

ECRI REPORT ON SLOVAKIA

(fifth monitoring cycle)

Adopted on 19 June 2014

Published on 16 September 2014

COUNCIL OF EUROPE



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FOREWORD

The European Commission against Racism and Intolerance (ECRI), established by the Council of Europe, is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, anti-Semitism and intolerance.

In the framework of its statutory activities, ECRI conducts country-by-country monitoring work, which analyses the situation in each of the member States regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country-by-country monitoring deals with all member States of the Council of Europe on an equal footing. The work takes place in 5-year cycles, covering 9-10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002 and those of the third round at the end of 2007, and those of the fourth round will be completed at the beginning of 2014. Work on the fifth round reports started in November 2012.

The working methods for the preparation of the reports involve documentary analyses, a visit to the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidence. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on a large number of national and international written sources. The in situ visit provides the opportunity to meet with the parties directly concerned (both governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final ECRI report.

The fifth round country-by-country reports focus on four topics common to all member States: (1) Legislative issues, (2) Hate speech, (3) Violence, (4) Integration policies and a number of topics specific to each one of them. The fourth-cycle interim recommendations not implemented or partially implemented during the fourth monitoring cycle will be followed up in this connection.

In the framework of the fifth cycle, priority implementation is requested again for two specific recommendations chosen from those made in the report. A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

The following report was drawn up by ECRI under its own responsibility. Except where expressly indicated, it covers the situation at 20 March 2014; developments since that date are neither covered in the following analysis nor taken into account in the conclusions and proposals therein.

SUMMARY

Since the adoption of ECRI's fourth report on Slovakia on 19 December 2008, progress has been made in a number of fields.

The public denial, doubting or approval of the Holocaust, as well as other criminal offences committed on the basis of fascist or communist ideologies that encourage the suppression of fundamental rights and freedoms or violent ideologies, are now criminal offences.

Sexual orientation is now among the aggravating circumstances of a criminal offence.

The authorities and private entities can adopt positive measures aimed at eliminating disadvantages linked also to race and ethnicity.

The new Ombudsman has taken a more proactive role in the anti-discrimination field.

There are positive examples of using sport's values to counter racism and stereotyping, in particular against the Roma community.

A prosecutor in each judicial district and a special police department in each police district deal with extremism. 231 police officers specialised in minorities/Roma operate at the level of regional police departments.

A recent domestic court's judgment held that a school, by placing children of Roma ethnicity in separate classrooms, had violated the principle of equal treatment and discriminated against Roma children on account of their ethnic origin.

Good practices at local level facilitate the active involvement of Roma in social work and the so called municipal firms provide job opportunities for Roma.

The Government Council for Human Rights, National Minorities and Gender Equality established a committee for LGBTI issues.

ECRI welcomes these positive developments in Slovakia. However, despite the progress achieved, some issues give rise to concern.

There is no general provision that racist motivation constitutes an aggravating circumstance for all criminal offences. Citizenship and language are not included among the characteristics of potential victims of racist conduct and racial discrimination, which are punishable under the Criminal Code.

The Anti-discrimination Act is not applied adequately as the body empowered to monitor its implementation, the Slovak National Centre for Human Rights, does not function properly and independently.

Data on offences of hate speech and racist violence are not disaggregated in accordance with the different kinds of recorded specific motivation and do not contain a clear indication of the follow-up given by the justice system.

Anti-“minorities” rhetoric and offensive discourse targeting sexual orientation are common among politicians, and hate speech is recurrent on the Internet and in part of the traditional media. The leader of a far-right party was elected as regional governor.

There is a failure to implement the Roma integration programme due to a lack of will and because the various programmes remain under the responsibility of individual ministries.

An assessment of the progress of the Roma integration programme is impaired by the absence of comprehensive data. Poor housing and segregation in school are the most palpable evidence of the widespread inequalities encountered by Roma.

There is no adequate access to gender reassignment treatment, although this is required by law in order to change name and identification number.

In this report, ECRI requests that the authorities take action in a number of areas; in this context, it makes a series of recommendations, including the following.

Racist motivation should constitute an aggravating circumstance for all criminal offences. Citizenship and language should be explicitly mentioned among the characteristics of potential victims of racist conduct and racial discrimination, which are punishable under the Criminal Code.

The reform of the Slovak National Centre for Human Rights is an urgent issue. The reformed institution should be endowed with sufficient financial and human resources in order to fulfil independently and efficiently the tasks assigned to it by the Anti-discrimination Act.*

A mechanism for collecting disaggregated data on hate speech and racist homo/transphobic violence incidents should be put in place and the data made public.*

Slovakia should ratify the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

Concerning Roma integration, coordination between the ministries should become mandatory and an evaluation of the implementation of the National Roma Integration Strategy should be completed without further delay.

The best way to counter segregation of Roma in primary education is to ensure that pre-school education is readily available to Roma children aged between three and six.

Gender reassignment treatment should be made available for transgender persons in Slovakia and the cost should be reimbursed by public health insurance schemes.

* This recommendation will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

FINDINGS AND RECOMMENDATIONS

I. Common topics

1. Legislation against racism and racial discrimination¹

- Protocol No. 12 to the European Convention on Human Rights

1. Slovakia has not yet ratified Protocol No. 12 to the European Convention on Human Rights, which it signed on 4 November 2000. ECRI is not aware of any progress towards the ratification of this instrument. As already mentioned in its previous reports, ECRI considers that this Protocol, which contains a general prohibition of discrimination, will enable Slovakia to combat racism and racial discrimination more effectively at national level.

