	2,710	2 690,60
5.	3,390	3 760,55
6.	6,790	9 110,28

Students are divided into these groups under the Government Directive No. 630/2008 Coll. specifying details for allocating financial resources from the state budget towards schools and academic premises. Annex No. 8 to this directive specifies the classification of students with disabilities and with general intellectual abilities in special elementary schools, in special classes at elementary schools and in elementary school classes, designed for enumerating the coefficient of personal difficulty.

In 2018, the Ministry of Education provided 23 378 480 EUR from the state budget for teacher assistants for students with disabilities. For the school year 2018/2019, schools requested resources for 5 845 teacher assistant positions, but according to data available on 31 May 2018, the resources from the state budget covered 2 375 teacher assistant positions (40,6 %).⁵¹

The Implementation Plan of the National Programme for Development of Education and Upbringing for the years 2018 – 2027⁵² includes a chapter on inclusive education, which covers a concrete measure, with estimated costs and anticipated timeframe for implementation - increasing the amount of expert employees at schools, mainly teacher assistants, social pedagogues and special teachers (measure No. 10).

Inclusive education has to be complex and comprise a set of measures, which in combination and correlation create an effective functioning inclusive mechanism. A demand-oriented call to action “More Successful in Elementary Schools”, which was published on 30 December 2016, aims to support increased inclusive education at elementary schools. The call focuses on supporting activities that contribute to balancing disadvantages faced by students and provide equal opportunities in the education process or to improvement of success of elementary school students, including students with disabilities. For this purpose, the call

⁵¹ Statement of the Ministry of Education, Science, Research and Sport of the Slovak Republic to the request of the Centre of 22 February 2019

⁵² Available in Slovak at: www.minedu.sk/data/att/13289.xls

supports creation of new job positions, such as teacher assistant, inclusive team – special pedagogue, social pedagogue and school psychologist, assistant teacher.⁵³

The Ministry of Education specified that the call to action was allocated 50 000 000 EUR under the European Union funds, out of which 48 500 000 EUR were designated for less developed regions and 1 500 000 EUR for more developed regions. The following positions were created under the call:

- a) Teacher assistant: 222 FTE⁵⁴,
- b) Assistant for students with disabilities: 692,2 FTE,
- c) School psychologist: 103,4 FTE,
- d) Special pedagogue: 213,5 FTE,
- e) Social pedagogue: 31,7 FTE.⁵⁵

Projects under the call are being implemented since November 2017. Most of the projects were initiated in the first quarter of 2018. The duration of projects is mostly 36 months. Due to the change of monthly normative for teachers' assistants at the national level, the call to action "More Successful in Elementary School" was closed as of 31 August 2018.⁵⁶

On 9 November 2018, the Ministry of Education announced a call to action "More Successful in Elementary School II", which has the same aim but less administrative burden for applicants compared to the original call. The total allocation for the call is 9 500 000 EUR, out of which 9 000 000 EUR is for less developed regions and 500 000 EUR for developed regions. The first round of assessments was due until 17 January 2019. Founders of schools can apply for financial resources for assistant teachers.⁵⁷

In order to secure availability of qualified expert employees in compliance with the needs of schools, the Ministry of Education proposed a new act on pedagogic employees and expert employees⁵⁸, which enables broadening qualification skills to conduct activities of expert employees. A measure of the professional growth and employer's capacity in professional

⁵³ Statement of the Ministry of Education, Science, Research and Sport of the Slovak Republic to the request of the Centre of 22 February 2019.

⁵⁴ FTE (Full-time equivalent) is a term, which specifies a unit that expresses the rate of participation or capacity, burden to an employee recalculated towards 100% capacity. In other words, it is an equivalent of an employee working full time. Available at: managementmania.com/sk/fte-full-time-equivalent

⁵⁵ Statement of the Ministry of Education, Science, Research and Sport of the Slovak Republic to the request of the Centre of 22 February 2019.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Available in Slovak at:

www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&ZakZborID=13&CisObdobia=7&CPT=1262

growth plan shall enable headmasters to plan and support acquirement of qualification necessary for carrying out the activities concerned through additional education.⁵⁹

Personal skills and expert knowledge as well as professional growth and continuous education are necessary for proper implementation of inclusion. In 2018, the Methodology and Pedagogic Centre⁶⁰ continued implementing the project “School Open to All”. The goal of this project is to support inclusive education and, by increasing the quality of professional competences, ensure equal access to quality education, improve the results and competences of students. Under the activity “Support of non-formal education”, 299 children in 43 groups from socially disadvantaged backgrounds obtained basic hygienic and self-care habits, improved communication and social skills, which enabled smooth integration into inclusive classes. In 2018, 1 384 children from 50 kindergartens took part in the project activities.⁶¹

Within implementation of the pedagogic model of inclusive education at elementary schools, teams consisting of pedagogic employees and expert employees were created. Pedagogic employees and expert employees improved the quality of educational processes for students from socially disadvantaged backgrounds as part of individual or collective intervention, which eliminated students’ ineffectiveness at school. Other activities conducted in 2018 concerned cooperation with parents (247 awareness raising meetings in elementary schools, with 1 612 parents present) and all-day education system, with 26 551 children and students in 4 267 interest groups, which were led by 2 182 coordinators. Altogether, 72 029 meetings were organized. An accredited educational program “Cooperation of pedagogic employees and expert employees in the system of inclusive support of children and students” was created and instruction activities for support teams for inclusive education were organised, including didactic and material support for project activities, web pages, evaluation and conferences. Further information is available at the website of the project.⁶²

The Roma Education Centre in Prešov, an integral part of regional structures of the Methodology and Pedagogic Centre, was also active in the area of inclusive education.⁶³ Its priority was to implement the relevant national action plans and assist with their implementation in the least developed regions. It also cooperated and addressed effective interventions,

⁵⁹ Statement of the Ministry of Education to the request of the Centre of 22 February 2019.

⁶⁰ The Methodology and Pedagogic Centre is a budgetary organization of the Ministry of Education. Through its three regional offices and six detached offices, it provides continuous education in accredited educational programmes and conducts attestations of pedagogic employees and expert school employees in educational facilities. In compliance with the needs of regional education systems, it provides expert seminars, conferences, expert consultancy and assistant services.

⁶¹ Statement of the Ministry of Education to the request of the Centre of 22 February 2019.

⁶² Available in Slovak at: npsov.mpc-edu.sk

⁶³ Available in Slovak at: mpc-edu.sk/rocepo

provided educational activities as well as expert awareness raising activities aimed at raising awareness of experts and the public.⁶⁴

Another long-lasting problem of the education system is capacity of preschool facilities, i.e. kindergartens. The situation in this area has been complex for a long time. Demand for capacities in kindergartens exceeds the current capacities available all across Slovakia. Preschool education is a significant asset and influence for a child. Admittance to school and integration to the educational process is smoother for every child, who attended preschool. It increases the child's potential and chances for personal growth in the future life and education. It holds true even more to children from MRC, children from socially disadvantaged backgrounds and children with disabilities.

The Ministry of Education included the thematic area "Preschool education" together with specific measures, anticipated costs and timeframe for implementation into the National Programme for Education and Upbringing Development (2018 - 2027). The measures include:

- Introduction of mandatory preschool education in kindergartens for every child one year before entering mandatory education in elementary schools (measure No.1),
- Introduction of an enforceable legal claim to preschool education for children over the age of 3 (measure No. 2),
- Elimination of financial barriers to accessible preschool education for kids from low-income families (measure No. 3); implementation of this measure should be secured by providing free transport, including transport between segregated settlements and kindergartens,
- Assessment of current qualifications requirements for conducting activities in kindergartens (measure No. 4).⁶⁵

Based on findings of the 2017 Human Rights Report, the Centre concludes that several cases of segregation in education result from optimisation of the number of schools in the past years. In 2015, CSTI prepared a prognosis of regional education performance until 2025⁶⁶, which is partially followed-up by a trend analysis "Development tendencies of indicators of kindergartens, elementary schools and secondary schools 2000 – 2018"⁶⁷. The documents predict that population development of preschool children until 2025 has already passed the phase of growth, which occurred between 2007 and 2014, and since 2015, it has been in the

⁶⁴ Statement of the Ministry of Education to the request of the Centre of 22 February 2019.

⁶⁵ Available in Slovak at: www.minedu.sk/17786-sk/narodny-program-rozvoja-vychovy-a-vzdelavania/

⁶⁶ Available in Slovak at: www.cvtisr.sk/buxus/docs//JH/Vykony_RS15_v2.pdf

⁶⁷ Available in Slovak at: www.cvtisr.sk/buxus/docs//JH/Vyvojove_tendencie_19.xlsx

oscillating phase. This phase should last until 2025. The oscillating phase is characterized by short-term changes in growth and decline, while these changes are not supposed to be or should not be significant. It can be concluded that the state of the Slovak education system and its current issues will pertain in the couple more years to follow. Hence, solutions to mitigate it are even more necessary. In general, it is not a short-term tendency, but rather a condition, which lasts and will last for a couple more years and will affect several generations of children. The basic role and the main interest of the Slovak Republic is to provide quality education without discrimination and delay to every child, irrespective of the population phase it was born to.

Segregation in education is enhanced by spatial classification of school districts, which in fact mirrors the density of Roma population and thus segregation in housing. That is why the Centre supports the Strategy of the Slovak Republic for Roma Integration until 2020 (overseen by the Ministry of Interior – the Office of Roma Plenipotentiary), which introduces an obligation of the Slovak Republic to regulate on social integration policies. It focuses on multiple target groups, such as Roma as a national minority, Roma communities and MRC. The updated action plans of the Strategy of the Slovak Republic for Roma Integration until 2020 for the years 2019 and 2020 include a partial goal No. 4, which was supported by the working group. The goal aims to prevent concentration of students from MRC or socially disadvantaged background in elementary schools and includes a provision No. 4.1 to pilot testing of creation of school districts based on the de-segregation principle.

Recommendations

The Centre recommends that:

1. The Ministry of Education in cooperation with CSTI continue with regular survey of impacts of the population development in the Slovak Republic on education and take into account the results in relation to speed, allocation and time for creation of additional school capacities.
2. The Ministry of Education, self-governing regions and municipalities eliminate the two-shift organisation of education in elementary schools, mainly in localities with high concentration of marginalised Roma communities, without further delay, by increased use of allocated funds, and thus, start continually decreasing the number of students receiving education such conditions.

3. The Ministry of Education and founders of school facilities keep developing capacities and availability of quality preschool education, so that it is locally and substantively accessible for all children and provides opportunity for natural inclusion of children from socially excluded communities.
4. The Ministry of Education in cooperation with the Ministry of Interior, founders of school facilities and other local authorities having competencies in the field of education, flexibly take into account the demographic development and ethnic composition of the population years when adapting school districts with an aim to de-segregate education and free education of impacts of segregation in housing.
5. The Ministry of Finance annually reserve sufficient financial means for the Ministry of Education to meet the increasing number of requests of students and their legal guardians for allocation of assistant teachers and to create more job positions for school psychologists, speech therapists and special pedagogues.
6. The Ministry of Education prepare and provide all pedagogic employees with innovative and effective specialised programmes designed for development of pedagogic skills, especially for the needs of students with special educational needs.
7. Schools and school facilities improve the ability to react to different needs of pupils without permanently categorising them.



3 Bullying and Cyberbullying in Schools

The right to privacy, intellectual property rights, and hate speech and bullying via social networks in the online space have positioned themselves as current topics after 2003. Due to the fast development of Internet connectivity and because of its challenges and risks related to the use of the Internet, this issue requires an increase attention of the entire society. While the Internet, social networks, media and mobile applications make our life easier by accessibility of information, various activities related to its use and become a source of fun, they enable the rise of dangerous forms of behaviour, mainly among young people. Cyberspace has become a new world for young people, a form of leisure, a space for free expression of their thoughts and feelings and sharing their experiences captured in videos or photography. Expression of thoughts as well as personal attacks towards other people are often anonymous. Bravery rises with the feeling of anonymity, which can lead to abuse of communication channels and hostile behaviour on the Internet. Cyberbullying creates various forms of behaviour and conduct, which in the end can be qualified as criminal. In the context of human rights, it is necessary for each individual to be respected on the Internet and to feel safe without the fear of bullying or harassment in any form, which could negatively affect mental health and can cause stress, depression and suffering to its victims.

Creation of safe environment should be a priority for schools and educational facilities, since safe environment and functioning interpersonal relationships at schools are one of the key predispositions for preventing and eliminating socio-pathological effects between students. Schools as educational facilities should focus on eliminating risks that could create space for bullying among students. Schools as educational facilities should focus on eliminating risks that could create space for bullying among students. The educational environment also relates to the right of teachers and school employees to safe working environment.

The Centre believes that the safe school environment without bullying and cyberbullying is one of the key predispositions for healthy development of students and for the protection of human rights of students and teachers alike.

3.1 Educational activities of the Centre

For the two years, the Centre has been addressing the issue cyberbullying by organising activities at elementary schools and secondary schools, by participating and creating educational activities for the Centre for Pedagogy and Psychology Consultancy and Prevention, and for awareness raising centres all around Slovakia. In 2018, the Centre organized 82 activities on the issue of bullying and cyberbullying at elementary schools and secondary schools in Slovakia for 2 079 attendees in total. The demand for these educational activities keeps rising and schools show interest in the Centre's activities mainly due to its their educational aspects and prevention role to bullying and cyberbullying among students as well as due to the need for creation of welcoming school environment.

In the context of bullying and cyberbullying in schools, it is necessary to discuss human rights and non-discrimination in order to prevent a rise in bullying cases. Development of modern communication channels closely relates to the behaviour of children as well as their rights under various conventions. During the educational activities, the Centre's lecturers use a questionnaire, which was designed to assess the precaution paid and responsibility of children for the information they share on social media. The questionnaire can be quickly evaluated after being filled out by students. It shows that students in many cases do not realise the scope of the published information, which in the end can be used for their abuse, extortion or duress. It is, thus, necessary to communicate more with teachers and students about security of using websites and applications or sharing personal data. While conducting educational activities, the Centre comes across situations when the teachers themselves claim that it is their first time get more information about the issue of cyberbullying. They are often surprised when seeing how many risks can rise online and, based on the Centre's recommendation, they accept the need to communicate with students on this topic more openly.

In many cases, upon identifying incidents of cyberbullying, schools invite the Centre's lecturers to a debate with students as a form of prevention and an opportunity to present these issues by external experts, expecting the necessary respect and better understanding of the situation by the students. At the end of each activity, the Centre screens a video aimed at

cyberbullying in online space called “Say NO”, which was made by the European Police Office in cooperation with the Police Corps of the Slovak Republic for educational and prevention purposes, since students do not have all the necessary information about some forms of criminal conduct committed online.

All of the Centre’s activities on the topic of bullying and cyberbullying focus on children’s rights. The Centre warns that despite that, one-time educational activities in schools have their purpose, it is necessary to devote systematic attention to communicate with students and observe changes in their behaviour from the very start of the problem in order to prevent and eliminate bullying and cyberbullying. Continuous monitoring of bullying and cyberbullying cases, thorough observation of the situation and establishing a set of rules in each school can prevent occurrence of severe aggressive forms of behaviour, before the bullying and cyberbullying is expressed in more serious degrees.

The Centre believes that awareness raising and education of students, teachers and parents is one of the key principles of adequate prevention and regulation of a culture for potentially safe school environments. Risks arising from the use of Internet and mobile applications can be eliminated by limiting the use of cell-phones at education, not only by shutting them off but also through their collection by teachers before start of school the school day. As an example of good practice, the Centre highlights the project bezinternetu.sk.⁶⁸

The Centre recommends the schools to create a manual on the issues of bullying and safe Internet use, as part of their strategy for eliminating bullying and cyberbullying.

3.2 Research of the Centre on “Bullying and Cyberbullying in Schools”

Both children and teachers have their rights – the right of students to have a safe studying environment at school and the right to live without humiliation and fear, the right of teachers for adequate working conditions, the protection of personal freedom and the right to respect for human dignity. When securing safe school environment and creating positive environment at school, the key factors are prevention, resolution and limitation of bullying and cyberbullying. Bullying and cyberbullying, of greater or smaller degree, is a long-term but often hidden problem for most schools and its monitoring is not easy. There are more and more reports of aggressive behaviour of students towards teachers and bullying and cyberbullying of teachers.

⁶⁸ Civic association eSlovensko, the project “without Internet”. Available at: bezinternetu.sk/

In the academic year 2017/2018, the Centre conducted a descriptive research “Bullying and Cyberbullying in Schools”⁶⁹, with main goals to:

- 1) Collect information on the current situation in the spread of bullying and cyberbullying among children as well as on occurrences of aggressive behaviour, bullying and cyberbullying of teachers by students and their parents,
- 2) Based on the data collected, to identify the most serious problems and compare results with the findings of various national and foreign researches and programmes related to this issue.

A questionnaire-based survey was conducted with 2 895 respondents, students of the second degree of elementary schools, 8-year middle schools and secondary schools, including 145 teachers from all over Slovakia.

The research assessed the current situation in the prevalence of bullying and cyberbullying among students, its most common forms and the level of awareness of children about its prevention and resolution. The research included the assessment of existence, forms and expressions of violent behaviour, bullying and cyberbullying against teachers by the students and their parents and relatives.

The results undeniably showed that bullying and cyberbullying has spread at our schools and even has increased compared to the findings of older research.

More than half of all respondents confirmed the spread of bullying, which is a serious discovery. Around 56 % of elementary school students, 50,8 % of 8-year middle school students and 44,8 % of secondary school students confirmed experience with frequent or irregular bullying. Only 21,2 % of children have never come across bullying. More than a quarter of all students (28,6 %) claim that they were a direct victim of bullying. Therefore, personal experience with bullying was confirmed by every third to every fourth student (in 2006, it was 3,8 % of respondents). From the perspective of gender, girls and women are victims of bullying more often (32,1 %) than boys and men (25,5 %).

Elementary and secondary school teachers from all regions of Slovakia were a subject of the second part of the research. The spread of violent and problematic behaviour from children was confirmed by more than half of teachers (51,73 %), regardless of the school type, sex, gender and extent of practice. It is obvious that women are assaulted more often than men are.

⁶⁹ Available in Slovak at: www.snslp.sk/CCMS/files/%C5%A0ikana_a_kyber%C5%A1ikana_2018.pdf

One of the positive findings of the research can be mentioned is that the spread of bullying and cyberbullying at our schools does not attain to an epidemic, which is being reported by foreign media and researchers. Research on bullying and cyberbullying conducted by the Centre at elementary schools and secondary schools confirmed the findings of other researches, i.e. that the spread of a socially pathological conduct is common in our environment as well. Even though the situation in Slovakia is not as alarming as in many western countries, the main findings are concerning.

