

## **ANNEXE : POINT DE VUE DU GOUVERNEMENT**

**L'annexe qui suit ne fait pas partie de l'analyse et des propositions de l'ECRI concernant la situation en Slovaquie.**

Conformément à la procédure pays-par-pays, l'ECRI a ouvert un dialogue confidentiel avec les autorités de Slovaquie sur une première version du rapport. Un certain nombre des remarques des autorités ont été prises en compte et ont été intégrées à la version finale du rapport (qui, sauf indication contraire expresse, ne tient compte que de développements jusqu'au 20 mars 2014, date de l'examen de la première version).

Les autorités ont demandé à ce que le point de vue suivant soit reproduit en annexe du rapport de l'ECRI.

**Comment of the Slovak Republic on**  
**„The Fifth Report on Slovakia“**  
**prepared by the European Commission Against Racism and Intolerance (ECRI)**

*The Slovak Republic appreciates constructive dialogue with ECRI during the fifth monitoring cycle and welcomes the fact that ECRI recognised the progress that has been made in many areas since the last monitoring cycle. Moreover, it states with satisfaction that the majority of suggestions towards the draft Report on Slovakia was incorporated into the final version, which increased the quality of the Report. The Slovak Republic supports the activities of ECRI in its fight against racism, racial discrimination, xenophobia, antisemitism and other types of intolerance and it will pay considerable attention to recommendations included in the ECRI Fifth Report on Slovakia.*

*Slovakia associates itself with the ECRI recommendations included in the Report. Some of the recommendations regarding e.g. criminal liability of corporate entity, are currently in a legislative process and will be implemented soon.*

*However, the opinion of the Slovakia Republic is that in some paragraphs the Report fails to reflect the actually valid state to the whole extent. Therefore, we would like to specify some issues important to Slovakia in the following comment.*

-----  
--

## **I. COMMON TOPICS**

### **1. Legislation against racism and racial discrimination**

#### **- Criminal law (paragraphs 3 -19)**

Slovakia associates itself with ECRI statement that citizenship protection is not explicitly stated as an element of the criminal offence in the current wording of the Criminal Act. However, the Criminal Act intentionally includes affiliation to race, nation, nationality (person´s national/ethnic origin), colour of skin, ethnic group or origin, which covers the full scale of possible racist and xenophobic motives. If there is a difference in terminology between nation and nationality then we must unambiguously come to the conclusion that affiliation to a nation includes nationality (in light of Article 2a) of the European Convention on Nationality<sup>1</sup>) and therefore citizenship as well.

Furthermore, the opinion of the Slovak Republic is that the protection of language is sufficiently emphasised in Article 423, Section 1, Subsection a) of the Criminal Act and adequately punishes acts such as language defamation as offender's subjective expression.

The recommendation to amend the Criminal Act by a provision expressly stating that motivation based on race, colour of skin, language, religion, citizenship or national/ethnic

---

<sup>1</sup> Article 2a) of the European Convention on Nationality: "it" means the legal bond between a person and a State and does not indicate the person´s ethnic origin".

origin shall represent an aggravating circumstance for any criminal offence, is not possible to implement. The current wording of the Criminal Act punishes specific acts of extremism and racial motivation in provisions of Articles 421 to 424a of the Criminal Act as well as other acts of the criminal offences<sup>2</sup>. Incorporating the motivation of a perpetrator who committed a crime due to race, colour of skin, language, religion, citizenship or national/ethnic origin into aggravating circumstances would mean double punishment, since specific motivation, according to the above mentioned provision of the Criminal Act, represents an element of a criminal offence, which is clearly reflected in a more severe punishment. Moreover, it does not seem possible and suitable to include racial motivation as an aggravating circumstance for all criminal offences. Specific criminal offences have various subjects of protection and therefore it seems not possible to consider racial motivation for all the criminal offences, e.g. for the criminal offences of poaching, concealment of a thing, etc.

#### **- *Independent authorities* (paragraph 28)**

In the 2010 Manifesto, the Government of the Slovak Republic committed to pursue strengthening of the human right principles application in its activities and the activities of public authorities. For such purpose, a new permanent advisory body of the Government of the Slovak Republic has been established in 2010 - the Government Council of the Slovak Republic for Human Rights, National Minorities and Gender Equity.