2. ECRI reiterates its recommendation that Slovakia ratify Protocol No.12 to the European Convention on Human Rights.

- Criminal law

3. Most of the provisions of the 2006 Criminal Code appear to be in line with ECRI's General Policy Recommendation (GPR) No. 7 on national legislation to combat racism and racial discrimination. The analysis which follows will concentrate on recent amendments or persisting lacunae.
4. Slovak legal terminology distinguishes between "citizenship" (občianstvo), an attribute of those who are citizens of Slovakia, and "nationality" (národnosť), which refers to the person's national/ethnic origin. ECRI notes that citizenship is not explicitly mentioned in the Criminal Code as one of the characteristic of the potential victims of racist conduct or racial discrimination ("prohibited grounds"). In order to ensure that this concept is indeed covered, ECRI considers that citizenship should be expressly included in the list of prohibited grounds, in addition to nationality² and affiliation to a nation.³
5. Moreover, contrary to what paragraph 18 of GPR No. 7 recommends, the Criminal Code does not punish public incitement to discrimination, when committed intentionally, against individuals or a grouping of persons on grounds of their race, colour, language, religion, citizenship, or national or ethnic origin. Incitement to discrimination is only prohibited under civil law by the Anti-discrimination Act.⁴ The Criminal Code under section 424 punishes only incitement "to the restraint of rights and freedom of a nation, nationality, race, or an ethnic group".
6. Also contrary to another recommendation of the same paragraph of GPR No.7, the Criminal Code does not punish as a separate criminal offence public

¹ According to ECRI's General Policy Recommendation (GPR) No.7, "racism" shall mean the belief that a ground such as race, colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons or the notion of superiority of a person or a group of persons; "racial discrimination" shall mean any differential treatment based on a ground such as "race", colour, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification.

² For ECRI, the term "nationality" in the definitions in footnote 1 should be understood as in Article 2 a) 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".

³ ECRI is of the opinion that the mention of "affiliation to a nation" as a "prohibited ground" in a number of sections of the Criminal Code is not comparable to the prohibition of racism and racial discrimination on ground of citizenship.

⁴ According to Section 2a para 1 of the Anti-discrimination Act, discrimination can have different forms, including incitement to discriminate.

insults⁵, when committed intentionally against individuals or a grouping of persons on grounds of their race, colour, language, religion, citizenship, or national or ethnic origin. This specific form of insult is only prohibited under civil law by section 2a, paragraph 4 of Article I of the Anti-discrimination Act, which includes “insulting” in the definition of harassment.

7. ECRI recommends that, in line with its General Policy Recommendation No. 7, the authorities ensure that citizenship is included among the characteristics of potential victims of racist conduct and racial discrimination, which are punishable under the Criminal Code.
8. ECRI also recommends that the criminal law is amended in order to punish, when committed intentionally, public incitement to discrimination and public insults against a person or a grouping of persons on grounds of their race, colour, language, religion, nationality, or national or ethnic origin, as per its General Policy Recommendation No. 7 paragraph 18 b) and c).
9. Many criminal offences are punished more severely if they are committed with a “specific motivation”; the “extremist motivation” in section 140 d) and f)⁶ of the Criminal Code which is comparable to “racist motivation” as in paragraph 21 of GPR No. 7. However, there is no general provision that racist motivation constitutes an aggravating circumstance for all criminal offences. For example, section 195 of the Criminal Code punishing the offence of infringing the freedom of peaceful association and assembly does not provide as an aggravating circumstance any specific motivation. In addition, section 140 d) does not include language and section 140 f) does not include language and religion in the list of specific-motivation grounds.
10. ECRI recommends that the Slovakian authorities insert a provision in the Criminal Code expressly stating that motivation on grounds of race, colour, language, religion, citizenship, or national/ethnic origin constitutes an aggravating circumstance for any offence, as per its General Policy Recommendation No. 7 paragraph 21.
11. In line with paragraph 18 of GPR No. 7, the Criminal Code under section 424 a) punishes (when committed publicly) defamation and threats, as well as incitement to violence and hatred against persons or groups of persons based on certain characteristics. The list of prohibited grounds is comparable to the one in paragraph 18 of GPR No. 7, except that language is not mentioned as an explicitly prohibited ground.
12. According to the authorities, some forms of language-related racism can be prosecuted under section 423 of the Criminal Code which prohibits defamation of “any nation, its language, a race or an ethnic group”. ECRI is of the opinion that prohibition of “defamation of a nation or its language” is not comparable to the prohibition of public incitement to violence and hatred, defamation and threat, when committed intentionally against a person or a grouping of persons on the ground of their language. In addition, ECRI is not aware of any such cases ever having been considered a criminal offence under section 423 by the Slovakian courts.

⁵ Section 49 the Minor Offences Act states that “any person who defames another person by insulting or ridiculing him or her is liable to a pecuniary fine of up to 33 €”.

⁶ Section 140 d) “committing a crime with the purpose of publicly inciting violence or hatred towards a group of persons or an individual on the grounds of their race, nation, nationality, skin colour, ethnic origin, family origin or religious belief, or committing a crime based on national, ethnic or racial hatred or hatred due to skin colour”. Section 140 f) “committing a criminal act of national, ethnic or racial hatred, or hatred on the grounds of skin colour”.