The Centre warns that in terms of awareness raising among students and their legal guardians, there are shortcomings and room for further education and intensive cooperation between schools and parents. Better knowledge about prevention of child aggression, the risks of cyberspace and the need for thorough control and Internet regulation are crucial.

3.3 Activities of the State School Inspection in the area of bullying and cyberbullying in schools

Safe school environment and prevention of negative patterns in students' behaviour play a particular role in strengthening respect for fundamental rights and freedoms guaranteed under the European Convention on the Protection of Human Rights and Fundamental Freedoms and the Convention on the Rights of the Child and while preparing children for a responsible life in a free society in the light of understanding and tolerance. With the rise in violent behaviours, bullying and cyberbullying in schools, the requirements for activities of SSI increase. Its mission is to conduct inspections, which include inspections of schools and educational facilities and complaints handling and investigation.

The Centre approached SSI with a request for information related to the findings concerning the spread of bullying and cyberbullying in 2018 and their prevention and resolution.

Within complex inspections, SSI distributed a questionnaire in 62 schools, with 2 972 respondents from students of 5th to 8th year of the second grade. The findings show that almost one-fifth (19 %) of the students has become a victim of bullying at school multiple times. The most common forms of bullying were humiliation, insulting, mocking, threats, cursing,

followed by assault, fighting, kicking and abuse. Around 6 % of children, who were victims of or witnessed bullying, claim that it occurred via the Internet or a mobile phone.⁷⁰

In 2018, SSI received 22 complaints concerning bullying. Out of these, 19 occurred in elementary schools, 2 in secondary schools and 1 in a vocational school. Out of the total number, 9 complaints were investigated (8 in elementary schools, 1 in a secondary schools), while 5 were eligible (all in elementary schools).⁷¹ Since aggressors of bullying are students, the complaints cannot be investigated within the complaints handling function.⁷² In general, complaints directed against schools show that bullying is not properly addressed at schools. The difference between the number of the received and investigated complains is caused by the fact that anonymous complaints or complaints received via email without a qualified electronic signature and authorization are put aside (if not signed by the complainer within 5 days). As stated by SSI, if the complaints that are put aside include serious accusations, they become a ground for a school inspection.

In the academic year 2017/2018, SSI focused on identifying safe school environment for students in elementary schools and secondary schools.⁷³ Within complex inspections, a questionnaire was distributed at 25 secondary schools (14 secondary schools and 11 vocational schools) and was filled out by 1 287 students. Altogether 8,1 % of respondents confirmed that they were bullied (7,5 % in secondary schools and 8,8 % in vocational schools). The most students, who confirmed that they were victims of bullying (15,1 %) come from the Banská Bystrica Self-Governing Region. The number of students, who confirmed that they were victims of bullying and cyberbullying by mobile phone or at the Internet (10 %) was higher at secondary schools than at elementary schools. SSI did not monitor bullying against teachers.⁷⁴

In case of discovering bullying in a school, SSI recommends the school to adopt measures aimed at increasing the safety of school environment. For example *“to conduct effective monitoring and investigation of negative factors in student behaviour and signs of bullying; to identify sources of socio-pathological events and apply effective measures aimed at weakening their influence; to ensure thorough revisions of school rules by inviting all relevant groups to participate in creation of the educational processes; to cooperate with them*

⁷⁰ Statement of SSI to the request of the Centre of 24 January 2019.

⁷¹ Statement of SSI to the request of the Centre of 24 January 2019.

⁷² Article 3 and 4 of the Act No. 9/2010 Coll. on Complaints.

⁷³ Report on the Safety of School Environment and Relationships between the Subjects of Education at Grammar Schools and at Vocational Schools. Available in Slovak at:

www.ssiba.sk/admin/fckeditor/editor/userfiles/file/Dokumenty/SPRAVY/2018/1311_1413_Bezp_skol_prostredi_a_17_18.pdf

⁷⁴ Statement of SSI to the request of the Centre of 24 January 2019.

*to identify and eliminate various negative factors at schools, to use effective alternative channels for raising awareness of students about obligations arising from the school rules; to lead students towards understanding the content and respecting the adopted rules”.*⁷⁵ SSI thoroughly monitors acceptance and implementation of the imposed recommendations by schools.

The Centre welcomes the SSI’s devotion to monitor safe school environment at elementary schools and secondary schools in the academic year 2017/2018. The findings confirmed the current need for systematic monitoring and elimination of this serious socio-pathological issue.

According to the findings of SSI, investigation of the complaints submitted against schools proves an upsetting reality that bullying is not being properly addressed.

Recommendations

The Centre recommends that:

Schools, founders of schools and school facilities:

6. Ensure the monitoring bullying and cyberbullying at schools and help coordinators of prevention, class teachers and other teachers with the prevention, detection, elimination and resolution of these forms of violence among students or against teachers.
7. In accordance with the Regulation of the Ministry of Education No. 36/2018 on Prevention and Resolution of Bullying, draft a respective strategy and an internal regulation of a headmaster on the prevention and resolution of bullying of pupils, which would take into the account specifics of the school, publish it as a part of school rules and ensure that all school employees, students and parents are familiarised with it.
8. Pay special attention to the issue of cyberbullying and safe usage of computers and the Internet as well as systematically teach pupils about Internet security.
9. Support and ensure further education for teachers in the field of information and communication technologies, Internet security as well as prevention and resolution of cyberbullying.
10. Inform parents at the parents’ meetings about manifestations and consequences of bullying and cyberbullying, Internet security rules and about the school rules that are

⁷⁵ Statement of SSI to the request of the Centre of 24 January 2019.

currently applicable in such situation. Familiarise parents with sanctions and the approach of school to incidents of bullying and cyberbullying and inform them about the importance of cooperation with family in prevention and resolution of this phenomenon.

The State School Inspection when carrying out complex inspection at schools:

3. Pay attention to including prevention and resolution of bullying and cyberbullying in accordance with the regulation of the Ministry of Education No. 36/2018 in internal materials of schools and to its implementation in practice.
4. Supervise application of concrete rules and methodologies set by the school rules in the field of prevention and resolution of bullying and cyberbullying.



4 Implementation of the 2030 Agenda for Sustainable Development in Slovakia

In general, the Agenda 2030 is considered as a global action plan for development and prosperity of a humankind. It was adopted by the resolution of the UN General Assembly No. A/Res/71/1 on 25 September 2015. Through this resolution, the UN member states committed themselves to achieve sustainable development on a global level by 2030 in three dimensions – economic, social and environmental.⁷⁶

It is a set of seventeen goals of sustainable development known under the abbreviation “SDGs” and 169 partial goals in the field of:

- eradication of poverty (goal No. 1),
- food security (goal No. 2),
- health (goal No. 3),
- inclusive education (goal No. 4),
- gender equality (goal No. 5),
- water and sanitation (goal No. 6),
- contemporary energy (goal No. 7),
- economic development (goal No. 8),
- infrastructure and industry (goal No. 9),
- inequalities among countries (goal No. 10),
- sustainable livelihoods (goal No. 11),
- consumption and production (goal No. 12),

⁷⁶ Resolution of the United Nations General Assembly No. A/Res/71/1 of 25 September 2015.

- climate change (goal No. 13),
- underwater life (goal No. 14),
- protection of land and forests (goal No. 15),
- justice and rule of law (goal No. 16),
- global partnerships (goal No. 17).⁷⁷

The 2030 Agenda has been built on the pillars of the UN millennium development goals known as “MDGs”, which were adopted by the UN Millennial Declaration at the UN General Assembly on 8 September 2000. This declaration included 8 goals and 60 targets that focused predominantly on sustainable development in the field of elimination of poverty, elementary education, gender equality, child mortality, health of mothers and pregnant women prevention and elimination of HIV and AIDS, sustainability of environment and global partnerships.⁷⁸ Implementation of the UN Millennium Development Goals was carried out in developing UN member states until 2015.

Despite the fact that both agendas share common elements, these are two separate concepts. It can be concluded that the 2030 Agenda is strategic and more ambitious than the UN Millennial Development Goals. The basic differences between the 2030 Agenda and the UN Millennium Development Goals are:

- The 2030 Agenda is universal, and therefore it is implemented by all UN member states regardless the stage of development. It does not concern only the developing countries, as was a case of the UN millennium development goals.
- The 2030 Agenda is transformative and exceeds the traditional model of sustainable development, which was a basis for defining the UN Millennium Development Goals.
- The 2030 Agenda is universal and, in comparison to the UN Millennium Development Goals, it focuses on economic, environmental and social aspects of the development of inclusive and prosperous communities living in peace.

The basic determinant of proper, efficient and timely implementation of the 2030 Agenda is creating partnerships among the UN memberships that are responsible for its implementation and other entities such as non-governmental organisations, chambers, academia, trade unions, and human rights institutions. The 2030 Agenda should not be only implemented on an institutional level, i. e. through adoption of legislation or state policy, but other subjects, which play an important role in forming the society or in economic development, should also implement it.

⁷⁷ Available at: sustainabledevelopment.un.org/sdgs

⁷⁸ United Nations Millennium Declaration (A/Res/55/2) of 8 September 2000.

4.1 The 2030 Agenda and human rights

Almost 92% of sustainable development goals directly or indirectly reflects the content of individual human rights codified on international or national level. A table depicting explicative number of human rights and their links to the 2030 Agenda can be found below.

Table No. 2: Interlinks between the 2030 Agenda and human rights

Human Right	The 2030 Agenda Goal	National Legislation
the right to health	Ensure healthy lives and promote well-being for all at all ages (goal No. 3)	“Everyone shall have the right to protection of his or her health. The citizens shall have the right to free health care and medical equipment for disabilities on the basis of medical insurance under the terms to be laid down by a law.” (Constitution of the Slovak Republic (hereinafter referred to as the “the Slovak Constitution“), Article 40)
the right to education	Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all (goal No. 4)	“Everyone shall have the right to education. School attendance is compulsory. A law shall lay down the length of attendance.” (the Slovak Constitution, Article 42)
the right to equal treatment	Achieve gender equality and empower all women and girls (goal No. 5)	Adherence to the principle of equal treatment shall lay in the prohibition of discrimination on the grounds of sex, religion or belief, race, nationality or ethnic origin, disability, age, sexual orientation, marital or family status, colour, language, political affiliation or other conviction, national or social origin, property, gender or any other status or on grounds of reporting of

		crime or any other wrongdoing.” (the Antidiscrimination Act, Article 2)
the right to work	Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all (goal No. 8)	“Everyone shall have the right to choose his or her profession and appropriate training freely, as well as the right to conduct entrepreneurial or other gainful activity.” (the Slovak Constitution, Article 35)
the right to clean environment	Take urgent action to combat climate change and its impacts (goal No. 13)	“Everyone shall have the right to favourable environment.” (the Slovak Constitution, Article 44)

The individual sustainable development goals are not directly drafted in human rights language. In case of discrepancies or imbalances, it is important that the individual targets be interpreted in light of international human rights protection. Those targets of the 2030 Agenda, whose implementation depends mostly on the national legislation of individual UN member states, which may be in contradiction with international human rights standards, can serve as an example. For instance, the target No. 5.a concerning economic rights of women, target No. 16.10 concerning right to access information, target No. 16.2 concerning prohibition of torture.⁷⁹ The role of human rights protection is not implicitly given in the 2030 Agenda, but the human rights based approach is the corner stone of the Agenda’s framework. Even the motto of the Agenda is – “*leave no one behind*”. It is a direct link to application of the principle of equal treatment and to strengthening the commitments of individual states to support and protect human rights of all regardless of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability or other status.⁸⁰

Sustainable development has been for many years seen only through the lenses of the environment protection (mostly through decreasing emissions, recycling etc.). The 2030 Agenda successfully disrupts this view of sustainable development thanks to its three-dimensional structure. On the international level, it can be seen that more and more human rights entities are interested directly in implementing or monitoring the implementation of the 2030 Agenda (e.g.

⁷⁹ Office of the United Nations High Commissioner for Human Rights: “Transforming our world: Human rights in the 2030 Agenda for Sustainable Development”, available at: www.ohchr.org/Documents/Issues/MDGs/Post2015/TransformingOurWorld.pdf.

⁸⁰ Resolution of the United Nations General Assembly No. A/Res/71/1 of 25 September 2015.

national human rights institutions, equality bodies, ombudspersons etc.). Yet, the participation of these subjects on institutional implementation of the 2030 Agenda stagnates.⁸¹

Establishing strategic partnerships and implementation of the 2030 Agenda by the widest range of public and private stakeholders as well as paying special attention to human rights aspects of this global policy would significantly improve the process and results of its implementations.

4.2 Implementation of the 2030 Agenda in Slovakia

In March 2016, the Government and its Resolution No. 95/2016 initiated the process of implementation of the 2030 Agenda in Slovakia. The public body responsible for the coordination of the implementation of the 2030 Agenda in Slovakia is the Office of the Deputy Prime Minister for Investments and Informatisation of the Slovak Republic (hereinafter referred to as the “Office of the Deputy Prime Minister”).

4.2.1 Council of the Government of the Slovak Republic for the 2030 Agenda for Sustainable Development

The Government also established a special expert, advisory, coordination and initiative body for the issues related to implementation of the 2030 Agenda and especially for sustainable regional and territorial development in national as well as international environment⁸² – the Council of the Government of the Slovak Republic for the 2030 Agenda for Sustainable Development (hereinafter referred to as the “Council for the 2030 Agenda”).

The Council for the 2030 Agenda has two chambers:

1. governmental, composed of representatives of public bodies and institutions, and
2. non-governmental, composed of representatives of non-governmental sector, business environment and academia.

According to information provided by the Office of the Deputy Prime Minister, at the first stage, ministers responsible for key areas of implementation of the 2030 Agenda as well

⁸¹ Information provided by the Equinet by an email of 21 January 2019.

⁸² Statute of the Council of the Government of the Slovak Republic for the 2030 Agenda for Sustainable Development, Article 2.

as representatives of private umbrella organisations from business, academia and non-governmental sectors were chosen as members of the Council for the 2030 Agenda. After reviewing the statute, the number of memberships increased by other ministries, representatives of Government councils mandated in the related fields and representatives of the Office of the Government of the Slovak Republic, trade unions and territorial self-governments.⁸³

There is only one representative overseeing the application of human rights based approach and other human rights aspects in the Council for the 2030 Agenda. The Council of the Government of the Slovak Republic for Human Rights, National Minorities and Gender Equality nominated this representative. When seeking the possibility for the Centre to become a member of the Council for the 2030 Agenda, the Office of the Deputy Prime Minister stated that the membership of national human rights institution and equality body was not desirable due to the large amount of members of the non-governmental chamber of the Council for the 2030 Agenda. The Centre was subsequently offered the membership in the Working Group for Implementation of the 2030 Agenda for Sustainable Development and preparation of the National Investment Plan for the years of 2018 – 2030 (hereinafter referred to as the “Working Group”). In its structure, the Working Group reflects the structure of the Council for the 2030 Agenda and has two chambers – non-governmental and governmental. Together, there are 61 members, out of which 19 represent governmental chamber and 42 represent non-governmental chamber, including the Centre.⁸⁴ Only 14 % of the entities, which are members of the Working Group, are directly or indirectly active in the field of promotion and protection of human rights.

Despite the higher representation of entities working in the field of protection and promotion of human rights in the Working Group, the Centre is concerned by the overall number of human rights representatives and considers it insufficient. According to the information provided by the Office of the Deputy Prime Minister, the office still considers new application for membership in the Council for the 2030 Agenda⁸⁵. However, it is not known what type of entities are being considered for members of the Council for the 2030 Agenda.

4.2.2 Process of adaptation of the 2030 Agenda

The 2030 Agenda is a three-dimensional global policy. In addition, despite that, almost

⁸³ Statement of the Office of Deputy Prime Minister for Investments and Informatisation to the request of the Centre of 17 January 2019.

⁸⁴ Ibid.

⁸⁵ Ibid.

all sustainable development goals are directly or indirectly interlinked, it is not possible for Slovakia to implement all sustainable development goals and their targets in respective time framework, i.e. by 2030. Due to this, the implementation of the 2030 Agenda in Slovakia has started by its adaptation for the needs of the Slovak Republic. The aim of the adaptation was to set national priorities of implementation of the Agenda 2030, which would be specific, measurable, achievable and relevant for Slovakia.

The basic document of the process of adaptation is a document named “Starting points of preparation of national priorities of implementation of the 2030 Agenda”.⁸⁶ Its author, the Department of Prognosis of the Slovak Academy of Sciences, set the following five national priorities for implementation of the 2030 Agenda based on the global position of Slovakia and relevant national strategies and policies:

1. Sustainable economic growth at aging population and in the changing global environment (sustainable development goals No. 7, 8, 9, 10 and 12),
2. Education for sustainable development (sustainable development goals No. 4, 8 and 10),
3. Health and quality of life (sustainable development goals No. 3 a 10),
4. Sustainable livelihoods and country in the context of changing climate (sustainable development goals No. 6, 7, 11, 13 and 15),
5. Elimination of poverty and social inclusion (sustainable development goals No. 1, 2 and 10).

In respect to the national priorities of implementation of the 2030 Agenda, Office of the Deputy Prime Minister organised a participatory process, which consisted of multiple meetings with stakeholders in form of round tables organised by a contracted civil society organisation (PDCS, o.z.)⁸⁷ in Bratislava and individual regions of Slovakia. The participatory process took place from March 2018 to May 2018 and from the 250 invited subjects, 148 representatives of non-governmental sector, self-governing regions, chambers, business environment and academia took part in it.⁸⁸ The most important outcome of the participatory process was the extension of the number of national priorities for implementation of the 2030 Agenda by a new national priority – No 6. Rule of law, democracy and security (sustainable development goal No 16).

In June 2018, the Government adopted all six national priorities for the implementation of the 2030 Agenda and subsequently, these priorities were presented in a form of national

⁸⁶ Department of Prognosis of the Slovak Academy of Sciences: “Starting points of preparation of national priorities of implementation of the 2030 Agenda” (2016).