The Government Council is a coordination body regarding the area of protection of fundamental rights and freedoms, political and civil rights, rights of persons belonging to national minorities and ethnic groups, economic, social and cultural rights, rights for the protection of the environment and cultural heritage, children's rights and enforcing the best interest of a child, in the area of rights of people with disabilities and rights of elderly when enforcing the principle of equal treatment, equal opportunities and gender equality. The composition of the Council is unique, because it brings together ministers and high-ranked state officials with the possibility to approve relevant decisions on the one hand. and on the other hand, it ensures the participation of other governmental institutions, academia, towns and municipalities as well as the civil society in a decision-making process. Therefore, it creates a unique platform for meeting and approving decisions of the broadest spectrum of the society in areas imminently related to them. There are approximately six meetings of the Council per year.

At an expert level, there are seven committees to the Council - Committee for National Minorities and Ethnic Groups, Committee for Persons with Disabilities, Committee for Gender Equality, Committee for Children and Youth, Committee for Research, Education and Upbringing in the Area of Human Rights and Development Education, Committee for Prevention and Elimination of Racism, Xenophobia, Antisemitism and Other Forms of Intolerance and Committee for Rights of Gays, Lesbians, Bisexual, Transgender and Intersexual Persons. By means of the above mentioned committees, the organisations representing vulnerable groups have the possibility to influence decision-making process. The committees provide the possibility to be engaged in particular areas within the competence of the Council and given the more specific composition also meet more often.

---

<sup>2</sup> By using provisions of Article 140a of the Criminal Act with reference to provisions of Article 140, Sections d) and f) of the Criminal Act as a specific motive.

Currently, there are negotiations taking place at the working level to make the internal functioning of the Council more effective so it can respond effectively to the current issues regarding human rights.

## **2. Hate speech (paragraphs 40 - 53)**

The ECRI Report is based on information provided by the Slovak Republic to OBSE-ODIHR in preparing the annual report on hate crimes in the OBSE region. The need to recognise such criminal offences according to the type of motivation (also required by OBSE-ODIHR) led to the opening of this topic at the Committee for Prevention and Elimination of Racism, Xenophobia, Antisemitism and Other Forms of Intolerance. The Committee will deal with this issue in detail at one of its working groups. The goal of this working group is to amend the existing forms for all parties that are a part of the criminal proceedings in such a way as to enable the tracking of particular types of motivation.

As a supplement of further activities leading to the collection of data and reports related to racism, extremism and xenophobia, the Slovak Republic states that in 2014, the NEHEJTUJ.sk project was launched, prepared by eSlovensko civic association and its partners. The project is designed for primary and secondary schools in Slovakia as well as other state and private institutions working with children and youth. The output of the project is a handbook and DVD with a selection of Slovak as well as foreign films focused on the topic of intolerance.

## **3. Integration policies**

### **- Roma integration policies (paragraphs 81-103)**

The Slovak Republic disagrees with the evaluation that the Roma integration program was not implemented due to the lack of will as well as due to the fact that different programs remain under the responsibility of particular ministries. Improving the Roma situation in all areas of life remains one of the main priorities of the Government of the Slovak Republic. In January 2012, the Government of the Slovak Republic adopted the *Strategy of the Slovak Republic for the Integration of Roma up to 2020* as a complex document reflecting the need to address the challenges related to the social integration of Roma communities. The revised national action plans for the Decade of Roma Inclusion 2005 - 2015 became a part of it.

The Strategy and its action plans form the basis of national integration policies for education, employment, housing, health, financial inclusion as well as a basis for activities in horizontal areas underlying the successful execution of such policies, such as fight against discrimination, racism, intolerance, promoting a positive Roma minority perception, strengthening the Roma minority position, execution of social investments and social cohesion measures, reduction of poverty, collection of information and execution of monitoring and evaluating processes of state policy efficiency. At the same time, the task of the strategy is to ensure the best possible use and transparent allocation of all available financial resources including resources from the European Solidarity Fund, to ensure the Roma integration process.

The Plenipotentiary of the Government of the Slovak Republic for Roma Communities acts as a coordinator for the implementation of the strategy and is primarily responsible for the monitoring of its implementation at the level of particular policies, programs and projects. Its specific implementation is provided via the Plenipotentiary of the Government of the Slovak

Republic for Roma Communities, ministries, other state administration bodies and legal entities.

The implementation of the strategy has already yielded several projects with a specific positive influence on the marginalised Roma communities, namely Social Field Work Project, Assistant Teacher Project or Community Centres Project.

The integral part of the strategy is to monitor and evaluate the implementation of the individual measures. In February 2014, the Office of the Plenipotentiary of the Government of the Slovak Republic for the Roma Communities prepared the Monitoring Report for Fulfilment of the Strategy for 2012 and 2013, which was subsequently submitted to the session of the Government of the Slovak Republic.