13. ECRI recommends that the authorities include in the Criminal Code provisions criminalising defamation and threats, as well as public incitement to violence and hatred against a person or a grouping of persons on the ground of their language, as per its General Policy Recommendation No. 7 paragraph 18 a), b) and c).
14. Since the 2009 transposition into domestic law of the European Council Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law, the concepts of “extremist group”, “extremist material” and “extremist offences”⁷ are now better defined in the Criminal Code. ECRI is therefore satisfied that the prohibition of the production and dissemination of “extremist material” is comparable to the prohibition of dissemination, production or storage of racist material as recommended by paragraph 18 f) of GPR No. 7; and that the prohibition of supporting and promoting extremist groups is comparable to the prohibition of the creation and leadership of a group which promotes racism, support for such a group and participation in its activities as per paragraph 18 g) of GPR No. 7.
15. However, ECRI notes that language is not mentioned in the definition of “extremist group” and “extremist material”.
16. ECRI recommends that the authorities include in the Criminal Code provisions criminalising the dissemination, production or storage of racist material directed against a person or a grouping of persons on the ground of their language, as well as the creation and leadership of a group which promotes racism against a person or a grouping of persons on the ground of their language, support for such a group and participation in its activities, as per its General Policy Recommendation No. 7 paragraph 18 f) and g).
17. In line with GPR No. 7, Section 422d of the Criminal Code, amended in 2011, criminalises the public denial, doubting or approval of the Holocaust, as well as public denial of other criminal offences committed on the basis of fascist, communist or violent ideologies that encourage the suppression of fundamental rights and freedoms. Another recent amendment provides that hatred based on sexual orientation constitutes an “extremist bias” and is an aggravating circumstance for a criminal offence (section 140 g) of the Criminal Code).⁸
18. Paragraph 2 of section 19 of the Criminal Code states that “only a natural person may be considered the offender of a criminal offence”. Therefore, contrary to what recommends paragraph 22 of GPR No. 7, legal persons cannot be held responsible for any of the offences mentioned above.⁹
19. ECRI recommends that the authorities amend the Criminal Code in order to ensure that legal persons can also be held criminally responsible for the offences related to racism and racial discrimination set out in paragraphs 18, 19, 20 and 21 of its General Policy Recommendation No. 7.

⁷ Extremist group: section 129, paragraph 3 of the Criminal Code; extremist material: section 130, paragraphs 8 and 9 of the Criminal Code and extremism offences: section 140 a) of the Criminal Code.

⁸ This is relevant to the section Racist and homo/transphobic violence and subsection Policies to combat discrimination and intolerance against LGBT persons.

⁹ According to the explanatory memorandum of GPR No. 7, this liability should come into play when the offence has been committed on behalf of the legal person by any persons, particularly acting as the organ of the legal person (for example, President or Director) or as its representative. Criminal liability of a legal person does not exclude the criminal liability of natural persons.

- **Civil and administrative law**

20. In 2004 Slovakia adopted the Anti-discrimination Act (the Act), which transposed the EU directives on combating discrimination.¹⁰ The Act contains provisions against direct and indirect discrimination, harassment, victimisation, instruction and incitement to discriminate (Article I, paragraph 2 (2)) in the fields of employment, social security, healthcare, education and in the field of provision of goods and services (Article I, paragraph 5).
21. In the field of “employment and occupation”, the Act prohibits discrimination on the grounds of, among others, religion or belief, racial, national or ethnic origin, as well as sexual orientation (Article I, paragraph 6 (1)).¹¹ In other fields discrimination is prohibited also on grounds, among others, of language and colour. Moreover, according to the Act, discrimination based on sexual or gender “identification” is also deemed to constitute discrimination based on gender (Article I, paragraph 6 (3) a).¹²
22. For a detailed review of the Act, ECRI refers to its fourth report on Slovakia, paragraph 18 et seq. The analysis which follows will concentrate on recent amendments or persisting lacunae.
23. In line with paragraph 5 of GPR No. 7, amendments in 2008 and more recently in April 2013¹³ to the Act (Article I, paragraph 8 (8)) give the possibility to the authorities (including local authorities) and private entities of adopting positive measures aimed at eliminating disadvantages linked, inter alia, to race and ethnicity, and at promoting equal opportunities in access to employment, education and healthcare. In line with GPR No.7, the 2013 amendments have extended the prohibition of discrimination also to the threat of discrimination.
24. A 2008 amendment to the Act introduced the possibility of public interest complaints (*actio popularis*). The Act provides that these complaints can be filed by “legal entities whose activities are aimed at or consist in the protection against discrimination” (usually human rights NGOs)¹⁴ or the Slovak National Centre for Human Rights (the Centre). Following the amendment in 2011, the Act no longer contains an exhaustive enumeration of claims that could become the object of an *actio popularis*; now the list of such claims is non-exhaustive.¹⁵
25. NGOs successfully bringing cases on behalf of victims of discrimination often have difficulties in getting paid for the legal work done. In reality their work is not different from that of lawyers, who according to the Bar Regulations, can have their legal fees paid directly out of the compensation granted to the victim by the

¹⁰ Council Directive (EC) 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; Council Directive (EC) 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation; and European Parliament and Council Directive (EC) 2006/54/EC 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.

¹¹ The EU Commission had to launch infringement proceedings against Slovakia due to the insufficient protection given to victims of discrimination on this ground. However, with the specific inclusion of this ground in the Anti-discrimination Act the proceedings were closed. EU Commission Report COM (2014)2 Final, p. 15.

¹² Relevant for subsection on Policies to combat discrimination and intolerance against LGBT persons.

¹³ Act No. 32/2013 Coll. amending and supplementing Act No. 365/2004 Coll. (Anti-discrimination Act) and Act No. 8/2008 Coll. on insurance and on amendments to certain laws.

¹⁴ Article I, paragraph 10 (1) b) of the Anti-discrimination Act.

¹⁵ Article I, paragraph 9 a) of the Anti-discrimination Act as amended by Act No. 332/2011 Coll.

court. NGOs do not have this possibility. This creates a situation where NGOs, have to employ lawyers to file discrimination claims.¹⁶

26. ECRI recommends that the authorities amend the law in order to ensure that NGOs who have successfully brought cases on behalf of victims of discrimination can obtain payment for their legal work in the same way that lawyers can recover their fees under the Bar Regulations.