⁸⁷ Available in Slovak at: www.pdcs.sk/sk/

⁸⁸ Statement of the Office of Deputy Prime Minister for Investments and Informatisation to the request of the Centre of 17 January 2019.

voluntary review report⁸⁹ in the UN at the High Level Political Forum on Sustainable Development in New York. This report is made by the UN member states as a part of a control mechanism on the fulfilment of sustainable development goals of the 2030 Agenda. The forum also serves as a platform for exchange of good practices and challenges faced by the implementing UN member states. In general, it can be concluded that the national voluntary review report should include the wide range of information on the progress made in the implementation of the 2030 Agenda on the national level taking also into consideration the conditions of the UN member state submitting the report in question. Therefore, the report should include individual measures that were carried out to implement the 2030 Agenda and their respective results. Particular attention has been paid to this aspect in the recent years, as in 2018, it has been already three years since the adoption of the resolution of the UN General Assembly on the 2030 Agenda. Therefore, it is expected that individual UN member states already appropriately adapted the 2030 Agenda on the national level and have started to implement it. Unfortunately, in July 2018, the Slovak Republic was not in the process of implementation of the 2030 Agenda yet. At that time, only national priorities of the implementation of the 2030 Agenda were set. However, those priorities did not include any particular specific, achievable and measurable measures for its implementation.

The Centre concludes that despite the quick process of the adaptation of the 2030 Agenda and participatory process, which resulted in the set of national priorities of implementation of the 2030 Agenda, the Slovak Republic lags behind in its implementation. In this respect, it can be concluded that the national voluntary review report of the Slovak Republic presented at the High Political Forum on Sustainable Development in New York did not show the elementary characteristics of a report of this kind. It was rather a presentation of a preliminary proposal of the upcoming implementation of the 2030 Agenda in the Slovak Republic.

4.2.3 National Investment Plan of the Slovak Republic for the Years 2018 – 2030

V In September 2018, the Government adopted the National Investment Plan of the Slovak Republic for the Years 2018 - 2030 (hereinafter referred to as the “NIP”), which can be perceived as an inter-departmental integrated strategy defining the priority topics and key programmes until 2030. These are recorded by indicative projects, through which a new

⁸⁹ Available at: www.vicepremier.gov.sk/wp-content/uploads/2018/10/20131Agenda2030_VNR_Slovakia.pdf

economic, social, and environmental infrastructure will be built. Respectively through which the the already existing structure should improve.⁹⁰

The NIP divides key programmes and projects into ten priority sectors, such as transportation, energy, informatisation, electronic communication, education, research and innovations, healthcare, environment, forestry and agriculture, social inclusion and employment, and regional development.⁹¹ The Centre is concerned by the fact that the pilot version of the NIP approved by the Government does not reflect the results of the participatory process since the implementation of sixth national priority – Rule of Law, Democracy and Security (sustainable development goal No. 16) is missing. The pilot version of the NIP implements the sustainable development goals No. 16 only through the priority sector “Informatisation and electronic communication” in a form of a projects focusing on optimisation, modernisation and ensuring better electronic services and the governmental cloud.⁹² The participants of the participatory process concerning the national priority No. 6 – Rule of Law, Democracy and Security clearly stated that the sixth priority should have the following content:

- strengthen mechanisms, tools and methods of combating and investigating corruption in the public life,
- strengthen implementation of principles of gender equality and eliminate domestic violence,
- strengthen the independence of public media and ensure access of the public to plural sources of information through efficient rules on prohibition of media concentration,
- improve enforcement of law in all types of judiciary, administrative and other procedures,
- ensure and strengthen access to justice for all, including persons without financial means, persons deprived of their liberty, whistle-blowers and other vulnerable groups with an aim to ensure application of the principles of fair trial,
- strong, transparent, independent and impartial bodies of control, inspection and investigation.

The Centre critically concludes that the current version of the NIP reflects the characteristics of the sixth national priority – Rule of Law, Democracy and Security to the

⁹⁰ National Investment Plan of the Slovak Republic for the Years 2018 -2030, p. 4, available in Slovak at: www.enviroportal.sk/eia/dokument/275308?uid=abfa709f2e12c973a51f3d03109d49fbab15e396

⁹¹ Ibid.

⁹² Ibid, p. 19.

minimal extent possible.

Recommendations

The Centre recommends that:

1. The Government and the Office of the Deputy Prime Minister engage more representatives of human rights organisations to the Council of the Government of the Slovak Republic for the 2030 Agenda for Sustainable Development.
2. The Office of the Deputy Prime Minister raise awareness about the process of implementation of the 2030 Agenda for Sustainable Development in Slovakia and increase efficiency of the participatory process for drafting the Visions and Strategies of the Development of Slovakia until the Year 2030 by ensuring stronger participation of civil society representatives on the process of implementation without further delay.
3. The Office of the Deputy Prime Minister and the for the Council of the Government of the Slovak Republic for the 2030 Agenda for Sustainable Development take all necessary steps for inclusion of the national priority No. 6 – Rule of Law, Democracy and Security into updated version of the National Investment Plan of the Slovak Republic for the Years 2018 - 2030 in the scope discussed during the participatory process, which took place between March and May 2018.



5 Business and Human Rights

The concept of business and human rights can be defined as complex relations resulting from human rights violations or protection by business entities (companies) when conducting their business activities. It concerns relations between state as the main duty bearer in human rights protection, business entities as subjects responsible for respecting human rights and individuals or communities as rights holders, as well as other subjects, e.g. national human rights institutions, business associations, trade unions, non-governmental organisations, media etc.⁹³

In 2011, the UN Human Rights Council adopted the so-called UN Guiding Principles on Business and Human Rights (hereinafter referred to as the “UN Guiding Principles”) by Resolution No. 17/4. The UN Guiding Principles are not legally binding and regulate business and human rights with particular attention to the following three main aspects:

- duty of the state to observe, protect and fulfil human rights,
- obligation of businesses to respect all legal norms, including those regulating human rights protection,
- right of an individual to remedy in case of violation of human rights.

These three aspects form the three-pillar structure of the UN Guiding Principles. One of the main characteristics of this structure is that it applies to all states and business entities, including transnational corporations, regardless of their size, industry, location, ownership and structure.⁹⁴

⁹³ Babačová B., Pavlíčková Z.: Podnikanie a ľudské práva: úvod do problematiky, Bratislava: Slovenské národné stredisko pre ľudské práva, 2018. ISBN: 978-80-89016-98-3, p. 6.

⁹⁴ UN Guiding Principles on Business and Human Rights, Available at: www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr_eN.pdf (accessed on 26 February 2019).

Regulation of human rights impact of businesses and their operations is also subject to other international documents adopted at regional level, mainly the Council of Europe Recommendation of the Committee of Ministers to Member States CM/Rec(2016)3 of 2 March 2016 on Human Rights and Business (hereinafter referred to as the “Council of Europe Recommendation”)⁹⁵ and the Organisation for Economic Cooperation and Development Guidelines for Multinational Enterprises⁹⁶ (hereinafter referred to as the “OECD Guidelines”).

The main documents in the area of business and human rights share the same value, an effort to mitigate and prevent negative and harmful impact of business activities on realisation of human rights. On the other hand, many of their provisions as well as form of adoption and implementation significantly differ. Basic comparison of the UN Guiding Principles, the OECD Guidelines and the Council of Europe Recommendation can be found below.

Table No. 3: Comparison of the UN Guiding Principles, the OECD Guidelines and the Council of Europe Recommendation⁹⁷

UN Guiding Principles	OECD Guidelines	Council of Europe Recommendation
universally accepted at the UN level with 193 member states	accepted at the OECD level with 36 member states covering various regions of the world	accepted at the Council of Europe level with 47 member states from across wider Europe
adopted in 2011	adopted in 1976	adopted in 2016
regulate predominantly business and human rights	regulate predominantly responsible conduct of business with business and human rights aspects	regulate predominantly business and human rights
general regulation of business and human rights	brief general and partly specified regulation of business and human rights	general and specific regulation of business and human rights
concern all types of business entities	concern mainly multinational enterprises	concerns all types of business entities
do not include a separate complaints mechanism	include a separate complaints mechanism – national focal points for OECD Guidelines	does not include a separate complaints mechanism

⁹⁵ Recommendation CM/Rec(2016)3 of 2 March 2016 of the Committee of Ministers to member States on human rights and business. Available at: search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c1ad4 (accessed on 26 February 2019).

⁹⁶ OECD Guidelines for Multinational Enterprises. Available at: www.oecd.org/investment/mne/1922428.pdf (accessed on 26 February 2019).

⁹⁷ Babačová B., Pavlíčková Z.: Podnikanie a ľudské práva: úvod do problematiky (2018, SNSLP) ISBN: 978-80-89016-98-3, p. 17.

not regularly updated	regularly updated (most recently in 2011)	not regularly updated
do not refer to any related soft law	do not refer to any related soft law	explicitly refers to the UN Guiding Principles

Slovakia has so far implemented only the OECD Guidelines. Neither the UN Guiding Principles nor the Council of Europe Recommendation have been implemented and the Slovak Republic has not undertaken any steps towards their implementation. The OECD Guidelines represent the most comprehensive set of recommendation for the area of responsible business adopted by OECD. They were adopted in 1976 as part of the OECD Declaration on International Investment and Multinational Enterprises. Since adoption, the OECD Guidelines have been amended and supplemented five times. The most recently, in 2011, a new chapter on human rights has been introduced, which integrates responsibility of businesses to respect human rights as laid down in the UN Guiding Principles.⁹⁸ The OECD Guidelines were implemented by the Government in 2016, when a National Focal Point for the OECD Guidelines (hereinafter referred to as the “Focal Point”) was established upon Decision of the Minister of Economy of the Slovak Republic No. 13/2015.

The Focal Point was established at the Ministry of Economy as a collective working body to secure effective implementation of the OECD Guidelines.⁹⁹ In 2018, its operation and activities were fulfilled by five employees at the Unit of Bilateral Trade Cooperation.¹⁰⁰

Under Article 3 of the Statute of the Focal Point, the Focal Point consists of 11 members, mainly representatives of ministries, banks, employers and trade unions. Non-governmental organisations are represented by one member, a representative of the Government Council of the Slovak Republic for Non-Governmental Organisations. The role of the Focal Point is to participate at awareness raising on the OECD Guidelines and resolve specific cases concerning application of the OECD Guidelines. Thus, the Focal Point can be characterised as a complaints mechanism, which can be addressed by multinational enterprises concerning violations of the OECD Guidelines in Slovakia or violations of the OECD Guidelines by Slovak entities. The range of entitled subject is problematic, since it is not clear, which business entity shall be considered a multinational enterprise. There is no established legal definition of a multinational enterprise in the Slovak legal system or at the international level. According to the OECD

⁹⁸ OECD: Responsible business matters, p. 3, available at: mneguidelines.oecd.org/MNEguidelines_RBCmatters.pdf (accessed on 6 March 2019).

⁹⁹ Statute of the Focal Point of 18 January 2016, Art. 1. Available at: www.economy.gov.sk/uploads/files/skdt2aX5.pdf (accessed on 26 February 2019).

¹⁰⁰ Statement of the Ministry of Economy to the request of the Centre of 17 January 2019.

Guidelines, these guidelines apply to corporations operating in any sector or economy and comprise various companies or entities established in more than one country and so linked that they may coordinate their operations in various ways.¹⁰¹ It is not precluded that other companies (e.g. national businesses) respect the OECD Guidelines. Such companies, however, do not enjoy access to the Focal Point as the individual complaints mechanism. The Centre considers the level of awareness on the OECD Guidelines and the Focal Point as well as the interest of multinational enterprises to participate at their implementation low.

Compared to the UN Guiding Principles and the Council of Europe Recommendation, implementation of the OECD Guidelines has various benefits, e.g. establishment of complaints mechanisms and regular update of their content. It could hence give an impression, that the business and human rights agenda is sufficiently covered by implementing the OECD Guidelines. Notwithstanding shortcomings of implementation of the OECD Guidelines in Slovakia, the Centre believes that exclusive implementation of the OECD Guidelines is not desirable, since the overall regulation of human rights impacts of business activities therein is not sufficient and it is explicitly limited to a small group of entities – multinational enterprises. The Centre strictly inclines to real, effective and participatory dual implementation of the OECD Guidelines together with another international business and human rights regulation. The Centre believes that in order to mitigate negative and harmful impacts on enjoyment of human rights, it would be beneficial for the Slovak Republic to implement the Council of Europe Recommendation alongside the OECD Guidelines, mainly due to the following reasons:

- a) the Council of Europe Recommendation is younger than the UN Guiding Principles and reflects mainly the needs and challenges of the wider European region,
- b) the Council of Europe Recommendation builds on the UN Guiding Principles¹⁰² and calls for their implementation as well as for implementation of the OECD Guidelines¹⁰³,
- c) the Council of Europe Recommendation refers to concrete ways of implementation and calls for the Council of Europe member states to adopt national action plan for business and human rights¹⁰⁴,
- d) the Council of Europe Recommendation pays particular attention to certain vulnerable groups of population, including workers, children, indigenous people, human rights

¹⁰¹ OECD: Responsible Business Matters, p. 3. Available at: mneguidelines.oecd.org/MNEguidelines_RBCmatters.pdf (accessed on 6 March 2019).

¹⁰² Council of Europe Recommendation CM/Rec(2016)3, para. 1-9. Available at: search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c1ad4 (accessed on 6 March 2019).

¹⁰³ Ibid, para. 52-53.

¹⁰⁴ Ibid, para. 10-12.

activists¹⁰⁵,

- e) the Council of Europe Recommendation requests that Council of Europe member states adopt legislation establishing criminal liability of business entities for crimes under international law, such as corruption, human trafficking and sexual exploitation of children.¹⁰⁶

Real and effective implementation of the Council of Europe Recommendation would also directly fulfil the commitment of the Slovak Republic to implement the UN Guiding Principles, improve visibility of the Focal Point and the quality of business environment as well as increase observance of human rights in the Slovak Republic.

5.1 Responsible and sustainable business conduct in Slovakia

While the concept of business and human rights remains quite unknown in Slovakia, the concept of corporate social responsibility is already visible at the national level. At first sight, both concepts may wrongly seem identical. Corporate social responsibility is “a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis”.¹⁰⁷ Thus, the corporate social responsibility is an obligation voluntarily undertaken by the business entity beside its legal obligations. On the other hand, the concept of business and human rights concerns fulfilment of legal obligations – the duty to respect human rights of individuals and groups in such scale as they form part of the Slovak legal order. Hence, the concept of business and human rights lacks the voluntary aspect.

Recently, a concept of sustainability is more frequently used alongside the corporate social responsibility. Sustainability is given more attention since the adoption of the 2030 Agenda by the UN General Assembly in 2015. The success and popularity of sustainability and its monitoring in the business environment is given by the interest of businesses in environmental protection, which was often reflected in relevant activities under the corporate social responsibility. Adoption of measures to mitigate negative and harmful impacts on

¹⁰⁵ Council of Europe Recommendation CM/Rec(2016)3, para. 1-9. Available at: search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c1ad4 (accessed on 6 March 2019).

¹⁰⁶ Ibid, para. 44-46.

¹⁰⁷ European Commission, Green Paper: Promoting a European Framework for Corporate Social Responsibility, COM/2001/0366. Available at: eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52001DC0366 (accessed on 12 March 2019).

enjoyment of human rights, monitoring their success and communication of results to stakeholders and the society remains scarce both at the national and global level.

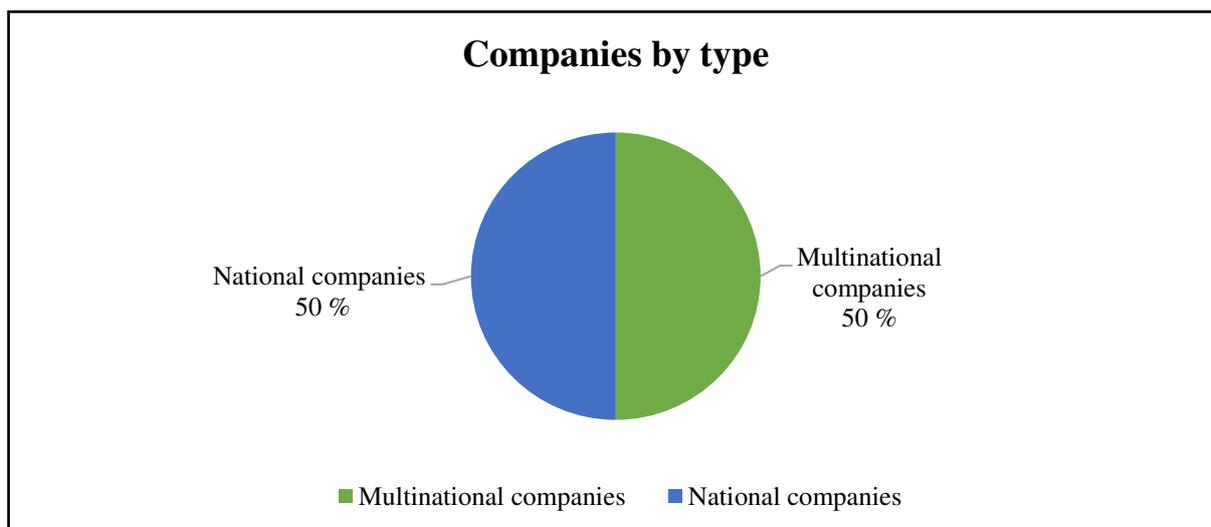
5.2 Survey of policies adopted by business entities in Slovakia concerning corporate social responsibility, sustainability and human rights protection

Within human rights monitoring in preparation of this report, the Centre mapped experience of national and multinational companies operating in Slovakia in relation to corporate social responsibility, sustainability and human rights protection. The Centre randomly selected 100 companies with different legal form conducting business in various sectors and in different forms (private – state-owned). The Centre mainly used publicly available information gathered by the Statistical Office of the Slovak Republic (industry – NACE, size by number of employees)¹⁰⁸ and information published at the selected companies' websites.

The survey sample can be divided by company type – national/multinational, size in terms of number of employees and industry of operation. Concerning company type, the survey sample comprised 50 % multinational companies and 50 % national companies (see graph No. 5). In line with the common definition, multinational companies include all companies whose mother company has domicile or seat outside Slovakia, irrespective of their legal form, ownership, organisation structure or management. These includes daughter companies, establishments, undertakings, as well as limited liability companies, general partnerships and joint stock companies, which are superior or subordinate to a company established outside Slovakia. National companies include those companies that conduct their business exclusively in Slovakia (excluding export of their goods and services), irrespective of their legal form, ownership, organisation structure or management. The requirement was that daughter companies, if the company established them, also have seat in Slovakia. Companies, which have been established in Slovakia but have daughter companies, establishments or undertakings outside Slovakia, classified as multinational companies.