In the area of data collection the Slovak Republic has taken appropriate actions to obtain comprehensive data from all sectors of the state administration. From 2010 to 2015, an extensive research project has been performed focused on the statistical monitoring of the living conditions of the marginalised Roma communities in Slovakia in a time perspective. One of the outcomes of the research is a standardisation of selected data monitoring within Slovakia's official statistics.

#### - Culture

The Slovak Republic perceives protection of cultural rights of people endangered by discrimination as one of the fundamental conditions to maintain the society coherent. Therefore, the measures are being executed to prevent the emergence of permanent restrictions or risks of exclusion to any group of citizens from full participation in cultural and social life. The Ministry of Culture of the Slovak Republic established a stable financial mechanism - *The Culture of Disadvantaged Groups of Citizens* grant program to support cultural activities focused on the prevention and elimination of any form of violence, intolerance and discrimination and to support tolerance and intercultural dialogue. The program is focused on fulfilling the cultural needs of people (mainly children and women) from the marginalised Roma communities, migrants and LGBTI persons. Approximately EUR 300,000 is allocated within the scheme every year.

Culture of Disadvantaged Groups of Citizens Grant Program (number of supported projects)							
year	2007	2008	2009	2010	2011	2012	2013
number of supported projects	43	53	87	89	84	117	117

#### Education

In Slovakia, the principle of equal treatment in the field of education is being fully applied. Since 2002, a position of assistant teacher has been established and at the same time, an exemption from the legally required education for such a position was granted until the end of 2010. Currently, the requirements for education of the assistants are stipulated by the Act

on Pedagogical Employees and Specialist Employees<sup>3</sup>, alternating the university or full secondary education. The Slovak Republic does not identify itself with the statement that the stated qualification lowers the chances for the Roma minority applicants. The statement suggests that applicants of Roma origins are not able to achieve the required qualification. The Slovak Republic is of the opinion that the relevant qualification for teachers forms an essential part of the success of students. The high-quality teacher and other/further educational employee (e.g. assistant) are the most important elements in education.

The grants for food and school supplies are provided as part of the Social System of the Slovak Republic by the Ministry of Labour, Social Affairs and Family of the Slovak Republic. However, the provision is not bound to ethnic origin, behaviour of students or school attendance, nor there are plans to do so in the future. The Ministry of Education, Science, Research and Sport of the Slovak Republic funds travel expenses to every student of a primary school in case there is no primary school established in the municipality where the student has a residence and the student attends a primary school in another municipality within the same school district<sup>4</sup>.

#### *- Health care*

Regarding health care, there is a constitutionally protected principle of equal treatment in the Slovak Republic, in accordance with the Health Care Act<sup>5</sup>. Since October 2013, there has been the "Healthy Communities" project running in Slovakia, financially supported from grants intended for social and cultural needs and solutions of the unfavourable situation of the Roma community. The financial grant to support the project is planned until 30 June 2014 with the possibility of a further extension until October 2014. In future, it is planned to develop the National Programme for the Support of Roma Community Health. It should be financially supported from the EU structural funds. The project finances the field activities of 108 health education assistants and 12 regional field coordinators in segregated and separated Roma settlements. In the period between 1 January and 30 June 2014, the number of locations should increase to 144 with 144 health assistants and 16 coordinators. Educational activities are performed regularly for all employees, not only by means of preparation and training of new employees, but also inspection, supervision and motivation.

Specifically, in the field and sexual and reproductive health, one of the partial goals of the Strategy of the Slovak Republic for Integration of Roma up to 2020 is to increase awareness regarding education on parenthood, reproductive health, motherhood and childcare as well as perform tutorial, complex, non-stereotype activities focused on increasing awareness on sexual and reproductive behaviour for women and men from the marginalised Roma communities (including the campaign to increase and improve awareness on using modern types of contraception). In the area of health care, appropriate attention is paid to the

---

<sup>3</sup> Article 7, Section 2, Subsection b) of the Act No. 317/2009 Coll. on Pedagogical Employees and Specialist Employees and on Amendment and Supplement of Certain Acts

<sup>4</sup> Article 8 of the Act No. 596/2003 on State Administration in Education and School Self-Governing Bodies and on Amendment and Supplement of Certain Acts, as later amended, Article 4a, Section 2, Subsection a) of the Act No. 597/2003 on Financing of Primary Schools, Secondary Schools and School Facilities as later amended and Directive No. 9/2009-R stipulating the procedure for reimbursement of expenses for transport of students of primary and secondary school for students with specific pedagogical and educational needs, as later amended

<sup>5</sup> Act No. 576/2004 Coll. on Health Care, Health-care Related Services and on Amendment and Supplement of Certain Acts, as later amended

integration of the marginalised Roma communities by increasing the awareness of a healthy lifestyle, support the use of existing preventive health services or expanding the programme of community workers in the area of health education via health education mediators. The goal of the strategy is to ensure non-discriminative, high-quality and unrestrained access for female and male members of the marginalised Roma communities to modern contraception methods as well as services of sexual and reproductive health based on voluntariness and principles of informed decision-making and consent.