- **Independent authorities**

27. In this sub-section ECRI will review the legislation on national independent authorities in the light of its GPR No. 2 on specialised bodies to combat racism and racial discrimination at national level and GPR No. 7, which recommend that member States expressly entrust independent authorities with the fight against racism and racial discrimination in the public and private sectors.

28. ECRI notes that a number of coordinating bodies are empowered to deal with racism and intolerance in Slovakia: (i) the Plenipotentiary of the Government of the Slovak Republic for Roma Communities (ii) the Government Council of the Slovak Republic for Human Rights, National Minorities and Gender Equality (the Council), which has been entrusted with drafting the first-ever comprehensive human rights strategy, and all its numerous committees, including (iii) the Committee for the Prevention and Elimination of Racism, Xenophobia, Anti-Semitism and other Forms of Intolerance and (iv) the Committee for the Rights of LGBTI persons, and (v) the regional offices of the Bratislava Legal Aid Centre funded by the Ministry of Justice¹⁷, which provide legal aid to victims of discrimination.¹⁸ ECRI notes with concern that the Council has a complex structure which does not facilitate decision-making. For example, it has an organogram including a minister as chair and four ministers as vice-chairs, eight state secretaries and another 25 representatives of other institutions, as well as a number of NGOs representatives.

29. While these institutions are not independent authorities, their activities are relevant to this report and will be examined under other sections.

The Public Defender of Rights (Ombudsman)

30. The Public Defender of Rights, whose independence is guaranteed in Article 151 a) of the Constitution and Act No. 564/2001 Coll., may deal with racial discrimination issues when s/he examines claims concerning the alleged infringement of “fundamental rights and freedoms” of individuals by public administration authorities. When the Ombudsman finds that the violation of a right is of a serious nature or applies to a larger number of people, he/she can submit a special report to the Parliament requesting that the report is discussed in its next plenary session.

31. The Ombudsman can act on his/her initiative or receive complaints. In her first annual report presented to the Parliament in 2013 the new Ombudsman commented on Roma issues and human rights violations. Moreover, in August 2013 the Ombudsman expressed, in a special report, concerns over the ongoing existence of Roma-only classes in Slovak schools, cases of misconduct by the police and evictions of residents in eastern Slovakia. The report also

¹⁶ European network of legal experts in the non-discrimination field, 2012: 8.

¹⁷ Based in Žilina, Banská Bystrica and Košice.

¹⁸ The amendment of January 2012 to the Act on the Provision of Legal Aid to Persons in Material Need eases the conditions for obtaining free legal aid; it increases the maximum income threshold allowed for accessing the services of the Legal Aid Centre from a 1.4 to a 1.6 multiple of the minimum living wage.

contained a number of recommendations addressed to the Parliament. ECRI regrets that the report was not discussed by the Parliament.

32. ECRI takes a positive note of the more proactive role of the Ombudsman in the anti-discrimination field as recommended by its 2008 report. However, although her competence to promote and protect human rights of individuals goes beyond pure maladministration, her remit, like that of the majority of Ombudsmen, is limited to the activities of the public administration as opposed to those of private or legal persons.

Slovak National Centre for Human Rights

33. Article II of the Act assigns to the Slovak National Centre for Human Rights (the Centre) the task of monitoring compliance with the Act in line with “human rights and the principle of equal treatment”. To this end the Centre should provide legal assistance to victims of discrimination, issue expert opinions on cases of discrimination, conduct awareness-raising campaigns and carry out research on discrimination (Article II section 1 paragraph 2 of the Act). The Centre publishes an annual report on the human rights situation in Slovakia.
34. ECRI’s fourth report on Slovakia noted that some of the members of the Centre were not perceived as being independent. It recommended that the Slovak authorities take steps to strengthen the independence of the Centre as an anti-discrimination body. The 2012 ECRI Conclusions on the implementation of this recommendation noted that it was not fulfilled. In March 2012 the Centre’s accreditation with the UN International Coordinating Committee of national human rights institutions lapsed due to failure to submit the necessary documentation.¹⁹
35. ECRI has been informed that a number of initiatives have been taken by the authorities to evaluate the Centre. The last one was carried out by an independent audit firm on behalf of the Ministry of Justice during the first semester of 2013. However, ECRI regrets that no follow-up has been decided so far, despite the serious flaws in the Centre’s independence.
36. ECRI recommends that the authorities amend the legislation concerning the composition and the appointment of the governing and the controlling bodies, as well as of the director, of the Slovak National Centre for Human Rights in order to strengthen its independence. This will ensure that Slovakia has an independent authority expressly entrusted with the fight against racism and racial discrimination in both the public and the private sectors.
37. Finally, ECRI notes that the Centre is mandated to address discrimination also on grounds of sexual orientation since it is one of the protected grounds mentioned in the Act. It can also deal with discrimination on grounds of gender identity, because, as already observed, the Act incorporates discrimination based on gender identity under discrimination based on gender.^{20 21}

2. Hate speech²²

38. The resurgence of different forms of hate speech targeting vulnerable groups, such as Roma, other historical minorities and LGBT persons, has prompted the authorities to take a number of initiatives. These phenomena and the

¹⁹ UN ICC Sub-Committee on Accreditation 2012: 28. The Centre’s request to regain accreditation was examined by the ICC in March 2014. A decision was expected in May 2014.

²⁰ Follow-up to Recommendation CM/Rec(2010)05, contribution by Slovakia, section 1.2.

²¹ This is relevant for subsection Policies to combat discrimination and intolerance against LGBT persons.