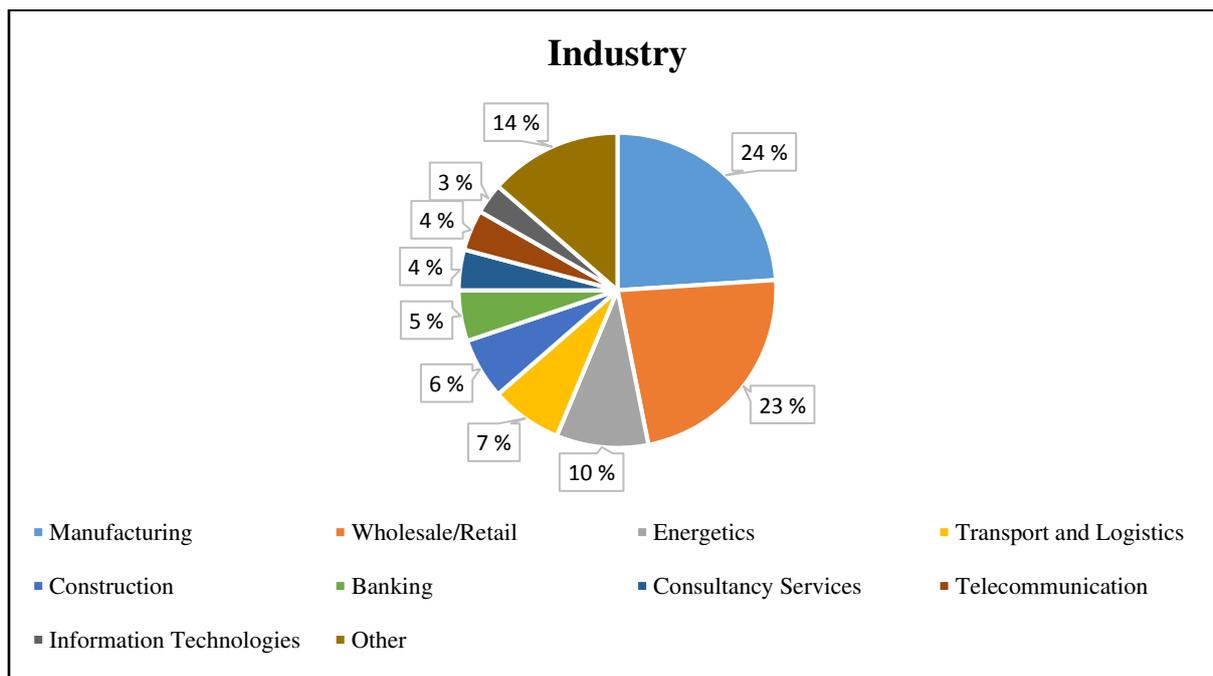
¹⁰⁸ The Centre mainly used data available at the online portal www.finstat.sk.

Graph No. 5: Companies in the survey by type



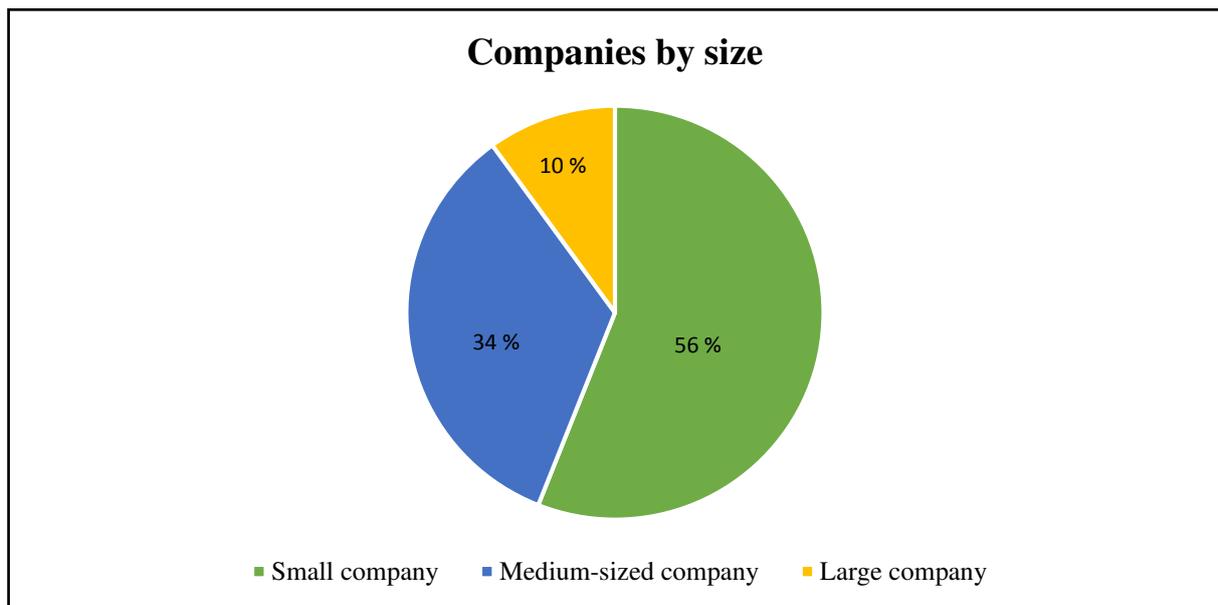
The highest number of companies in the sample were companies operating in manufacturing (25 companies) and wholesale (20 companies). Other industries covered included energetics (10 companies), transport and logistics (6 companies), construction (6 companies), banking (5 companies), consultancy services (4 companies), telecommunication (5 companies), information technologies (3 companies) and other (16 companies). Companies listed among the category “other” conducted business e.g. in the area of sports, arts, insurance, mining, waste management, forest care and gastronomy.

Graph No. 6: Companies in the survey by industry



In terms of company size, the sample can be divided into three categories depending on the number of employees of the company in 2017 – 2018.¹⁰⁹ The first category refers to the so-called small companies and establishments employing from 0 to 1 000 employees. The survey sample covered 56 of such companies. 34 surveyed companies were mid-sized companies employing between 1 001 and 4 000 employees. Finally, 10 companies in the survey were large companies employing more than 4001 employees.

G Graph No. 7: Companies in the survey by size



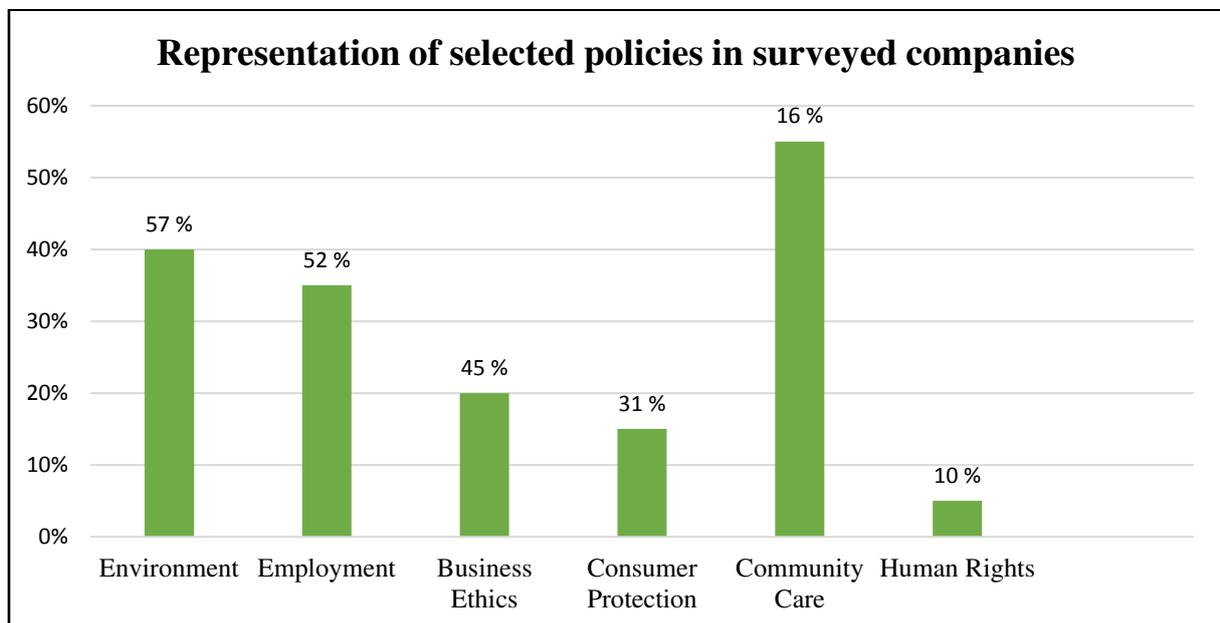
The Centre focused its monitoring on whether the company published its policies in the area of corporate social responsibility, sustainability and human rights. Where such policies were available, the Centre assessed their content and mutual relations. The subject of assessment were activities or commitments in the following areas:

1. environmental protection,
2. employment (e.g. non-discrimination, protection from sexual harassment, safety and health protection at work, training of employees, working conditions and other),
3. consumer protection (mainly quality and safety of goods and services),
4. business ethics (e.g. code of ethics for suppliers and cooperating entities, fight against corruption and others),
5. community work (e.g. philanthropy activities, supporting vulnerable groups, foundations and other),

¹⁰⁹ Data published by the Statistical Office of the Slovak Republic.

6. human rights protection (e.g. political, civil, social and economic rights).

Graph No. 8: Representation of selected policies in the surveyed companies



The graph no. 8 shows that within corporate social responsibility companies in Slovakia mostly prefer philanthropy and charity work. 57 % of the surveyed companies dedicates time to community care, mainly through projects, collections or own foundations. Companies support non-governmental organisations and projects, which are related to their operation or are implemented in the region where the company is located.

Good practice:

Company A established a civil association dedicated to creating conditions for regional development in the region where it operates, especially by supporting various activities in the areas of health care, culture, education and sport.

The second most common policy or commitments in the area of corporate social responsibility are environmental protection policy or commitments. 52 % of the survey sample is active in environmental protection in general or addresses negative environmental impacts of its own business activities.

Good practice:

Company B uses 100 % of wood from sustainable resources in manufacturing and retail and processes the wood in such a way to create the minimum waste. It also cooperates with the World Wide Fund for Nature and other organisations in tackling illegal logging and promoting responsible wood trade.

Protection of rights of employees was the third most represented area. Less than a half of the surveyed companies (45 %) has adopted specific policies protecting the rights and interests of their employees. Most commonly, these policies concern safety and health protection at work, equal opportunities and non-discrimination or work-life balance.

Good practice:

Company C provides a psychological consultancy for their employees in a form of 24/7 hotline, where employees can turn to with mental health issues. The launch of the hotline was promoted by an awareness raising campaign at workplace and other activities, such as workshops, yoga classes etc.

The least three represented policies were those in the areas of business ethics, consumer protection and human rights protection. Human rights protection was the weakest area in the survey, while only 10 % of the surveyed companies include it in their corporate social responsibility portfolio. Many of these policies are very brief and vague. In case they specialise on particular aspects of human rights protection, they mainly reflect the obligation to strictly abide to the prohibition of forced or child labour at workplace or within the company's supply chain. Among the companies that implement human rights policies, most of them operate in manufacturing (70 %), construction (20 %) and wholesale/retail (10 %).

Good practice:

Company D has adopted a separate corporate policy concerning the rights of employees and human rights. In this policy, the company committed to strict rejection of any forced, prison or child labour, discrimination, cruel and inhuman treatment. The company also stated that its employees are remunerated in line with legislation and their freedom of association and the right to collective bargaining are fully respected.

It is alarming that almost one third of the surveyed companies (24 %) does not disclaim

any information about commitments and policies in the area of corporate social responsibility, sustainability or human rights protection at their websites. This concerns both national and multinational companies. The Centre does not conclude that these companies have not adopted such policies, however, it underlines that communication of their results to stakeholders and public is one of the main requirements for their observance and implementation. Publishing the policies adopted benefits their effective communication and implementation.

Based on the data gathered, the Centre reached the following conclusions:

1. a majority of companies publishes at least basic information on their commitments or activities in the area of corporate social responsibility, sustainability or human rights protection,
2. individual companies publish information on corporate social responsibility, sustainability and human rights protection in the form of public commitments or overview of activities in these areas (e.g. projects completed, statistical indicators etc.),
3. individual companies mostly publish information on commitments or activities in the area of corporate social responsibility, sustainability or human rights protection in their annual reports, codes of conduct or as particular sections at their websites,
4. only few companies report on their activities and fulfilment of commitments in the area of corporate social responsibility or sustainability in a separate report,
5. only very few companies specifically address human rights protection in their policies.

5.3 Steps towards effective implementation of business and human rights standards in the Slovak Republic

Slovakia is lagging behind on implementation of international standards in the area of business and human rights, as it has yet only implemented the OECD Guidelines by establishing the Focal Point. In relation to the UN Guiding Principles and the Council of Europe Recommendation, the Slovak Republic has not undertaken any steps towards implementation. Consequently, the regulation of human rights impacts of business activities is limited only to a very narrow range of entities - the multinational enterprises. The Centre advocates for real, effective and participatory dual implementation of the OECD Guidelines and the Council of Europe Recommendation, while the implementation of the Council of Europe Recommendation would also directly fulfil the commitment of Slovakia to implement the UN Guiding Principles.

In order to promote implementation of these international standards, raise awareness on business and human rights among stakeholders, businesses and wider public and provide consultancy in preventing and eliminating negative impacts of businesses on human rights, in 2018, the Centre established a National Focal Point for Business and Human Rights (hereinafter referred to as “NAKOM”). Compared to the Focal Point, NAKOM follows all of the abovementioned international standards and aims its activities to all business entities, irrespective of their size, industry or type, hence not only to multinational corporations.¹¹⁰

Contrary to the concept of corporate social responsibility, businesses do not have sufficient level of awareness on their responsibilities in the area of human rights and relevant international standards in this area. Findings of the mapping conducted by the Centre have shown that only a very small number of companies specifically addresses human rights protection in their internal policies. The Centre believes that systematic state activities aimed at implementation of international standards would contribute to higher awareness and motivation of businesses to analyse impacts of their activities on human rights and adopt measures within their internal policies to prevent, eliminate or mitigate negative human rights impacts. Consequently also improving business environment in Slovakia and observance of human rights.

It is, thus, crucial that the Government implement the Council of Europe Recommendation and the UN Guiding Principles without undue delay. The first step of effective implementation should include national baseline assessment concerning impacts of business activities on human rights. The state shall involve a wide range of stakeholders, including relevant ministries and public bodies (e.g. the Ministry of Economy, the Ministry of Labour, the Ministry of Justice of the Slovak Republic (hereinafter referred to as the “Ministry of Justice”), the Statistical Office of the Slovak Republic, the Slovak Investment and Trade Development Agency etc.), representatives of territorial self-governments, businesses (through representatives of their unions and associations, trade chambers etc.), civil society and organisations active in the area of human rights protection and promotion. Outcome of the baseline assessment shall serve for preparation of the national action plan for business and human rights, in which the Slovak Republic would commit to particular measures to raise awareness on the issue, strengthen protection from negative impacts of business activities on human rights of individuals and communities and establishment of mechanisms for elimination of these impacts.

¹¹⁰ For more information about the status of NAKOM and its activities visit: www.nakom.sk (accessed on 13 March 2019).

Recommendations

The Centre recommends that:

1. The Government implement the Council of Europe Recommendation of the Committee of the Ministers to the Member States CM/Rec(2016)3 of 2 March 2016 on Human Rights and Business without undue delay.
2. The Government implement the UN Guiding Principles on Business and Human Rights adopted by the UN Human Rights Council Resolution No. 17/4 of 2011.
3. The Ministry of Economy, in 2019, adopt measures to improve effectiveness of the National Focal Point for OECD Guidelines and increase awareness on its role and means to resolve specific cases of violations of the OECD Guidelines for Multinational Enterprises.
4. The Government, without undue delay, establish a working group to conduct a national baseline assessment of human rights impacts of business activities in Slovakia, which would allow for participation of the ministries concerned, business entities, representatives of the civil society and organisations for human rights promotion and protection and which would be given the task to prepare a draft action plan for business and human rights.
5. Business chambers, business unions and associations increase awareness of their members on possible impacts of their activities on human rights and motivate the members to adopt internal policies for prevention or elimination of negative impacts of their activities on human rights.
6. Business entities, regardless of their size, type of company and sector of operation, adopt policies for prevention or elimination of negative impacts of their activities on human rights and transparently inform stakeholders and public about their adoption and results.



6 Prevention Responsibility for Tackling Hate Speech in the Society

The Centre annually monitors and assesses incidents of hate speech in the society, paying particular attention to monitoring racist, anti-Semitic or xenophobic hate speech. In its 2017 Human Rights Report, the Centre highlighted the importance of implementation of prevention mechanisms to tackle increasing hate speech.¹¹¹ The Centre identified concrete stakeholders and recommended them to adopt measures in line with international requirements of proactive approach to prevention and elimination of racism, xenophobia and anti-Semitism in the society.

The issue of hate speech was given less space in the previous year compared to other human rights issues, however it remains serious. In this chapter, the Centre addresses institutions and stakeholders, which bear duties in the area of hate speech prevention. The Centre hereby analyses their status, roles and activities conducted in order to reduce unlawful hate speech. The subjects were identified based on their legal mandate and purpose.

Despite written request for information pursuant to Article 1 para. 5 of the Act on the Centre, only two entities approached provided the Centre with the requested information.¹¹²

¹¹¹ See the list of recommendations in Chapter 7 of the 2017 Human Rights Report. Available at: http://snslp.sk/CCMS/files/sprava_2017_eng.pdf

¹¹² In particular the Department of Crime Prevention of the Office of the Minister of Interior of the Slovak Republic and the Slovak Syndicate of Journalists.

6.1 Fulfilment of prevention tasks by the Ministry of Education, Science, Research and Sport of the Slovak Republic

In its 2017 Human Rights Report, the Centre recommended the Ministry of Education to pay more attention to issues concerning education processes of elementary school pupils and high school students. It also recommended the Ministry of Education to adopt measures for school facilities to inform students about negative impacts of hate speech towards members of particular groups of population and to schools and school facilities to adapt their curricula respectively. Another recommendation concerned real and effective cooperation between the Ministry of Education, the Department of Crime Prevention of the Office of the Minister of Interior of the Slovak Republic (hereinafter referred to as the “Department of Crime Prevention”) and units of territorial self-government. The Centre addressed the Ministry of Education with questions about fulfilment of these recommendations, however, the Ministry of Education did not respond to the request.