In 2013, within the preparation of the "Healthy Communities" project, the Office of the Plenipotentiary of the Government of the Slovak Republic for the Roma Communities participated in the education of health education assistants. Within the ongoing project, approved for the period between January and June 2014, education of the health education assistants is provided by the grant recipient, who also is a health education assistants' employer. One of the educational topics also is a sexual and reproductive health within the marginalised Roma communities. After taking part in the education, the assistants are ready to offer counselling as well as education in this area.

#### ***- Refugees and asylum seekers and other non-nationals (paragraphs 105-115)***

*Integration Policy of the Slovak Republic*, approved by the Government of the Slovak Republic on 29 January 2014, is currently the key strategic document in the area of integration of foreigners. The Integration Policy is a systematic framework of policies focused on providing the execution of measures to make the process of integration of foreigners more effective. Effective integration of foreigners enables society to use the potential of foreigners in providing benefits to society. At the same time, it has a preventive role when it comes to prevention of risks from economically, socially and a culturally divided society, as well as the formation of enclosed and excluded migrant communities. The emphasis is put on raising awareness regarding the life of foreigners in Slovakia and ways of protection against discrimination, racism and xenophobia. At the same time, emphasis at regional and local level is used since the local authorities assist with the integration of foreigners and form social coherence between various communities and a majority society.

The elaboration of objectives and concrete measures of the Integration Policy within individual action plans shall be provided by particular ministries in order to reflect for the actual needs of the target group.

## **II. TOPICS SPECIFIC TO SLOVAKIA**

### **1. Interim follow-up recommendations for the fourth cycle**

#### ***- Functioning of the Slovak National Centre for Human Rights (paragraphs 116 - 120)***

The Slovak National Centre for Human Rights was established as the National Human Rights Institution (NHRI) in order to fulfil competences in the area of human rights. Until March 2012, it had a B status accreditation in accordance with the Paris Principles. In 2013, it submitted an application for a new accreditation. The Centre was granted B status accreditation by the decision of the ICC Sub-Committee on Accreditation, which was confirmed by the final decision of the ICC Bureau on 23 May 2014.

The Slovak Republic will continue to work on the amendment Act on the Slovak National Centre for Human Rights with the aim to create the NHRI in full compliance with the Paris Principles. Relevant national authorities and civil society representatives currently discuss the future structure of the Administrative Board and the appointment of the NHRI's Executive Director by selection procedure.

**- *Segregation of Roma children in education* (paragraphs 125 - 132)**

The Government of the Slovak Republic, specifically the Ministry of Education, Science, Research and Sport of the Slovak Republic in cooperation with the Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities, is specifically focused in its activities on the prevention of discrimination and segregation of Roma children by using several measures. It provides guidance to the centres of pedagogic and psychological counselling and prevention when assessing the school capabilities of children from a socially disadvantaged environment and when it comes to placing such children into a primary school ([http://www.minedu.sk/data/files/2986\\_usmernenie.pdf](http://www.minedu.sk/data/files/2986_usmernenie.pdf)).

By the financing system, the Ministry encourages primary schools to include students with special needs while taking into account increased costs for their education, designated in the state education program. It finances projects focused on the inclusion in nursery schools and primary schools via calls for development projects from the national budget as well as the European Social Fund. Since April 2014, the "PRINED - Project of Inclusive Education" has been undertaken. The goal is to support the all-day educational system focused on decreasing the number of children included into the special schools/special classes in primary schools and for the improvement of teacher's work by providing an auxiliary professional personnel.

Currently, the Ministry of Education, Science, Research and Sport of the Slovak Republic, in cooperation with other ministries as well as the Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities, are intensely working on the possibility to provide the same access to education in municipalities with a high concentration of students from the marginalised Roma communities, more specifically, building the modular schools in locations with a two-shift operation. The emphasis is put on decreasing the number of such students in special primary schools/special classrooms of primary schools by creating capacities in a primary school. In 2013, 5 modular schools were built for EUR 1,000,000 and in 2014, there are 9 projects of schools having started so far, with a total sum of EUR 1,920,000.