²² This section covers racist and homos/transphobic speech.

authorities' response to them will be examined in this section on hate speech covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, antisemitism or other forms of hatred based on intolerance.²³

- **Legislation**

39. A number of sections of the Criminal Code punishing the so called extremist offences are also relevant for hate speech offences. Therefore ECRI refers to its analysis in the sub-section on Criminal law. Hate speech may also be dealt with by means of other, general criminal provisions, such as those on slander, defamation and insults. Civil law remedies are also frequently used to protect an individual from hate speech: in particular, Article 11 of the Civil Code, concerning the protection of honour and reputation and Article 13, which provides for a remedy in case of breach of these rights.

- **Data**

40. The Ministry of Interior, the Ministry of Justice and the General Prosecutor's Office are responsible for collecting data on offences related to hate speech. The statistics submitted to ECRI by the General Prosecutor's Office and the Ministry of Justice for this report are broken down only by relevant sections of the Criminal Code, are not disaggregated in accordance with the different kinds of recorded specific motivation of the offender and do not contain a detailed indication of the follow-up given by the justice system. Moreover, the statistics from these two sources differ on the number of persons convicted. The Ministry of Justice reports a total of 31 persons convicted in 2010 for criminal offences related to "extremism",²⁴ 38 in 2011 and 32 in 2012.²⁵ In sum, the data is too general to give a clear picture of the situation as regards hate speech.
41. ECRI considers that data concerning the offences of hate speech should be disaggregated in accordance with the different kinds of recorded specific motivation and should contain a clearer indication of the follow-up given by the justice system from the time of the recording by the police. This would help to gain a better picture of the trends in the country and to provide adequate policy responses and protection to victims.
42. ECRI understands that the Government Committee for the Prevention and Elimination of Racism, Xenophobia, Anti-Semitism and other Forms of Intolerance is ready to consider introducing a mechanism to collect such data.
43. ECRI recommends that the authorities ensure that a mechanism for collecting disaggregated data on hate speech incidents is put in place, recording the specific motivation, as well as the follow-up given to them by the justice system, and that this data is made available to the public.

- **Racist political discourse**

44. Anti-"minorities" rhetoric, in particular aimed at stirring anti-Roma sentiment to make electoral gains, has been common among politicians from the entire political spectrum.²⁶ In particular, a defamatory campaign against Roma was

²³ See Recommendation No. R (97) 20 of the Committee of Ministers to the member States on "hate speech", adopted on 30 October 1997.

²⁴ For a definition of such criminal offences see paragraph 14 of this report.

²⁵ The most recent statistics on hate crime were submitted by Slovakia to ODIHR for the yearly report Hate Crime in the OSCE Region on 2010.

²⁶ The centre-right MP Štefan Kužma publicly accused Roma of exploiting state benefits by providing misleading data. See ENAR 2012: 40. Even the Prime Minister accused the ethnic and national minorities

conducted by the Slovak National Party (SNS) in 2010.²⁷ In the same year, this party also publicly called for the creation of an independent state for Roma to be located in Eastern Slovakia where all Roma should emigrate so that they cease to be a “burden” for the country.²⁸ The leader of the far-right party Our Slovakia (SLNS)²⁹ was elected in November 2013 as governor of the Banska Bystrica region, one of the three regions with the highest Roma population.

45. The low turnout at the 2013 regional elections in Banska Bystrica (in the second round 24.61%) should not diminish the seriousness of their outcome. Instead, it should be seen as the result of widespread distrust and fatigue on the part of the electorate, including the Roma community, with the way Roma problems are dealt with by local politicians. For more extreme examples of this distrust, such as the building of walls around Roma settlements and anti-Roma protest marches, ECRI refers to the section on Integration.
46. According to a number of political commentators, leaders across the entire political scene who have often used nationalist rhetoric for quick political gain share some responsibility for the fact that a far-right extremist was elected regional governor for the first time in the post-1989 history of Slovakia. In ECRI's view politicians have a crucial role to play in putting an end to anti-Gypsyism and more generally to anti-“minorities” rhetoric.³⁰
47. ECRI recommends that the authorities implement the legislation on banning political parties openly hostile to human rights³¹ and enact legislation on suspending state funding for these parties and banning persons convicted of offences of racism or racial discrimination from running for public offices.

- **Extremist groups**

48. Reports³² indicate the presence of about 500 active members of neo-Nazi groups and several thousand sympathisers in Slovakia. Despite their number their strategy has become more sophisticated in recent years. For example, they seem to be able to organise racist marches and public gatherings by exploiting certain loopholes in the legislation concerning restrictions on freedom of assembly (Act No. 84/1990 Coll.). It is possible to organise public assemblies just by announcing the gathering to the municipal authorities. Only when the assembly turns into an overt racist demonstration can the police disperse it. However, this rarely happens or happens too late.

- **Racism on the Internet**

49. Hateful and racist statements have been reported on the Internet (also in social networks). They mainly target the Roma community and to a lesser extent the

of being disloyal to the state and claimed that “Slovakia was founded first of all for the Slovak (ethnic) Nation, and not for the minorities”. See Prime Minister's statement in Martin, on 26 February 2013: <http://www.sme.sk/c/6715570/natihnuteruky-no-minimalne-obcianske-cnosti-tak-vidi-fico-pristup-mensin.html> .

²⁷ For instance, in 2010 it launched a campaign associating Roma with abuse of the welfare system.

²⁸ See Hammarberg T. 2001: 8, paragraph 22.

²⁹ A party which expressed support for, and used the symbols of, the World War II-era fascist Slovak state, and organised numerous marches and gatherings throughout 2012.