This fact, together with the minimum publicly available information concerning particular measures in hate speech prevention¹¹³ by the Ministry of Education can be caused by various reasons. One of the main reasons of low level of proactive approach by the Ministry of Education to fulfil tasks in the area of hate speech prevention can be the lack of understanding of the relevance and importance of this issue in realisation of its legal mandate concerning education and upbringing of elementary school pupils and secondary school students. The growing youth is a vulnerable group in terms of increasing hate speech incidents, which is however often underestimated by parents as well as institutions responsible for their upbringing and forming their opinions.¹¹⁴

The Centre welcomes the efforts to provide holocaust education to teachers, although such education itself is not sufficient to fulfil the goals in the area of hate speech prevention. The Ministry of Education and the territorial self-governments bear the primary responsibility in the area of education and upbringing. Proactive approach by the Ministry of Education and territorial self-governments is crucial in adopting measures motivating young people to realise their own attitudes towards nationalities and races. An inevitable part of upbringing is informing and explaining particular characteristics of different cultures and groups of population. The source of

¹¹³ Two newsfeed articles were published at the website of the Ministry of Education in 2018 concerning human rights and fundamental freedoms: www.minedu.sk/ucitelia-sa-opat-mozu-hlasit-do-programu-usa-zameraneho-na-vyucbu-o-holokauste/ and www.minedu.sk/na-pode-ministerstva-sa-rokovalo-o-ludskych-pravach/

¹¹⁴ See: LICHNER, V., ŠLOSÁR, D. a kol.: Extrémizmus a radikalizácia v sociálnych kontextoch. Available in Slovak at: unibook.upjs.sk/img/cms/2018/ff/extremizmus-a-radikalizacia-web.pdf

negative attitudes can often be found in fear, negative personal experience or fear from generalised prejudice-based criminality of a certain group of people identified by nationality or race. In terms of prevention duties, schools are obliged to provide students with information about such ethnicities or nationalities that interest the students or towards which they have the most problematic attitudes. The key element of prevention mechanisms is introduction of the obligation to organise debates at elementary and secondary schools aiming to educate pupils and students in tolerance towards persons of different skin, language or culture.¹¹⁵

Slightly optimistically, the Centre assesses the call for projects by the Ministry of Education called “Prevention of Extremism in 2018” aimed at supporting prevention of extremism among elementary school pupils and secondary school students as well as supporting Holocaust education with special attention to regional history, historical events and universal values, national and regional history, general incidents and particular human stories, Slovak national interests and humanity ideals. Another goal of the call was to provide space for enhanced education and awareness raising for elementary school pupils and secondary school students as well as to promote critical thinking, abilities to see issues in various contexts, steer interest in higher education and to create room for discussion and confrontation of different opinions.¹¹⁶ The timeframe for the project was set between 1 July 2018 and 14 December 2018. The Ministry of Education has probably yet not evaluated the results of the project since closer information is not available. The call for projects seems to be the only response to the Centre’s recommendations, however, it cannot be concluded that the Ministry of Education would have knowledge about the recommendations and consequently published the call. The Centre underlines the need of systematic work towards addressing challenges in prevention and systematic implementation of particular steps aiming to achieve the explicit goals. Publishing the call without providing mid-term information on fulfilment of the goals of the projects is not ideal either. Another example of formalistic approach to tackling extremism by prevention is a publication of the Ministry of Justice from 2017. The publication lacked more public presentation, which would popularise it and contribute to its awareness-raising role.¹¹⁷

¹¹⁵ See: ŠIŠKOVÁ, T.: *Výchova k toleranci a proti rasismu: multikulturní výchova v praxi*. 2nd updated issue. Praha: Portál, 2008, p. 182 – 183.

¹¹⁶ More information is available at: www.vssr.sk/clanok-z-titulky/prevencia-extremizmu-na-rok-2018.htm

¹¹⁷ The content of the publication called “Prevenca nenávisťných a extrémistických prejavov v školskom prostredí” (Prevention of hate speech and manifestations of extremism in the school environment): www.academia.edu/36156082/Prevencia_nen%C3%A1vistn%C3%BDch_a_extr%C3%A9mistick%C3%BDch_prejavov_v_%C5%A1kolskom_prostred%C3%AD, published within the project: Prevention of hate speech and extremist speech – youth in the centre of attention (D200/2017/13).

The Union of Towns and Municipalities did not respond to the request of the Centre concerning implementation of the recommendations addressed in the 2017 Human Rights Report either. Ignorance or failure to fulfil these recommendations can be based on the absence of any publicly available information on cooperation among the stakeholders concerned in the area of promotion of tolerance at schools and the related hate speech prevention, which could contribute to character profiling of a growing individual. The public interest in preventing spread of hate speech in the society requires close cooperation among key stakeholders, including the Ministry of Education or units of territorial self-government, i. e. cities, municipalities and self-governing regions.

6.2 Territorial self-governments and their responsibilities for hate speech prevention

Despite serious lack of awareness of the public, territorial self-governments play an especially important role in tackling radical, extremist or hate attitudes and their public manifestations. Effective inclusive policies aimed at strengthening social cohesion work as the best prevention from radicalisation and inclinations to extremist ideologies.¹¹⁸ Local or regional level hence provides the best preconditions for democratic opinion making and influencing of individuals.

Activities of territorial self-governments in the area of hate speech prevention are not very known to the public. The Centre has conducted a largescale media monitoring concerning activities of territorial self-governments in this area.¹¹⁹ It cannot be automatically concluded that cities, municipalities or self-governing regions would not conduct any activities in the area concerned, however, if they do so, they fail to publicly present and promote such activities. Another shortcoming in the work of territorial self-governments is a low level of cooperation, i. e. the lack of sufficient mutual support among key stakeholders responsible for hate speech prevention and lack of systematic coordination of crucial activities. The Centre agrees with the opinion that the state and territorial self-governments dispose with the most appropriate financial,

¹¹⁸ KRIEGELOVÁ, E., CHUDŽÍKOVÁ, A.: Možnosti samospráv v prevencii radikalizácie – inšpirácie z Nórska. CVEK, 2017, p. 4.

¹¹⁹ The rare output is a notice published at the website of Trstena: www.trstena.sk/prevencia-kriminality-pre-obyvatelov-v-meste-trstena.html

institutional and infrastructural resources in the area of hate crime prevention.¹²⁰ In order to build the so called zero tolerance culture towards hate speech, regular communication among the representatives of territorial self-governments and key representatives of communities, including people living in the cities and municipalities concerned, is crucial. These individuals have the best knowledge of the local environment as well as the authority required. Organisation of educational, cultural, social and sport events at local or regional level concerning tolerance and tackling prejudice towards minorities or foreign or unknown cultures seems to be an appropriate tool for the communities to get to know each other, leading to cohabitation in tolerance and understanding.

Getting to know different cultures and their characteristics is one of the key tools in fighting prejudice and generalisation towards the groups concerned. Intensity of involvement of territorial self-governments must be significantly higher than it has been until now. Territorial self-governments play a key role also in adopting prevention measures. The Centre has, however, not identified any good practice in 2018, which would be publicly presented in media. Journalists and media in general represent another entities bearing primary responsibility for incidents and spreading of hate speech in the society.

6.3 Responsibility of media for radicalisation of the society

The Chairman of the Slovak Syndicate of Journalists (hereinafter referred to as “SSJ”) recognises the responsibility of media for existence of hate speech in the society. The Centre also approached this organisation uniting Slovak journalists with questions concerning the role of media in hate speech prevention. The response of SSJ’s Chairman makes it clear that information provided to public by media are not sensitive enough when it comes to minorities, other cultures or communities.¹²¹

Adoption of the Code of Ethics of a Journalist¹²², endorsed by SSJ and the Association of Press Publishers and Interactive Advertising Bureau Slovakia, is a step forward. One of the primary reasons to adopt the code was the need to respond to growing extremism and hate speech in the society, including as a result of journalists’ work and ways they inform about

¹²⁰ See: KRIEGELOVÁ, E., CHUDŽÍKOVÁ, A.: Možnosti samospráv v prevencii radikalizácie – inšpirácie z Nórska. CVEK, 2017, p. 10.

¹²¹ Statement of SSJ to the request of the Centre of 17 February 2019.

¹²² Code of Ethics of a Journalist, available in Slovak at: www.ssn.sk/eticky-kodex-novinara/, however the wording valid as of 1 January 2011 does not mirror the updated information provided.

topics that are likely to polarise the society. SSJ also informed the Centre about organisation of training activities for journalists, which should include issues concerning response to social problems by journalists. The Centre particularly welcomes the information about organisation of trainings for potential future Roma journalist and establishment of the so-called Club of Roma Journalists under international cooperation.¹²³

The Centre, based on the abovementioned information, repeatedly underlines the mainstream impact of media, which is particularly important in terms of growing levels of radicalisation in the society. In many cases, media inform the public about situations with zero sensitivity, especially when it comes to providing information about criminality caused by minorities. Consequently, when a crime is committed by a white man, this fact is not as highlighted as when the crime is committed by a person of different skin colour, ethnicity or by a foreigner.¹²⁴

Responsibility of media and their irreplaceable role in tackling and preventing hate speech, extremist or radical attitudes, is explicitly stated in the Concept of the Fight against Extremism for the Years 2015 – 2019.¹²⁵ Nevertheless, the public is not aware of implementation reports by media. The Concept explicitly states that active participation of civil society and its actors, including academia, non-governmental organisations, media or citizens, is key for fulfilling its objectives. The Centre conducts a regular media monitoring concerning manifestations of racism, xenophobia and anti-Semitism, hence including hate speech. Report from the media monitoring are published at the Centre's website.¹²⁶ In the monitoring reports, the Centre has repeatedly expressed its concerns about insensitive reporting about social problems often causing polarisation of the society and *de facto* participation at spreading hate speech targeting mainly minorities living in Slovakia. Therefore, the Centre will keep precisely monitoring and assessing measures adopted by media in the area of hate speech prevention.

¹²³ The training was held on 27 – 29 November 2018. More information is available at: www.ssn.sk/19911/seminar-buducich-romskych-novinarov/

¹²⁴ The Centre has opted not to provide links to the particular articles as it concerns a general practice or a practice typical for various media.

¹²⁵ Concept of the Fight against Extremism for the Years 2015 – 2019, available in Slovak at: www.minv.sk/?VRAX&subor=225999

¹²⁶ More information is available at: www.snslp.sk/SnslpWeb.html#menu=1419

6.4 Prevention measures of the Department of Crime Prevention of the Office of the Minister of Interior of the Slovak Republic

The Department of Crime Prevention belongs to key stakeholders in hate speech prevention, especially with regards to those hate speech incidents that can be defined as crime, since a hate speech does not automatically constitute a crime. In its 2017 Human Rights Report, the Centre addressed the Department of Crime Prevention several recommendations, mainly in relation to cooperation with other stakeholders responsible for prevention measures in the area concerned. Despite the recommendations of the Centre, there is no public information about cooperation between the Department of Crime Prevention and the Ministry of Education, media or social network administrators or providers. Although the Department of Crime Prevention responded to the request of the Centre concerning fulfilment of the recommendations, it listed other activities aimed at improving the current state of prevention.

The Centre welcomes the efforts of the Department of Crime Prevention to train police officers, including police officers, investigators and other workers and experts at the Ministry of Interior, on prevention from extremism, xenophobia, racism of other hate speech incidents. In 2018, the Department of Crime Prevention organised several events with international experts in the field.¹²⁷

On the contrary, the Centre is concerned by the level of cooperation among the stakeholders responsible for prevention of hate crime. The Department of Crime Prevention did not provide any information on measures adopting the code of conduct of social media contributors or on cooperation with administrators or providers of social media pages. The Centre calls for the Department of Crime Prevention as well as social media administrators to adopt concrete measures in the area of hate speech prevention with regards to hate speech establishing criminal responsibility. It is equally important that the prevention measures are publicly presented and that the general public is informed about their aims and importance. This can be concluded in general and addressed to all subjects with responsibilities for adopting and proper implementation of prevention mechanisms in practice.

¹²⁷ E.g. organisation of a seminar on better understanding and improving hate crime data collection system or train the trainers event organised by the Office for Democratic Institutions and Human Rights (ODIHR) for law enforcement authorities on hate crime prevention called TAHCLE – “*Training against hate crimes for law enforcement*”. More information is available in Slovak at: www.akademiapz.sk/skolenie-skolitelov-programu-tahcle

Recommendations

The Centre recommends that:

1. The Ministry of Education, the Department of Crime Prevention, territorial self-governments and media pay due attention and implement recommendations of the Centre concerning hate speech prevention.
2. The Ministry of Education, the Department of Crime Prevention, territorial self-governments and media cooperate in the area of prevention against hate speech targeting particular groups of population.
3. The Ministry of Education, the Department of Crime Prevention, territorial self-governments and media co-organise trainings and cultural events aiming to present specific cultures, particularly with regards to minorities living in Slovakia and foreigners.
4. Media do not polarise the society and sensitively inform about crucial social issues and incidents of members of minority groups living in Slovakia.
5. The Ministry of Interior provide extra personal capacities to the Department of Crime Prevention so that it would be able to keep fulfilling all the tasks at the highest professional level.



7 Gender (in)Equality

Gender equality aims for equal opportunities for men and women and can only be achieved when eliminating all social barriers and prejudices. The aim of gender equality is not to create identical individuals or eliminate biological differences between men and women. On the contrary, it seeks to create equal opportunities to succeed in life for everyone based on his abilities while respecting diversity.

Hence, gender equality does not remove diversity between men and women but rather the hierarchy in their social status and the underlying structural conditions. It is also crucial to pay attention to the issue of violence against women and understand it within the wider concept of gender equality.

7.1 Regional Action Plan of the Bratislava Self-Governing Region

In May 2010, the Bratislava Self-Governing Region (hereinafter referred to as “BSR”) initiated establishment of a working group engaging experts in the area of gender violence in order to address violence against women and create zero tolerance against all forms of violence against women. Upon implementing the Regional Action Plan of the Bratislava Self-Governing Region on the Prevention and Elimination of Violence against Women (hereinafter referred to as “RAP”) for the years 2011 – 2013 and for the years 2014 – 2016, BSR decided to continue with the initiative in 2018 and adopted RAP for the years 2018 – 2020¹²⁸.

¹²⁸ RAP for the years 2018 - 2020. Available in Slovak at: www.region-bsk.sk/clanok/3-12-2018-regionalny-akcny-plan-bsk-na-prevenciu-a-eliminaciu-nasilia-998408.aspx

In its goals, RAP for the years 2018 – 2020 follows up on the content and measures from the previous RAP. The following principles applied in its adoption and implementation:

- protection of fundamental rights of freedoms of women and children,
- individual approach to women experiencing violence, respecting the needs irrespective of the situation of the victim,
- unacceptance of any form of violence and zero tolerance of violence, accessibility of information as a precondition for accessibility of assistance and services,
- coordination and cooperation of stakeholder organisations.

The goal of RAP for the years 2018 – 2020 is to strengthen observance of human rights of women in the region through measures and tasks divided into five implementation areas, which were defined by the working group as key for the period of 2018 – 2020. The main implementation topics of RAP for the years 2018 – 2020 include:

- raising awareness and training the public in the area of violence against women,
- raising awareness and training experts in the area of violence against women,
- development of the network of entities and institutions providing expert consultancy to women experiencing violence,
- development of the network of entities and institutions active in crisis intervention for women experiencing violence,
- creating conditions for re-integration of women, who were victims of violence.

The Centre welcomes the initiative of BSR and believes that the self-governing regions should discuss their initiatives and share their experience and suggestions in the area.

7.2 Equal pay for equal work or work of equal value

Equal pay for equal work or work of equal value is a fundamental human right. Despite that, the issue of gender pay gap and equal opportunities resonates in the society for a long time. According to the Eurobarometer, the current or future maternity is often a reason why men are preferred for managing positions. Women, thus, face lower salary rates per hour, lower numbers of active years and lower employment rate, often interfering their career to take care for children or relatives. Many women after the maternity or parental leave fail to re-gain their previous job position.

The importance of this issue is also underlined in the work of the European Commission. The European Commission adopted the Action plan for the years 2018 and 2019, which requires

improvement of observance of the principle of equal pay by amending the gender equality directive.¹²⁹

Pursuant to the most recent Gender Equality Index, in Slovakia, women earn 18 % less than men do.¹³⁰ Gender differences in care for children and house have increased in the past years, negatively affecting women. 35 % women take care of children or do their homework with them at least for one hour per day. The same activities are conducted only by 19 % of men. Women also take more care of daily activities related to households. According to the Gender Equality Index, this concerns 77 % of women, while only 47 % of men takes care of these activities. 60 % of women spends at least one hour daily cooking and cleaning, while only 16 % of men does so. The lowest salary differences are in the public administration, in education from kindergartens to secondary schools, which is also caused by the fact that only a low number of men works in this field. It generally applies that the lowest gaps are in lower incomes. On the contrary, the biggest gaps are faced by persons with university education working at managing positions, particularly in the business sector. In managing positions in transportation, logistics and post services, the gap was more than 50 %, i.e. women earn the half of salaries earned by men. On the contrary, the education level of women is currently higher as compared to men, however, gender stereotypes affect girls when choosing education and profession, thus preconditioning that their investment in education will not be adequately remunerated. The salary difference between a worker in IT and a social worker or a nurse is enormous; despite both jobs require university education.¹³¹

The Ministry of Labour points out at this problem also through the Equal Pay Day, which was set for 25 October. The Ministry of Labour seeks to motivate the private sector also through an award called “Employer Helpful to Family, Gender Equality and Equal Opportunities”, which is organised every second year. The company Philip Morris Slovakia, s.r.o. can serve as an ambitious example. In March 2018, it was the first company in Slovakia to get the EQUAL-SALARY certificate awarded by the Swiss Equal Salary Foundation to companies, which undergo an audit by PricewaterhouseCoopers. The EQUAL-SALARY certificates awards support for women in their career growth, work on eliminating any prejudice and stereotypes and creation of work environment suitable for women. In practice, the companies concerned

¹²⁹ Annual report of the European Commission on gender equality for the year 2018. Available at: ec.europa.eu/newsroom/just/item-detail.cfm?item_id=615287

¹³⁰ Available at: eige.europa.eu/publications/gender-equality-index-2017-slovakia

¹³¹ Available in Slovak at: www.chartadiverzity.sk/slovenske-zeny-zarabaju-o-18-menej-ako-muzi-ako-dosiahnut-rovnost-platov/ and <https://www.chartadiverzity.sk/signatar/philip-morris-slovakia/>

offer flexible work time, allowing women to divide their time between career and family. Equal pay for men and women is automatic.¹³²

It is more than necessary that Slovakia has more of such employers and that debates on equal pay become obsolete. It is crucial that equal pay for men and women is automatic and not an issue. Responsible companies that care for their reputation should also consider equal pay issues and publicly communicate their commitments in the area.