³⁰ For example in February 2012, the former Deputy Prime Minister for Human Rights and National Minorities publicly condemned the recourse to defamatory speeches against Roma in electoral campaigns.

³¹ Section 2 of Act No. 85/2005 Coll. on political parties and political movements stipulates that the statute and the programme or the activities of a political party may not violate the Constitution, constitutional laws, other laws or international treaties.

³² See, for example, US Department of State 2012.

Hungarian historical minority and non-nationals.³³ Regarding the spread of racist ideologies through the Internet, a study has demonstrated a worrying tolerance of such practice by the public.³⁴

50. A public hotline, Stopline.sk, launched in 2010, can receive online reports about cybercrime, including “racism, extremism and xenophobia”. It is part of a wider NGO project funded by the European Commission programme Safer Internet Plus, in co-operation with the Ministry of Interior. The Ministry of Education co-ordinates the Council of Europe’s No-Hate Speech Movement campaign and has organised a number of awareness-raising activities in 2013. As a part of the campaign, a web page has been launched www.beznavisti.sk (no hate) and a study of hate speech on the Internet is foreseen in order to map the presence of all forms of intolerance.
51. ECRI takes positive note of these measures. In line with its GPR No. 6, ECRI encourages the Slovakian authorities to adopt additional measures to combat the dissemination of racist, xenophobic and antisemitic material via the Internet, such as clarifying the responsibility that could arise - as a result of the dissemination of racist, xenophobic and antisemitic messages - for the content host, content provider and site publishers (on the basis of their respective technical functions).
52. For example, despite a specific recommendation contained in ECRI’s fourth report, Slovakia has not yet ratified the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems. The authorities have informed ECRI that the Additional Protocol will be signed as soon as the Criminal Code is amended providing for criminal liability of legal persons for acts of a racist and xenophobic nature committed through computer systems.³⁵
53. ECRI reiterates its recommendation to ratify the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

- **Racism in the media**

54. Criticism has been voiced against “coded” language used by certain tabloids which might disseminate prejudice and hatred, such as referring to “those people who don’t work and survive on state benefits” (Roma) or reporting about protests against the Roma by the “good people of Slovakia” (neo-Nazi skinheads).³⁶ At the same time these kinds of media do not pay sufficient attention to manifestations of racism, for example in sport.³⁷ The 2011 Code of Ethics provides that a journalist shall not incite hatred or discrimination based on race, system of beliefs, religion, ethnic origin, age, social status, gender or sexual orientation, and that information about a person’s belonging to a “minority” shall be provided only where it is relevant to the news. However, the Press Council of Slovakia, which ensures respect for the code, is competent only for printed media and is reported to be little known among the general

³³ Advisory Committee of the Framework Convention for the Protection of National Minorities (ACFC) 2010:24, paragraph 98. Hammarberg T. 2011:8. CERD 2013: 3, paragraph 8.

³⁴ Open Society Foundation 2012.

³⁵ A form of quasi criminal liability for companies and other legal entities for certain criminal offences was introduced into Slovak law in 2010. It becomes relevant when it is not possible to establish the identity of an individual offender. However, acts of a racist and xenophobic nature committed through computer systems are not among the offences for which a company can be held liable under this law.

³⁶ See State-funded hate is revealed in Euro media, Jon Silverman, 26 October 2012, The Jewish Chronicle on Line.

³⁷ Slovak National Centre for Human Rights 2012: 93-94.

public and not popular among journalists. It receives very few complaints per year,³⁸ and only two cases were found in breach of the code of ethics.

55. Concerning online media, there is virtually no regulation, not even self-regulation³⁹, apart from the requirement of the registration of the domain. Everything else seems ruled by business practices and relations within the Internet industry. ECRI understand that the Press Council has considered extending its competence to include online media in order to adapt its responses better to the new media environment. However no decision has been taken so far.
56. The public-service broadcaster (Slovak Radio and TV) and some private broadcasters have also taken measures to ensure that their journalists behave in a professional and ethical manner. Several complaints have been lodged with the Broadcasting Council for the negative portrayal of the Roma in broadcasting media.
57. ECRI recommends that, without interfering with the independence of the media, the authorities encourage the latter to ensure better compliance with ethical standards, verify that the Code of Ethics is an effective means for combating all forms of hate speech in the media, including coded racist language, and strengthen it if necessary.
58. ECRI also recommends that the authorities encourage the Press Council to consider ways at raising its profile and visibility among the general public and journalists.

- Sport

59. Offensive discourse at sport events, in particular football and hockey, is frequent. The latest episode concerns a Japanese footballer who cited racism as the reason for his departure from the Slovak football club, Rimavska Sobota, in January 2013, after fans repeatedly hurled abuse at him at matches while his teammates and the club's managers never reacted.⁴⁰
60. The 2008 Act on Organising Public Events, Sports Events and Tourist Events sets out the responsibilities of the organisers of public sports events, the spectators' duties and the responsibilities of local authorities and police forces. A law on the organisation of public sports events, which prohibits the display of racist banners, among other things, came into force on 1 February 2014. According to the UEFA regulations, which bind all national professional football federations in Europe, the first sanction for a club whose fans are found guilty of racist abuse is a partial stadium closure. If the abuse persists, there is a full stadium closure and a fine handed out.⁴¹
61. In April 2013, a conference entitled Moving to the Next Step in Combating Racism and Homophobia Together in Sport was organised in Bratislava by the European network Free Kick for Equality and the national NGO People against Racism. The event was part of an EU funded project Football for Equality - Tackling Racism and Homophobia with a focus on Central and Eastern Europe (2011-2013). The Slovakian sports and civil rights association Futbal nas Spaja

³⁸ Školkay A. 2011.