7.3 Violence against women

Unacceptance of violence against women is based on the conception of human rights and freedoms that were granted by the Universal Declaration of Rights adopted by the UN in 1948 to all persons regardless of their race, skin, sex, language, religion, political or other affiliation, national or social origin, property, gender or other status.

In terms of violence against women, the fundamental rights concerned include the right to life, the right to personal freedom, freedom from torture, cruel or inhuman treatment, the right to protection from arbitrary interference into the private life and the protection from discrimination. Under the UN Declaration on Elimination of Violence against Women¹³³, violence against women means any act of violence based on gender inequality, which results in or aims to result in physical, sexual or psychological damage to a woman, including threats to such conduct, pressure or any other restrictions of freedom, both in public or private life.

7.3.1 The Istanbul Convention

7.3.1.1 Activities of the Ministry of Justice of the Slovak Republic

In August 2017, upon proposal of the Ministry of Justice, the Government approved the Resolution No. 379 of 16 August 2017 postponing the ratification of the Istanbul Convention to monitor the development of public opinion and moderate expert debate on the convention. The Government reasoned its decision by finding certain provisions of the Istanbul Convention

¹³² Available in Slovak at: www.chartadiverzity.sk/slovenske-zeny-zarabaju-o-18-menej-ako-muzi-ako-dosiahnut-rovnost-platov/ and <https://www.chartadiverzity.sk/signatar/philip-morris-slovakia/>

¹³³ Declaration on the Elimination of Violence against Women. Available at: www.un.org/documents/ga/res/48/a48r104.htm

as controversial and contravening the Slovak Constitution. Based on the resolution it was expected that the Ministry of Justice would actively organise expert public debates concerning the Istanbul Convention.

In its 2017 Human Rights Report, the Centre recommended the Ministry of Justice to actively lead dialogue and monitor the public opinion on the Istanbul Convention with an aim to fight disinformation campaigns accompanying its ratification.

According to the public information and the monitoring of the Centre, the Ministry of Justice has not conducted any publicly available steps towards public debates in order to identify the public opinion concerning the Istanbul Convention. The Centre finds the efforts of the Ministry of Justice, in terms of the approaching deadline for ratification, to be flagrantly insufficient.

Contrary to public bodies, in 2018, the ratification of the Istanbul Convention was covered by the academic festival “Bratislava Hanus Days”. The debated gave floor to Ms. Oľga Pietruchová, an activist for women’s rights, expert in gender equality and equal opportunities and a leader of the national project “Prevention and Elimination of Gender Discrimination” and Mr. Patrik Daniška, a founder of the civil association Forum for Life, who is currently chairing the Institute for Human Rights and Family Policy.¹³⁴

The Centre repeatedly calls for ratification of the Istanbul Convention by the Slovak Republic without undue delays. By ratifying the Istanbul Convention, Slovakia would join other EU member states, which have already done so, including Belgium, Cyprus, Denmark, Estonia, Finland, France, Greece, the Netherlands, Croatia, Ireland, Luxemburg, Malta, Germany, Poland, Portugal, Austria, Romania, Slovenia, Spain, Sweden and Italy.

7.3.2 Coordination and Methodology Centre for Prevention of Violence against Women

In November 2018, a roundtable was held at the Ministry of Labour initiated by the Coordination and Methodology Centre for Prevention of Violence against Women, which was chaired by the head of the national project “Prevention and Elimination of Gender Discrimination” Ms. Oľga Pietruchová. The roundtable was attended by 11 non-governmental organisations from across Slovakia, which provide services to women experiencing violence and their children. According to the conclusions of the round table, the Coordination and

¹³⁴ Available in Slovak at: www.hanusovedni.sk/archiv/boj-o-istanbul/

Methodology Centre committed to establish a working group to prepare in participatory process a methodological guide for provision of specialised services to victims of domestic violence, particularly women and their children.¹³⁵

The Slovak delegation¹³⁶ also attended the 62nd session of the UN Committee on the Status of Women. The session addressed the status of women and its relation to sustainable global development. This high-level meeting took place in the UN headquarters. The issue of priority was “Challenges and opportunities to achieve gender equality and empowerment of rural women and girls”, while reporting topic for the national delegations was “Participation of women in media, access to media and information and communication technologies and their impact on measures supporting and empowering women”. In the interactive dialogue, Slovakia presented information about violence against women through technologies and a media campaign to sensitise young people with violence against women called “Because I say no”.¹³⁷

The Centre welcomes international activities of the Coordination and Methodology Centre for Prevention of Violence against Women and recommends its participation at similar events in the future.

7.3.3 “Because I say no” (Pretože hovorím nie)

The campaign “Because I say no” was launched in April 2017 but started with active presentation also at the Facebook profile “Stop the Violence” in 2018. The Centre positively welcomes activities conducted within the campaign in 2018, including several lectures (e.g. in the club “Klub pod Lampou” in Bratislava), debates with artists (Katarína Kubošiová – Katarzia or Celeste Buckingham) and promotion of activities in BSR.¹³⁸

The Centre welcomes all activities promoting the campaign at social media, particularly through the profile “Why I say no”, promoting also other projects and activities of the Coordination Centre for Prevention of Violence against Women, such as a short blog on facts and myths about sexual violence.¹³⁹ Consequently, the campaign “Why I say no” and other

¹³⁵ Available in Slovak at: www.zastavmenasilie.gov.sk/news/okruhly-stol-k-poskytovaniu-sluzieb-pre-zeny-zazivaju-nasilie-a-ich-deti/

¹³⁶ Including the director of the Institute for Labour and Family Research, the head of Department of Gender Equality and Equal Opportunities at the Ministry of Labour and H.E. the Ambassador of the Slovak Republic to the UN.

¹³⁷ Available in Slovak at: www.gender.gov.sk/60-zasadnutie-komisie-pre-postavenie-zien-osn/

¹³⁸ Available in Slovak at: www.facebook.com/zastavme.nasilie/

¹³⁹ Available in Slovak at:

In terms of gender equality, the Proposal of National Priorities states that identification and elimination of gaps would enable greater practical realisation of human rights and freedoms as guaranteed by national and international documents concerning rule of law, democracy and human rights, including the right to fair trial, gender equality and equal opportunities. It further states that it is necessary to continually implement measures to eliminate various forms of disadvantages and discrimination, including by securing accessibility of built environment, transportation, information, health care, education, employment, services and goods for persons with disabilities.

The Proposal of National Priorities refers to gender equality by noting that only an active educated citizen can participate at policy formation and offer its potential for participation with the public authority. In the broader context, it is hence crucial to support education in democratic citizenship and human rights, active citizenship and education in gender equality as systematic and continuous part of education plans. Consequently, it is crucial to deepen the knowledge as well as social skills and understanding to prevent conflicts, strengthen understanding of differences between religious and ethnic groups, build mutual respect of human dignity and common values, stimulate dialogue and promote non-violent conflict resolution.

Despite the fact that Slovakia does not reach even an average level of gender equality in the EU, the goal No. 5 of the 2030 Agenda 2030 – Gender equality was not listed among the priorities of NIP. NIP only addresses the issue partially within the goal No. 6 – Rule of Law. The Centre finds this insufficient and the efforts of the Slovak Republic to ensure gender equality as minimalistic.

Recommendations

The Centre recommends that:

1. The Ministry of Justice actively lead dialogue and monitor public opinion about the Istanbul Convention aiming at fighting disinformation campaigns accompanying its ratification process.
2. The Government of the Slovak Republic, without further delay, ratify the Istanbul Convention.
3. The Council for the 2030 Agenda to better incorporate the issue of gender equality as a part of the national priority No. 6 – Rule of Law, Democracy and Security.

4. The Ministry of Labour continue in promoting the campaigns of the Coordination and Methodology Centre for Prevention of Violence against Women among young people on social media.



8 Rights of Persons with Disabilities

Persons with disabilities are one of the most vulnerable groups in our society. It is the state's duty to support, protect and fulfil the observance of their rights. The Centre annually warns about problems, which are capable of negatively effecting the rights of persons with disabilities. These are not just problems arising from practice, but also those that are directly vested in the national legislation.

The main legal framework for the protection of the rights of persons with disabilities is the Convention on the Rights of Persons with disabilities (hereinafter referred to as "CRPD").¹⁴³ Under article 7 paragraph 5 of the Slovak Constitution, CRPD is an international agreement, which takes priority before Slovak laws.

One of the main principles of CRPD is accessibility. Its conceptual establishment emphasizes the irreplaceable role and importance of accessibility in interpretation and implementation of CRPD.

CRPD further defines accessibility in Article 9, which establishes the goal to enable persons with disabilities to live independent lives and participate fully in all of its aspects. In order to achieve this goal, the state parties shall adopt relevant measures, which will ensure access of persons with disabilities to physical environment, transport, information and communication, including information and communication technological systems, as well as other relevant instruments and services accessible or provided to the public in the cities as well as in urban areas.

¹⁴³ CRPD was published in the Collection of Laws as Declaration of the Ministry of Foreign Affairs of the Slovak Republic No. 317/2010 Coll. Adopting the Convention on the Rights of Persons with Disabilities and the Optional Protocol to CRPD as Declaration of the Ministry of Foreign Affairs of the Slovak Republic No. 318/2010 Coll. Adopting the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

Emphasis on the importance of accessibility can be found also in the Preamble of CRPD, under which the state parties accept the importance of accessibility of physical, social, economic and cultural environment, healthcare and education, information and communication for full exercise of all rights and fundamental freedoms by persons with disabilities.

The requirement to eliminate barriers has its irreplaceable place among basic requirements necessary for integration of persons with disabilities into the society. The basic goal of debarrierization is to ensure and support inclusion of persons with disabilities into all aspects of social life and further enable them to fully enjoy their rights and fundamental freedoms on equal grounds with other persons.

An objective justification behind the necessity and reasonability of the need to eliminate barriers of the environment (including physical environment, transport, information and communication, including information and communication technologies and systems, as well as other goods and services provided to the public) is implied in the definition of “persons with disabilities” itself, included in Article 1 of CRPD. The definition refers to “various obstacles” (including persons with long-term physical, intellectual or sensory impairments), which in interaction with various barriers may hinder full and effective participation of persons with disabilities in society on equal basis with as others.

Based on the definition, it is possible to identify two factors that are capable in their interaction to exempt or limit full participation of persons with disabilities in society. These factors include the disability itself and “other obstacles” (barriers). Their nature implies that the obstacles themselves are a factor that is supposed to be prevented by the society and eliminated through debarrierization processes in case they are already present.

The national legislation aiming to ensure accessible environment and constructions is included in the Act No. 50/1976 Coll. on Land-use Planning and Building Order (hereinafter referred to as the “Building Act”) and the Decree of the Ministry of Environment of the Slovak Republic No. 532/2002 Coll. providing details on general technical requirements for building and details on general technical requirements for buildings used by persons with limited mobility and orientation (hereinafter referred to as the “Decree”).

The Centre finds the legislative efforts to bypass the principle of accessibility further discussed in this chapter, which occurred in 2018, as unacceptable.

8.1 Amendment of the Act on Social Services

In the previous year, the Act No. 448/2008 Coll. on Social Services and on Changes and Supplements of the Act No. 455/1991 Coll. on Trades (Trade Licencing Act), as amended (hereinafter referred to as the “Act on Social Services”) was amended.

The Centre focused its attention on the proposed provision of Article 110am para. 1, under which: *“A provider of social services under Article 32b, who is an entity under Article 110z para. 1, and who provides a social service by 31 December 2018 and will also provide it after 31 December 2018 and who does not meet the general technical requirements for construction and general technical requirements for buildings used by persons with limited mobility and orientation under specific regulation, is considered to have met these requirements after 31 December 2018 and Article 9 par. 5 shall not apply to this provider.”* According to para. 2 of the proposed provision, Article 110z para. 9 of the Act on Social Services shall not apply as of 31 December 2018.¹⁴⁴

The proposed provision applies to care facilities for children up to three years of age (hereinafter referred to as the “nursery school” or the “social service”). Under Article 32b para. 1 of the Act on Social Services, the nursery schools provide services supporting work life balance by providing child care for children under the age of three if a parent or a person entrusted with child care by a court decision, is preparing for employment by studying at secondary school or university, preparing for the labour market or is conducting activities related to integration or reintegration at the labour market or is conducting work for profit.¹⁴⁵

The Act on Social Services states in Article 32 para. 2 that nursery schools provide care for children under the age of three also to a parent or a person entrusted with child care by a court decision, in cases when:

- a) A person cannot provide child care by himself/herself or with the help of family under the reasons laid down in Article 31 para. 2, while no other grounds in the best interest of a child establishing the need to proceed in accordance with the Act No. 305/2005 Coll. on Social Protection of Children and Social Guardianship, as amended,
- b) A vacant place cannot be filled by a child of a parent or a person entrusted with the child’s care by a court decision, under subpara. a) or para. 1.

¹⁴⁴ Pursuant to Article 110z para. 9 of the Act on Social Services, an entity providing a social service by 28 February 2017 under Article 32b of the Act on Social Services is obliged to meet all general technical requirements for construction and general technical requirements for buildings used by persons with limited mobility and orientation under the Building Act by 1 January 2019.

¹⁴⁵ Article 32b para. 1 of the Act on Social Services.

In these terms, it is crucial to bear in mind Article 9 para. 5 of the Act on Social Services, under which a provider of social service is obliged to meet all general technical requirements for construction and general technical requirement for buildings used by persons with limited mobility and orientation under a specific regulation, i.e. the Building Act.

According to the explanatory note to the draft amendment, the proposed regulation responds to practical experience of providers of nursery schools, which were originally established and operated in buildings that did not meet the “strict” requirements established by the Decree. The necessary constructional changes to eliminate barriers of these buildings were difficult both technically and financially for buildings already in use.

The draft amendment was also reasoned by a statement that in terms of the target group of children using services of the facilities these nursery schools were in practice not fully used by persons with disabilities.

According to the explanatory note, the requirement of accessibility shall only apply to such providers of a social service only in case they conduct structural changes to buildings that require a construction permit.

In order to justify the proposed amendment, the explanatory note claimed that non-application of Article 9 para. 5 of the Act on Social Services did not constitute a derogation of the requirement of debarrierization of facilities of “nursery schools” already in use in an extent necessary to ensure accessibility for persons with limited mobility and orientation (physical or sensory impairment), who are parents, accompanying persons or employees, despite the fact that this is not legally binding and enforceable by sanctions.

The explanatory note, however, only efforts to mitigate the negative implication of the proposed provision (with regard to persons with disabilities), which fully contravenes the requirements of accessibility enshrined in CRPD. It can be concluded subsequently, that the proposed amendment constitutes an exception from the requirement of debarrierization for entities that have been providing care for children under the age of three before 1 March 2017 and continue to provide it as nursery schools.¹⁴⁶

The adopted wording of Article 110am para. 2 of the Act on Social Services¹⁴⁷ reads as

¹⁴⁶ The explanatory note to the amendment states that in order to ensure clear interpretation of the legislation it is crucial to enumerate that the exception from debarrierization only applies to providers providing the social service in the same facilities. If a provider changes the location of social service, he/she is obliged to meet the debarrierization requirements. The relevant temporary provision is applicable to current providers and to facilities that are already in use, however, not to new facilities established after 28 February 2017. See the Explanatory Report, available in Slovak at: rokovania.gov.sk/RVL/Material/23144/1

¹⁴⁷ The temporary provision of Article 110am para. 2 of the Act on Social Services concerning the amendment effective as of 1 November 2018 was adopted by an amendment to the Act on Social Services by the Act No. 289/2018 Coll.

follows: “*General technical requirements for construction and general technical requirements for buildings used by persons with limited mobility and orientation under a specific regulation are considered to be met under Article 9 para. 5, if a provider of the social service listed in Article 32b:*

- a) fulfilled definition of an entity under Article 110z para. 1 on the day of registration and*
- b) provided the social service under Article 32b or activities listed in Article 110z para. 1 in an extent defined for a social service under Article 32b by 31 October 2018 and will continue to provide it also upon 31 October 2018 in a facility where he provided the activities under Article 110z para. 1 until 28 February 2017 in the extent established for the social service in Article 32b.”*

Under Article 110am para. 2 of the Act on Social Services, Article 110z para. 9 is not applicable since 1 November 2018. It clearly implies that the fulfilment of statutory requirements will automatically constitute a fiction of debarrierization.

The Centre approached the Ministry of Labour with a request to comment on certain aspects concerning the newly adopted Article 110am of the Act on Social Services.

According to the statement of the Ministry of Labour, a social service of day nurseries is provided in 90 debarrierized facilities and in 109 buildings, which are not debarrierized. The Ministry of Labour further stated that based on the monitoring activities conducted at the level of self-governing regions, there was no change in location of nurseries of any provider of the social service.¹⁴⁸

The Ministry of Labour supports the reasoning of the explanatory note to the amendment and claimed that the goal of the amendment to the Act on Social Services was to eliminate certain problems with application and interpretation of the Act on Social Services identified by providers as barriers to sustainability of the social service, including the debarrierization requirement of existing nursery (by 31 December 2018) established in the temporary provisions of the Act on Social Services.¹⁴⁹

According to the Ministry of Labour, the amendment constituted an exception from the debarrierization requirement for those providers of nurseries, who had been providing such social service before 1 March 2017 and continue providing it as providers of social service under Article 32b of the Act on Social Services. The Ministry of Labour also stated that this exception is limited to the duration of permit to provide the social service under the Act on

¹⁴⁸ Statement of the Ministry of Labour to the request of the Centre of 25 February 2019.

¹⁴⁹ Ibid.

Social Services.¹⁵⁰

The Ministry of Labour further stated that the requirement for debarrierization of public buildings under the Building Act is not affected by the legal regulation under the Act on Social Services.

The Ministry of Labour further clarified that facilities operating prior to the date when the so called Nursery Amendment to the Act on Social Services entered into force and that would continue operating after this date based on permit to provide a social service under Article 32b of the Act on Social Services, will be exempted from the requirement of debarrierization only for the time of duration of the permit under the Act on Social Services.¹⁵¹

The exception from debarrierization applies only to current providers¹⁵² and only to the same facilities. In case a provider changes the location of the provided social service, he/she will need to meet the debarrierization requirement.

According to the Ministry of Labour, the temporary character of Article 110am of the Act on Social Services is also underlined by the fact that in case of reconstruction of a facility requiring the construction permit procedure, fulfilment of the debarrierization requirement will be requested by a relevant construction office under the current regulation of construction law.¹⁵³

According to other statements of the Ministry of Labour, the adoption of this new regulation does not influence the obligation of social service providers to meet requirements of quality of the provided social service under Annex 2 to the Act on Social Services, para. a). The Annex to the Act on Social Services in area 4 - Operation requirements - establishes a requirement to ensure operation conditions (mainly accessibility under universal design, material equipment, social facilities, light and warmth comfort) adequate to the capacities, kind of the provided social service and the needs of social service recipients in compliance with general legal provisions. The requirement to ensure operation conditions includes accessibility in terms of the universal design (level of accessibility of the environment, where a given social service is provided in compliance with the needs of social service recipients and effective legal provisions and based on the universal design).

The Ministry of Labour also stated that the fulfilment of quality requirements for the

¹⁵⁰ Statement of the Ministry of Labour to the request of the Centre of 25 February 2019.

¹⁵¹ Ibid.

¹⁵² Current providers are entities that have provided this social service before 28 February 2017, i.e. by the date when the so called Nursery Amendment to the Act on Social Services came into effect (effective as of 1 March 2017 by the Act No. 40/2017 Coll.).

¹⁵³ Statement of the Ministry of Labour to the request of the Centre of 25 February 2019.

provided social service under the Act on Social Services naturally binds also the current providers (i.e. entities that provided the social service before 28 February 2017) to adopt reasonable accommodations to secure safe access and eliminate barriers, i.e. necessary adaptations and customizations that do not constitute disproportionate or excessive burden, in order to ensure accessibility for persons with disabilities in compliance with Article 9 CRPD.

The Ministry of Labour consequently stated that Article §110am para. 2 of the Act on Social Services does not relieve the providers of nurseries from the obligation to ensure a certain level of accessibility by adopting reasonable accommodations, which will not constitute an disproportional technical or investment burden, but will still ensure standard access (accessibility for employees or other persons with disabilities).

Is it, however, realistic to expect the social service providers to debarrierize their buildings, if debarrierization would not be legally enforceable? The Centre addressed its concerns to the Ministry of Labour and asked about the means to achieve real accessibility of these facilities.

The Ministry of Labour stated that the Act No. 544/2010 Coll. on Grants under the Mandate of the Ministry of Labour, Social Affairs and Family of the Slovak Republic enables providers of social service to request a grant for improvement of their services. These grants can be applied for also for the purposes of facility debarrierization. The Ministry of Labour also stated that the Integrated Regional Operational Programme shall ensure the construction of new nurseries, which (as newly built) will meet the requirement of accessibility and that 13 million EUR was allocated to this end. The Ministry of Labour believes that in order to retain competitiveness, the current providers will be forced to ensure appropriate and accessible environment in their facilities (e.g. by applying from grants allocated for these purposes).¹⁵⁴

The Centre was also interested in a situation in case the debarrierization requirement in the “necessary extent” as advised in the explanatory note is not fulfilled. The requirements of accessibility to buildings of nurseries requires to take into account not only children but also parents with disabilities or accompanying persons with disabilities as well as employees with disabilities, who could use their premises.

The Ministry of Labour responded that in case no agreement between the provider of a nursery and the person concerned is reached, the dispute could be resolved through relevant public authorities under the Act on Social Services as well as through courts, i.e. by filing an antidiscrimination action before a civil court.¹⁵⁵

¹⁵⁴ Statement of the Ministry of Labour to the request of the Centre of 25 February 2019.

¹⁵⁵ Ibid.

Summarizing all the facts, the Centre expresses its opinion that the fiction of debarrierization should have no place in the legal framework of the Slovak Republic. The Centre also believes that it is unacceptable to justify the absence of accessibility by unsustainability of financial resources necessary for debarrierization of the facilities concerned. V This case constitute a full-scale legislative justification of absence on the crucial aspects enabling participation of persons with disabilities in the society, weakening the observance of the debarrierization requirement.

In terms of existing barriers to accessibility of current providers, the state should adopt a timeframe for their elimination and means for its monitoring in order to gradually achieve full accessibility of all providers.

The Centre believes that contrary to the unlawful justification of absence of accessibility, in individual cases, the providers of nurseries would act in compliance with the Annex to the Act on Social Services and ensure accessibility in those cases, when it is required. The Centre welcomes the information about construction of new accessible nurseries under the Integrated Regional Operating Programme.

Recommendations

The Centre recommends that:

1. Entities operating nursery schools ensure accessibility of buildings, when required by persons with disabilities in order to enable their access and free movement in the buildings where social services are provided.
2. Entities operating nursery schools, in cases when they cannot realise debarrierization e.g. due to financial reasons, adopt alternative measure to ensure access of persons with disabilities as well as their mobility in buildings where social services are provided.
3. The Ministry of Labour oversee the adoption of such legislation changes under its agenda, which will implement state obligations in the field of accessibility in line with CRPD.
4. The Ministry of Labour adopt the timeframe and monitoring process to evaluate the removal of barriers concerning buildings and services of entities operating nursery schools.



9 Temporary Countervailing Measures

TCM are defined by the European equal treatment directives¹⁵⁶ as specific measures to prevent or compensate for disadvantages linked to given personal characteristics with an aim to achieve full equality in practice. TCM are similarly defined also in the Slovak Antidiscrimination Act (Article 8a) and their adoption cannot be considered as discrimination. Adoption of TCM secures equal opportunities by eliminating disadvantages resulting from race or ethnic origin, membership of national minority or ethnic group, gender or sex, age or disability. TCM are mainly such measures that aim at eliminating social or economic disadvantages. TCM support the inclusion of disadvantaged groups and create opportunities to enjoy equal treatment in accessing employment, health care, services or housing. The Antidiscrimination Act provides only a demonstrative list of particular TCM.¹⁵⁷ This leaves space for flexible response to identified inequalities, while strictly fulfilling the principles for adopting TCM, in particular the principle of proportionality securing balance between balancing disadvantage and the scale of the disadvantage itself.

In the European law, positive actions have traditionally been considered as an exemption from the principle of non-discrimination aiming to achieve real equality by adopting measures

¹⁵⁶ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services, Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC.

¹⁵⁷ The list is not exclusive and can be extended in practice by more measures, if requirements for TCM are fulfilled.

designed to provide equal opportunities.¹⁵⁸ TCM go beyond the prohibition of discrimination and allow for different treatment with a goal to achieve equality. TCM are main tools to achieve greater and real equality. TCM precede or mitigate disadvantages and discrimination, support real equality, taking into consideration specific situation of members of disadvantaged groups. Hence, TCM destabilise the system of disadvantages related to membership of a particular group. At the same time, TCM contribute to the fight against discrimination through individuals and gradually achieve elimination of institutional and structural discrimination creating equal opportunities.

Implementation of TCM must go hand in hand with continuous monitoring and regular evaluation. This process should assess the measures in terms of achieving the goal established and the need for further measures.

TCM shall cease to apply when their goal is achieved. If TCM continues after achieving the real equality, it creates positive discrimination. It is often difficult to distinguish TCM from general social concepts for achieving equality. TCM must also be differentiated from reasonable accommodations for persons with disabilities under Article 5 of the Council Directive No. 2000/78/ES establishing a general framework for equal treatment in employment and occupation.

Definition criteria of TCM include the following:

- existence of proven inequality,
- definition of a clear and complex goal, which is in line with main aims of TCM,
- the measures must be appropriate and proportional to the goals established,
- the measures specifically target disadvantaged persons or minority groups.

In its Human Rights Reports, the Centre annually evaluates adopted TCM.¹⁵⁹ It focuses mainly on TCM projects or projects with certain aspects of TCM, as these measures, when properly set up, represent a tool to effectively eliminate disadvantages resulting from the protected grounds. Concrete characteristics of TCM and their legislative regulation were already covered in the previous Human Rights Reports.

9.1 Reporting on adopted temporary countervailing measures

The Centre approached the selected public bodies and other relevant subjects regarding

¹⁵⁸ An Equinet report. Positive action measures. The experience of equality bodies. 2014, Brussels, Equinet, p. 13.

¹⁵⁹ All Human Rights Reports are available at: www.snslp.sk/#page=2426

For detailed analysis of the legal institute of TCM see: 2014 Human Rights Report, available at: http://www.snslp.sk/CCMS/files/komplet_prekald_spravy_AJ_final.pdf

adoption, implementation and cooperation on TCM projects in 2018. The Centre aims to provide a comprehensive overview of implemented projects, taking into account that TCM can only be effective if systematically implemented. In 2018, the Centre received only two reports on implemented TCM projects upon own initiative of the adopting subject.¹⁶⁰ In particular, it was a report from Boľany municipality and a report from the Office of the Roma Plenipotentiary. Other subjects (mainly public administration bodies) only inform the Centre about the implemented projects they consider as TCM in response to annual requests of the Centre.

9.1.1 Ministry of Culture of the Slovak Republic

In 2018, the Ministry of Culture of the Slovak Republic (hereinafter referred to as the “Ministry of Culture”) continued implementing projects and measures supporting human rights protection and promotion in culture, contributing to prevention of discrimination and all forms of violence and making cultural institutions and formats accessible for vulnerable groups. The Ministry of Culture did not adopt any new TCM.

The grant programme “Culture of Disadvantaged Groups”¹⁶¹ is a financial measure supporting social inclusion and cohesion. It enables fulfilment and development of cultural needs of persons with disabilities or other disadvantaged groups.

Cultural needs of population and their fulfilment are vital for socialisation and formation of social coexistence. They enable social contact in places and situations where it would not occur automatically or would be very limited. Hence contributing to elimination of barriers, stereotypes and prejudice and teaching how to get to know new people and accept differences.

The grant programme “Culture of Disadvantaged Groups” creates certain space for implementation of TCM. In 2018, 980 000 EUR was allocated to support the culture of disadvantaged groups under this programme.¹⁶² The Centre states that this information itself, in terms of the list of supported projects¹⁶³ without further information about the projects, does not give grounds to assess the projects as TCM. Subjects implementing the supported projects

¹⁶⁰ Available at: www.snslp.sk/#page=2894

¹⁶¹ Background documents for the 2018 calls are available in Slovak at: www.culture.gov.sk/vdoc/794/kultura-znevychodnenych-skupin-2018-2bd.html

For more information about the grant programme see: 2014 Human Rights Report, p. 97, available in English at: http://www.snslp.sk/CCMS/files/komplet_prekald_spravy_AJ_final.pdf

¹⁶² Statement of the Ministry of Culture to the request of the Centre of 12 February 2019.

¹⁶³ Available in Slovak at: www.culture.gov.sk/vdoc/794/kultura-znevychodnenych-skupin-2018-2bd.html

have not reported the Centre about the adopted TCM in line with the obligation under the Antidiscrimination Act either.

The national project Inclusion of Unemployed Persons to Reconstruction of Cultural Heritage implemented by the Ministry of Culture, the Ministry of Labour and the Central Office of Labour, Social Affairs and Family of the Slovak Republic is a measure to prevent poverty and social exclusion. The project is financially supported from the public budget under the grant programme of the Ministry of Culture “Let’s Renew Our Home” and under the European Social Fund within the Operation Programme Employment and Social Inclusion. The project has been continuously implemented since 2012 and creates job opportunities in culture also for marginalised groups as well as supports the process of social inclusion. In 2018, 41 projects received 847 378 EUR in total under the grant programme “Let’s Renew Our Home” – subprogram 1.4 Reformation of Historical Parks and Architectonic Areas in Critical Construction and Technical State.¹⁶⁴

The national project “Inclusion of Unemployed Persons to Reconstruction of Cultural Heritage” contributes to reformation of cultural heritage in Slovakia and it is beneficial for the unemployed persons, including those from MRC. The Centre believes that if a member of a marginalised group successfully participate at this project and gains work skills, it is useful to preserve his or her work potential. Hence, it would appropriate to provide the persons involved with further assistance in searching for a full-time employment after the project is completed. It shall be kept in mind that despite strengthened work skills, potential prejudices of employers towards them can still remain as a barrier.

The Centre thus considers activities in cooperation with the Ministry of Labour and local offices of labour to be beneficial in terms of training persons on giving information about the practice gained but also for presenting the work and its results to potential employers in the region.

Since the primary target group gaining employment for a fixed term (max. 6 months) in reconstructing cultural heritage includes general job seekers and disadvantaged job seekers, the project itself is not a TCM (i.e. it does not target a specific group), despite the fact the Ministry of Culture regularly presents it as TCM.

¹⁶⁴ The list of supported projects: dotacie.culture.gov.sk/granty2018/zobraz_ziadosti.php?filter=1.4

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

In 2018, the Ministry of Labour opened a request-oriented call (open until 12 October 2018) to support work-life balance aiming to continue with a good practice established within the national project “Family and Work”. The call supported creation of effective measures to integrate mothers with small children (including with special education needs) in less developed regions at labour market upon their return from the parental leave by supporting flexible job position, including in the form of TCM.

The following types of flexible work positions are supported:

- employment relationship with reduced working time (Article 49 of the Act No. 311/2001 Coll. Labour Code as amended),
- job sharing (Article 49a of the Act No. 311/2001 Coll. Labour Code as amended),
- homework and telework (Article 52 of the Act No. 311/2001 Coll. Labour Code as amended).

By the end of 2018, 24 applications for financial contribution were approved under the request-oriented call for strengthening work-life balance, 5 of which aim to support flexible working conditions (in a form of TCM).¹⁶⁵ As implementation of the projects supporting flexible working positions is only at its beginnings, this TCM cannot be complexly evaluated. The subjects implementing the projects have yet not reported the Centre about any adopted TCM, which is an obligation under the Antidiscrimination Act.

Integration to work processes after return from the parental leave is still mostly faced by women, affecting gender equality and persisting gender inequalities. In Slovakia, gender inequalities are still present in the area of employment, especially when it comes to salaries, career growth and sectoral inequalities between men and women.

The request-oriented call is capable to support effective and timely integration of mothers with little children at workplace. Securing sustainable income is crucial for social stability and protection of a mother and her child/children and also creates conditions for reducing inequalities in other areas faced by the affected families (housing, education, etc.). Flexible working positions and their regulation in Article 49 of the Act No. 311/2001 Coll. Labour Code as amended have existed for a longer time but their real applicability in these particular situations requires support. Hence, the goal of the TCM concerned is legitimate. When monitoring and evaluating the TCM,

¹⁶⁵ Statement of the Ministry of Labour to the request of the Centre of 19 February 2019.

it is important to take into account real existential abilities of a mother with income from a part-time employment together with other social security contributions of the family.

Furthermore, the Ministry of Labour also supports projects promoting gender equality within its own grant scheme. Grants can be provided to activities aiming to achieve gender equality or promoting observance of the principle of equal treatment irrespective of sex or gender.

In order to increase chances for implementation of preferential employment in relation to gender inequalities in leading positions or in technical fields, it would also be beneficial to adopt a pilot TCM, which would need broader coordination with public administration in the area of education. Relatively less visible is age discrimination in access to employment.

Hence, if the Ministry of Labour started implementing measures with TCM features for mothers with children under the national project “Family and Work”, it should also consider establishing work plans and special programmes to increase job opportunities for older employees and women at leading positions or in technical fields. The Ministry of Labour has informed that it sought to work on new TCM in the future and that its Department of Gender Equality and Equal Opportunities was preparing further calls in 2018 under the Operation Programme Human Resources, which can promote adoption of TCM in 2019.¹⁶⁶

9.1.3 Ministry of Health of the Slovak Republic

The Ministry of Health of the Slovak Republic (hereinafter referred to as the “Ministry of Health”) conducts its activities concerning adoption of TCM through the state contribution organisation Healthy Regions. It aims to implement measures and programmes, which would have significant impact on reducing differences in health and bring about notable improvement in access to health services and information increasing health literacy and responsibility of individuals for their health, thus contributing to integration of excluded groups in the society.

The organisation created a space for complex and sustainable measures to address the situation of disadvantaged groups in the area of health at the national level. One of the key activities is implementation of the National project Healthy Communities 2A (2017 – 2019) and the National project Healthy Communities 3A (2017 – 2020) financed under the European structural and investment funds. Continuation of the national project Healthy Communities 2A+3A is planned for the years 2020 – 2022 (financed under the European structural and

¹⁶⁶ Statement of the Ministry of Labour to the request of the Centre of 19 February 2019.

investment funds) and there is a vision to continue also after 2023.¹⁶⁷ Information about the project have been assessed by the Centre also in the previous Human Rights Reports.¹⁶⁸

Health state of population from MRC is significantly worse as compared to the majority. The life expectancy of persons born in MRC is 6 to 10 years shorter as compared to rest of the population and infant mortality rate is several times higher. Persons from MRC face more infectious and non-infectious diseases, including severe injuries, during the whole life.

Systematic and continuous awareness raising, prevention and support community work has proven to be a successful way to provide particular solutions to direct causes and local structural conditions in these terms both in Slovakia as well as in other Central or Eastern European countries.

The Healthy Regions is one of few organisations in Europe that hires more than 86 % employees from MRC. Inclusion of persons from MRC into the work of the organisation secures directness and effectiveness of activities and maximum participation of the target group. Up to 31 January 2019, the organisation employed 261 health assistants.¹⁶⁹

Health mediation at community level is an important activity, which includes a set of activities aimed to improve health conditions. Target groups comprise members and inhabitants of MRC. In 2018, 275 814 interventions in basic groups of 2 842 awareness raising activities were recorded and health assistants conducted their activities in 263 localities with a population of approximately 185 000 persons from MRC.¹⁷⁰

Through the activities conducted, the organisation succeeds in eliminating barriers in accessing health care (including increased accessibility of health care services and awareness of people from MRC in the area of health care and prevention).

Table No. 4: Cooperation with 611 health care providers¹⁷¹

Health care provider	Number
Paediatricians	205
General practitioners for adults	185
Specialised doctors	221
Together	611

¹⁶⁷ Statement of the Ministry of Labour to the request of the Centre of 19 February 2019.

¹⁶⁸ Available at: www.snslp.sk/#page=2426

¹⁶⁹ Statement of the Ministry of Health to the request of the Centre of 11 February 2019.

¹⁷⁰ Ibid.

¹⁷¹ Ibid.

The pilot activity of Health Awareness Assistants in the area of hospitals has been organised by the Healthy Regions from November 2017 until December 2019. It is based on work of non-governmental organisations and hospitals, particularly gynaecologic and obstetrics and paediatrics departments, which have been pointing out various barriers related to health care for the so-called non-standard patients, including most often Roma from excluded communities.

Six facilities were approached based on the following criteria: proportion of Roma in the Region according to the Atlas of Roma Communities (2013)¹⁷², established positive cooperation of field health awareness assistants with hospital staff, geographic diversity and diversity of hospitals in terms of size or founder.