³⁹ For example a radio service which broadcasts entirely via the Internet is not "broadcasting" according to the Broadcasting Act and therefore is not under the powers of the Broadcasting Council.

⁴⁰ <http://www.thedaily.sk/nakamura-left-slovak-football-club-over-racism/#ixzz2bT78ap00>. See also Slovak National Centre for Human Rights 2012: 93-96.

⁴¹ Back in 2002 the National Football Federation was fined by UEFA due to the racist behaviour of its national team' fans during a match against England.

(Football Unites Us) is a positive example of using sport's values to counter racism and stereotyping, in particular against the Roma community. The association favours the participation and acceptance of Roma football players in mixed teams.

62. ECRI considers that these initiatives deserve to be supported politically and financially by the authorities, since they are quite relevant in combating and preventing forms of hate speech in sport that may not reach the criminal punishment threshold but nevertheless constitute intolerant attitudes against vulnerable groups.

- **Hate speech targeting sexual orientation / gender identity**

63. According to the LGBT survey of the EU Agency for Fundamental Rights (FRA), 24% of the respondents in Slovakia experienced a hate-motivated harassment incident in 2012 (the EU average is 19%). Only 2% reported such an incident of to the police (EU average 4%).⁴²
64. LGBT NGOs reported a number of instances of hostile and at times offensive discourse targeting sexual orientation by political leaders. The worst statements were made by the SNS leader depicting homosexuals as abnormal deviants akin to paedophiles and they were published on the party's web page. Similar public statements were made by other politicians during a debate on the 2012 draft bill on civil partnership for same-sex couples.⁴³ Moreover, an unprecedented hate-fuelled campaign started after the launch of the draft Strategy for the protection and promotion of human rights in Slovakia, which included a section on LGBT persons. In December 2013, a pastoral letter of the Catholic Bishops' conference under the title Culture of Death contained highly offensive statements against LGBT persons. ECRI deplores the fact that none of these public statements against LGBT persons or the cyberhate campaign has resulted in criminal prosecution or civil proceedings yet.
65. As already mentioned, in accordance with the Anti-discrimination Act, the Slovak National Centre for Human Rights is responsible for dealing with discrimination on grounds of sexual orientation and gender identity. However, ECRI notes that anti-LGBT statements by politicians have not prompted any meaningful reaction by the Centre.⁴⁴ The 2012 annual report of the Centre does mention such statements but contains only a very general recommendation to keep "long-term and peaceful dialogue" between all stakeholders.⁴⁵
66. ECRI considers that litigation on behalf of this group by the Centre, using all legal tools provided to it by the Act, would be more appropriate than addressing recommendations which do not differentiate between victims and authors of hate speech. This is particularly important for the protection of the rights of vulnerable groups, including LGBT persons, where victims are often reluctant to initiate legal proceedings for fear of further victimisation.⁴⁶ ECRI refers to the section on Topics specific to Slovakia for a recommendation on this.

⁴² EU FRA 2013 - EU LGBT survey data explorer <http://fra.europa.eu/en/publications-and-resources/data-and-maps>.

⁴³ Slovak National Centre for Human Rights 2012: 136-141.

⁴⁴ According to an NGO, in 2007 the Centre was asked to react to offensive statements made by a MP. The Centre considered that the MP's words had not amounted to a violation of the Anti-discrimination Act because they were not addressed to a specific individual.

⁴⁵ Slovak National Centre for Human Rights 2012: 141.

⁴⁶ See on this the European Network of Equality Bodies 2013. See also Article-19 2013.

3. Racist and homo/transphobic violence

- Data

67. Despite the introduction, in 2006, of a new data collection mechanism on racist crime, the figures available do not provide a uniform and detailed picture of the trends in violent racially motivated criminal offences in the country, as they are not broken down by ethnic/national origin of victims or racial discrimination bias, nor do they provide detailed information on the follow-up given by police and judicial authorities. This makes it difficult to have a clear picture of the situation, in particular concerning anti-Roma violence.
68. NGOs reported nine violent criminal offences against Roma between 2009 and 2012.⁴⁷ In other cases, Roma settlements were the target of vandalism that endangered the lives of the inhabitants. The worst incident so far, which received extensive biased media coverage justifying the killing, took place in June 2012 when three Roma were killed and two wounded by an off-duty municipal police officer in Hurbanovo.
69. Police ill-treatment (and generally speaking abusive behaviour) towards Roma have also been reported by the media, civil society and international organisations (IOs).⁴⁸ A study of the International Office for Migration (IOM)⁴⁹ shows that foreign migrants are also victims of violence and have few contacts with the State institutions to report such violence or to receive support. This experience is more frequent among members of visible minorities, such as Africans, or among the Muslim community. Low awareness of existing legal tools by vulnerable groups, combined with a generalised distrust of the police, make underreporting of racist violence, as well as racist verbal abuse, perpetrated by police, an acute problem in Slovakia.⁵⁰
70. No official data on homo/transphobic violence in Slovakia exists and no incidents of this kind were reported in the Annual Report on Hate Crimes in the OSCE Region.⁵¹ The NGO Iniciativa Inakost launched an online tool for reporting homophobic violence - or to the same effect other homophobic incidents - and providing information for victims. The NGO will record incidents and help those who report crime in their contact with the authorities.

- Authorities' response

71. A prosecutor responsible for extremism exists in each judicial district; a special police department within the office of the head of police and in each police district deals with extremism; and 231 police officers specialised in minorities/Roma operate at the level of regional police departments. The Strategy for Combating Extremism for 2011-2014 of the Ministry of Interior has resulted in the creation of a database of extremist symbols for consultation by judges,

⁴⁷ In 2009 a 20-year old man shouting Nazi slogans shot a Roma man in Zohor; in 2010 a man shot a group of Roma in Dubnica nad Vahom. In March 2012, a group of Roma was victim of physical and verbal attack by a group of three young men in Kosice. In April 2013 a group of 20 skinheads assaulted a Roma man and his girlfriend in Banská Štiavnica.