In the current stage, the activity benefits both the target group and staff of the partner hospitals. It fulfils its role in the area of communication mediation, awareness raising and psychosocial support for MRC, thus contributing to the goal of the government Strategy for Roma Integration until 2020¹⁷³ to mitigate differences in health condition between Roma and the majority. The interest of hospitals shows that they are aware of the need for this supplementary service.¹⁷⁴

Numerous activities are implemented within the project concerning issues of hygiene, breastfeeding, newborn care, reproductive health, epidemiology, first aid, infectious diseases, addictive substances and addictions as well as lactation consultancy in a form of official certified training. The aim is to provide assistance, guide and support for mothers and expecting mothers living in MRC throughout the whole breastfeeding period. Lactation consultant for MRC is an expert consultant and guide helping mothers to face their fear, eliminates barriers and guides them in the breastfeeding process.¹⁷⁵

The Centre believes that the existence and functioning of a TCM like the project Healthy Communities is inevitable in Slovakia. Accessibility of health care as a result of segregation in housing, social exclusion and stereotypes against MRC create barriers and inequalities for members of MRC in the area of health and have impact on their health condition. Such inequality is a result of broader social inequalities of these communities in Slovakia. Discrimination based on ethnicity or social origin is very complex, develops over a long term of time and takes even longer to be eliminated. It is hence crucial to see the relevance of the

¹⁷² Available at: www.minv.sk/?atlas_2013

¹⁷³ Available at: www.minv.sk/?strategia-pre-integraciu-romov-do-roku-2020

¹⁷⁴ Statement of the Ministry of Health to the request of the Centre of 11 February 2019.

¹⁷⁵ Ibid.

TCM concerned in longer terms. As the inequality has been proven based on the protected ground established and it can be mitigated or eliminated, the TCM is legitimate. Protection of health and achievement of the highest attainable standard of health care for all without discrimination is undoubtedly legitimate.

Due to the long-term duration of TCM, regular monitoring is important in order to secure its sustainability and relevance. Health care is a broad area and the TCM Healthy Communities covers its various aspects. Interim evaluation of effectiveness of individual measures, their impact on decreasing or stabilising inequalities is necessary. Sustainability of the results achieved and gradual modification of the project in terms of supported areas and broader support measures towards inclusion of health care for MRC into mainstream system wherever possible is crucial.

The Centre welcomes new opportunities for broadening the network of activities of health awareness assistants benefiting MRC and recommends that the **Ministry of Health** maintain them. When the **Ministry of Health** employs through its daughter organisation Healthy Regions also members of MRC as part of TCM, it would be appropriate to seek other means to leverage from the MRC labour potential gained, by maintaining job positions, broadening qualification or career growth in the health field. A possible cooperation with the Ministry of Education as a secondary content of the TCM could help achieving new qualified, experienced and proven work force in the area of health. Employing persons from MRC at available position upon broadening qualification or gaining education could have a multiple positive effect for the minority as well as for the majority, not only in the area of health care.

9.1.4 Ministry of Agriculture and Rural Development of the Slovak Republic

The Ministry of Agriculture and Rural Development of the Slovak Republic (hereinafter referred to as the “Ministry of Agriculture”) is a governing body for the Integrated Regional Operation Programme 2014 – 2020. The priority axe No. 2 “Better access to effective and good quality public services” covers investments into health and social infrastructure for national, regional and local development and aiming to decrease inequalities in health, supporting social inclusion through better access to social, cultural and recreation services and transition from institutional to community services. The priority axe No. 4 “Improving quality of life in regions” pays attention to the environment, drinking water supply, wastewater treatment and

canalisation.¹⁷⁶

The Integrated Regional Operation Programme covers various areas of public life. Possible disadvantages, which can eventually be eliminated by the projects, can vary. The programme promotes elimination or mitigation of possible discrimination based on disability, since the calls must observe accessibility of the projects implemented. Projects under the priority axe No. 2 are implemented with special attention to social inclusion of those groups that can face discrimination based on race, ethnicity, membership of a national minority or ethnic group or disability through a better access to social, cultural and recreation services. Timeframe for implementation of the calls under the operation programme is from 2014 to 2020 in a form of non-repayable financial contribution under individual calls for proposals for projects aiming to improve quality and effectiveness of services in the areas of social security, education, transport and environment.¹⁷⁷

In case of TCM, the primary goal of the operation programme, i.e. to decrease regional differences, should be accompanied also by a goal to eliminate disadvantages due to disability, race or ethnicity or membership of the ethnic minority, as a requirement for the provision of the non-repayable financial contribution obliges to secure observance of the horizontal principles.

Due to the targeted regional impact of the Ministry of Agriculture, it can potentially adopt of support TCM in various areas, including health care, education, culture, social affairs or access to housing. In Slovakia, differences in equal opportunities are typical not only at the level of self-governing regions but also in terms of districts within the same regions as well as between cities and municipalities. Such inequality can have negative impact on various areas of life of members of groups disadvantaged due to their ethnicity or disability. The Centre finds it crucial to strengthen the protection of these disadvantaged groups at the regional level.

The Centre, however, underlines that the abovementioned is only hypothetical now. The Ministry of Agriculture has yet not reported the Centre any information about implemented TCM or supporting such measure. Neither have the subjects implementing the projects financed under the Ministry of Agriculture sent the Centre any report on the adopted TCM as required by the Antidiscrimination Ac.

¹⁷⁶ Statement of the Ministry of Agriculture to the request of the Centre of 15 February 2019.

¹⁷⁷ Ibid.

9.1.5 Bořany municipality

On 25 May 2018, the Centre received a notice from Bořany municipality concerning adoption of TCM. The notice clearly stated that the TCM was adopted by Bořany, a municipality in Trebišov District with 1 241 inhabitants. The TCM is called “To create within TCM for children from socially disadvantaged environment and their parents, mostly from MRC, equal access to housing through construction of social housing for employees. To establish and implement within the TCM the so called “Roma projects” aimed at creating equality in access to employment for parents of children from socially disadvantaged environment, who belong among the group of disadvantaged job seekers, mainly from MRC.”

The main challenge is represented by substandard housing conditions in two localities in the municipality. The first separated locality comprises 15 small illegal dwellings at Blatná Street without appropriate water installation, electrical installation and plumbing. This locality is inhabited by approximately 237 Roma. The dwellings are adjoined to 5 legal houses. The second locality is located at Hlavná Street and consists of 4 simple Roma houses without plumbing and public water supply. It has population of 197 Roma. Such housing conditions are linked to problems faced by Roma in education, absence of children due to frequent illnesses and bad school attendance in general, criminality, unemployment and usury.

A target group of the TCM is MRC of Bořany and within this group particularly children and youth. The goal is to decrease or eliminate proven inequality in practice, i.e. to eliminate social and economic disadvantages excessively faced by the MRC in Bořany.

The TCM were adopted on 10 May 2018 by a resolution of the Municipal Council of Bořany and published at the website of the municipality. Interim monitoring, evaluation and publishing of information concerning relevance of further continuation of the TCM was set annually by 30 June and 31 December. Currently, the TCM is at its preparation stage.¹⁷⁸ The municipality conducted a survey and expert analysis concerning construction of houses and production of unfired soil bricks. This also included possible extraction of soil from municipal lands, statements of authorities concerned and establishment of the municipal undertaking. The municipality also requested funding from the Ministry of Interior for a pressing machine to produce unfired soil bricks and it plans to apply for another request oriented call in 2019 to procure funding necessary for implementation of the TCM.¹⁷⁹

¹⁷⁸ Information from the TCM monitoring report of Bořany municipality of 10 January 2019 sent to the Centre.

¹⁷⁹ Ibid.

Despite continuous promotion and awareness raising activities of the Centre, adoption of TCM is still predominantly done by public bodies. TCM at local level are adopted in relation to direct support of public bodies, especially financial support. Adoption of TCM at local level faces expert, organisation, personal or financial barriers. In terms of timeframe, the process usually works as following:

- adoption of national action plan with implementation of TCM at national level,
- provision of expert base and financial resources,
- transition of the prepared activities at certain scale to local level.

Cases when a municipality adopts the TCM and then seeks to subsume it under existing structures, as happened in Boľany, are very rare. It is positive that the local self-government body did not satisfy with declaratory activities to decrease inequalities between its inhabitants but decided to analyse these inequalities in order to mitigate or eliminate them using adoption of its own TCM as a tool. Boľany identified MRC as a disadvantaged group of its inhabitants and decided to mitigate its disadvantages in access to employment, education and housing.

Besides the longer preparation stage of the content of the TCM, prior to its adoption, sustainable financing of the TCM is an important question. Finding the source of financing requires continuous activities of the municipality. In order to increase chances for implementation of the TCM, the Centre recommends the municipality to continue searching for all available funding. Alternatively, the municipality should prepare for a multiple-source funding or division of the TCM into several smaller parts implemented gradually. The TCM could be also modified in the future in line with requirements or conditions of already implemented or new national TCM. All these activities have a potential to transform the adopted TCM to the implementation stage aimed at decreasing the identified inequalities among the inhabitants.

9.1.6 Ministry of Interior of the Slovak Republic – Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities

In 2018, the Office of the Roma Plenipotentiary adopted a TCM within implementation of the National project “Promotion of Pre-Elementary Education of Children from Marginalised Roma Communities I” (hereinafter referred to as “NP PRIM”). In terms of alleageable subjects (subjects participating at NP PRIM based on memorandum of cooperation are selected municipalities), the Office of the Roma Plenipotentiary created a requirement of preferential

employment of Roma applicants when selecting the applicants for particular job positions funded under NP PRIM. The TCM applies in selection of teacher's assistant at kindergarten or professional employee at kindergarten under the Act No. 317/2009 Coll. on Pedagogic Employees and Professional Employees and amending and supplementing certain acts as amended. The future employer (i.e. municipality, elementary school with kindergarten or kindergarten) is obliged to apply rules of preferential employment of Roma applicants for the position when selecting an applicant for the vacant position of teacher's assistant at kindergarten or professional employee at kindergarten.

NP PRIM creates a specific situation where the subject adopting the TCM differs from the implementing subject (future employer). The reason behind this specific situation is the fact that the receiver of a non-repayable financial contribution under NP PRIM is the Office of the Roma Plenipotentiary, which subsequently sets requirements for the use of financial resources by allegeable users in line with the approved national project. One of the requirements for using the funding by the allegeable users is the obligation to apply conditions of preferential employment of Roma applicants for job positions financed under NP PRIM. In practice, the subject would be the same, i.e. the subject adopting the TCM would also implement it, which would make the process of implementation easier.¹⁸⁰ Prior adoption of the TCM, the Office of the Roma Plenipotentiary consulted it with the Centre. A precondition for its adoption was proven inequality in the area of pre-elementary education.

Upon further communication with the Office of the Roma Plenipotentiary, the Centre found out that the Ministry of Interior - Office of the Roma Plenipotentiary concluded individual cooperation agreements with municipalities specifying the number of vacant job positions – teacher's assistant and professional employee – as well as other rights and obligations of the parties in terms of the implementation of the national project funded under the European Structural and Investment Funds¹⁸¹. The cooperation agreements include the obligation of the municipality to apply preferential employment of Roma when filling the vacant positions. Provisions of the cooperation agreements are explained in the binding "Users guide for subjects involved in the national project" with an annex "Rules for applying preferential employment of Roma", which provides detailed rules for implementation of the TCM. Selection of municipalities involved was done based on the so call index of under-development (the least developed municipalities in terms of the proportion of Roma inhabitants, their housing conditions, access to

¹⁸⁰ Information from the notice of the Office of the Roma Plenipotentiary concerning the adoption of TCM of 13 July 2018 submitted to the Centre.

¹⁸¹ NP PRIM.

infrastructure and services). Overall, 150 municipalities were selected as allegeable users for the priority axe No. 5 – MRC under the Operation Programme Human Resources. The Office of the Roma Plenipotentiary organised information seminars for the municipalities concerned. Employees of NP PRIM were available for consultations prior to concluding the cooperation agreements as well as during implementation of the TCM. The Office of the Roma Plenipotentiary has not recorded any case when the municipality would refuse to join the national project due to disagreement with the adopted TCM.

Regional employees of the Office of the Roma Plenipotentiary (regional coordinators for NP PRIM) were usually present at the job interviews with the applicants, mostly as members of the selection committee. This secured methodical support for the implementation of the TCM directly at the job interview. The municipalities had an obligation to report on the selection procedure and its result to the Ministry of Interior - Office of the Roma Plenipotentiary. Selection of the applicant for the job positions concerned was subject to approval by the Ministry of Interior - Office of the Roma Plenipotentiary based on the report of the municipality and the report of a regional coordinator. In case the rules of preferential employment of Roma had not been observed, the Ministry of Interior - Office of the Roma Plenipotentiary did not approve the selection (there was one such case).

The successful applicants underwent the initial training. The teacher's assistants, who gained the position under this procedure and fulfilled the minimum qualification requirements (full secondary education), are obliged to commence studies to acquire supplementary pedagogic capacity no later than 2 year since they enter the position. This requirement is laid down in the Decree of the Ministry of Education No. 437/2009 Coll. Stipulating Qualification Requirements and Specific Qualification Requirements for Individual Categories of Pedagogic Employees and Professional Employees.

In general, the Office of the Roma Plenipotentiary stated that the implementation of TCM has been so far without complications. At the job interviews, there were some oral contestations of unsuccessful applicants, who considered the preferential selection as their discrimination or as positive discrimination in the negative point of view. In one case, the mayor of the municipality saw the implementation of TCM as positive discrimination, but he only expressed the view informally in a debate with the employees of NP PRIM during one of the information meetings (the municipality concerned is regularly involved in the project). Some municipalities need closer explanation concerning the requirement for education (they considered the higher qualification than the minimum qualification established by law to be a higher qualification precondition). Similarly, this concerned a certain or longer practice (several

selected candidates had no prior practice in the area). The future school colleagues, who were reserved in welcoming the new colleagues with non-pedagogic education and no practice, sometimes also negatively perceived these issues.

Some municipalities also showed less willingness to hire the successful candidate, who was not a resident in the municipality. They tended to prefer their communities and prioritise employment for the unemployed inhabitants. This also happened in cases where there were no appropriate candidates from the municipality concerned.

In one case, the municipality repeated the selection procedure because it failed to apply the TCM. In the repeated round, a Roma woman was selected and the municipality is satisfied with her work. In another case, a Roma woman was not selected due to former negative work experience in a kindergarten and another Roma woman was selected instead.

There are also municipalities with job positions still vacant since upon concluding the agreement on cooperation they yet had not manage to conduct the job interviews. The overall success of the selected employees, in terms of duration at the position, is stable, in two or three cases it fluctuates. The reasons behind leaving the positions were mainly health related (pregnancy, serious health issues).

According to the Statement of the Office of the Roma Plenipotentiary of 31 December 2018, the number of applied TCM in the position of teacher's assistant was 45 and the number of applied TCM in the position of teacher's assistant was 1.

The Centre finds it positive that the adopted TCM mitigates the proven inequality in access to employment and promotes preschool education of children from MRC. In terms of access to employment, it fights against inequality, prejudice and stereotypes based on ethnicity, while in the area of education it pays attention to the needs and means of children in pre-school age. It seeks to give them such conditions in preparation for mandatory school attendance that would increase their chances for successful education.

In wider terms, the employees hired within the TCM project, who would maintain the positions in the kindergartens, would gain practice and skills for qualified work with children, giving them the perspective to find permanent employment in new fields. If a preferentially employed Roma successfully completes the requested supplementary education and gains pedagogic qualification, we can speak about a very positive prospects for good quality and publicly beneficial employment of people, who previously faced unemployment or low qualified and unstable jobs. All TCM are temporary (temporality is a vital requirement for TCM), hence, it is crucial to also adopt measures to secure sustainability of the situation created and to prevent regress to discrimination when implementing them.

The requirement to start the studies to supplement the pedagogic capacity no later than 2 years from commencing the employment is one of the most difficult steps for the successful teacher's assistants and professional employees. Selection of studies in terms of content and admission procedure, place of study, financing and time management are important factors for all students. In terms of students with active career, it is even more important to balance work and family life. The Centre thus underlines that the support of the Office of the Roma Plenipotentiary is necessary particularly at this stage. Selection and categorisation of a wide range of available study programmes is important as well as assistance in preparation for the admission process and preparation of further steps for successful completion of studies.

If the employee manages the process and stays employed in education, the goal of TCM would be fulfilled. Slovakia would not only gain qualified teacher's assistants with opportunities for further career growth but it would also create better conditions for education of children from the minority as well as from the majority.

It would be appropriate that the most municipalities possible participate in the project during its duration. Hence, it is necessary that the Office of the Roma Plenipotentiary continue with the support activities and meetings with representatives of the municipalities, particularly those that have not yet joined the project in order to find out the reasons and eliminate them.

Recommendations

The Centre recommends that:

1. The Ministry of Labour consider creating work plans and special programmes aimed at increasing job opportunities for older employees and for women at managing positions and in technical fields, similarly as it is designed for mothers with children in the national project "Family and Work".
2. The Ministry of Culture continue with the national project "Involvement of Unemployed Persons to the Restoration of the Cultural Heritage" and look for possibilities to use the acquired work skills of unemployed persons in favour of their better participation on the labour market.
3. The Ministry of Health continue with the project Healthy Communities and ensure sustainability of the results achieved also upon termination of the project.

4. The Ministry of Health search for further means to extend the existing network of activities of health awareness assistance for population from MRC within the project Healthy Communities.
5. The Ministry of Agriculture create and implement TCM to decrease the substantial regional differences and eliminate disadvantages particularly based on disability, race or ethnicity.
6. Bot'any municipality continue with the preparatory stage of the TCM to support equality in access to housing through construction of employees' social housing and search for all available funding for its implementation.
7. The Office of the Roma Plenipotentiary, within the TCM of preferential employment of Roma applicants for teacher's assistant and professional employee, together with municipalities, seek means to secure sustainability of the job positions created also after termination of the project.
8. The Office of the Roma Plenipotentiary provide the successful Roma applicants hired under preferential employment rules applied within the TCM with assistance and support in commencing the studies to acquire the minimum pedagogic education.
9. The Office of the Roma Plenipotentiary support partner municipalities to implement the project in case they yet have not done so, while continuing with the TCM as well as through workshops and good practice examples.
10. All entities adopting TCM fulfil their legal notification obligation to notify the Centre and submit reports on the adopted TCM in accordance with the Antidiscrimination Act.

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