⁴⁸ Written comments by the NGOs Centre for Civil and Human Rights and People in Need Slovak Republic (CCHR-PNSR), concerning the ninth and tenth Periodic Reports of the Slovak Republic under ICERD, March 2013: pp. 8-10

⁴⁹ IOM Slovakia 2013.

⁵⁰ Searching for barriers in access to legal means of protection from discrimination: p.128 <http://poradna-prava.sk/wpcontent/uploads/2012/11/Publik%C3%A1ciu-si-m%C3%B4%C5%BEEete-stiahnu%C5%A5-tu-105-MB.pdf> .

⁵¹ ILGA-Europe reported two minor physical assaults by a group of persons during the Bratislava Rainbow Pride March in June 2013, which have been successfully investigated by the police.

prosecutors and police, and new guidelines for police will soon be finalised. The police undergo periodic training on measures to combat new forms of extremist criminal acts and to prevent the excessive use of police force against Roma. The Committee for Prevention and Elimination of Racism, Xenophobia, Anti-Semitism and Other forms of Intolerance acts as an advisory body under the Ministry of Interior.

72. As of August 2013 an investigation related to extremism must be conducted by a police investigator (not any more by an ordinary police officer). In order to improve investigation further, an amendment to section 115 of the Code of Criminal Procedure is envisaged to allow the use of wire-tapping⁵² also in the investigation of criminal offences listed in Section 140 a) of the Criminal Code (extremist offences). Moreover, it is proposed that the police follow the same investigation procedure in all extremist-crime cases and that a mandatory requirement of recording all interventions by the security forces on an audio-visual tape be introduced.
73. ECRI takes a positive note of these efforts to improve the investigation of racist violence, but it notes that similar information on strategies and measures taken to step up the fight against racist violence was submitted to it in 2008 for its fourth report on Slovakia. ECRI regrets that these measures have not brought the expected results.
74. For example, the data provided to ECRI by the Ministry of Justice shows that between 2010 and 2012 only nine persons were convicted for a violent crime “for which racial hatred” was recognised as an aggravating circumstance. According to the European Roma Rights Centre (ERRC), racist motivation was included in the indictment only in two out of eight cases of alleged racist violence in the period 2008-2011, and it was recognised in only one case. A more recent ERRC report shows that half of the investigations of cases of alleged racist violence in 2011 were dropped.⁵³ In the Hurbanovo case mentioned in paragraph 66, the perpetrator was sentenced to nine years imprisonment and compulsory psychiatric treatment. However, like in other cases the racist motivation of the crime was not taken into account during the investigation and prosecution.
75. An amendment to the Criminal Code passed in May 2013 introduces sexual orientation among the aggravating circumstances of a criminal offence. The amendment will allow the police to record data about inter alia cases of homo/transphobic violence. ECRI therefore reiterates its recommendation already made in the Hate speech section on the need for detailed statistical data on racist and homo/transphobic crime.
76. Another area in which the response of the authorities can be improved is that of complaints concerning police violence. The Control and Inspection Service Section of the Ministry of Interior is competent for internal investigations of police misconduct. However, this service is reported to dismiss, within one month of their reception, more than 80% of complaints on the basis of insufficient evidence;⁵⁴ it does not keep a record of the number and nature of

⁵² Section 115 of the Code of Criminal Procedure allows telephone tapping or mail surveillance in criminal investigations only in cases of extraordinarily serious premeditated crime or crime involving international treaty obligations.

⁵³ The European Court of Human Rights (ECHR), in *Mižigárová v. Slovakia*, 14 December 2010 (74832/01) and *Koky and Others v. Slovakia*, 12 June 2012 (13624/03), held that the authorities had not done everything that could have been expected to investigate the incidents. However, the ECHR did not consider the case under Article 14 (prohibition of discrimination).

⁵⁴ The annual reports on criminal offences by members of police forces shows: in 2010 184 complaints received of which 84% reviewed and rejected without initiating criminal prosecution; in 2011

cases of racist behaviour of the police and their follow-up by the judiciary.⁵⁵ According to the Ombudsman the lack of an independent police investigation mechanism “not only elicits distrust in the police, but also creates room for a quite easy concealment of cases of police abusive behaviour, especially when the police interfere by its own action with fundamental rights and freedoms of individuals”.⁵⁶

77. Finally, criminal proceedings are excessively lengthy due to slow investigation and prosecution, with some cases of racial discrimination brought to domestic courts in 2006 or 2007 and not yet concluded.⁵⁷ The most famous example with extensive media coverage concerns a group of Roma boys who were allegedly subjected to degrading treatment while detained by police officers in Košice in March 2009. Although the racist motivation of the crime was included in the indictment of 10 policemen in spring 2010 to date the case is still pending. More recently, in June 2013, NGOs and the media reported repressive police action in a village in the Kosice region, Moldava nad Bodvu, which allegedly resulted in injuries to over 30 individuals, including children.⁵⁸ Only six months after the incident did the General Prosecutor’s office order an investigation into the police action which is still pending.

78. ECRI recommends that the authorities, with the support of NGOs and representatives of vulnerable groups, raise public awareness of the legal tools against racist violence and the steps taken by the police to combat it, focusing their efforts on those most at risk.

79. ECRI reiterates its recommendation that, in accordance with its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, the Slovak authorities provide for a body which is independent of the police and prosecution authorities, entrusted with the investigation of alleged cases of racial discrimination and misconduct by the police.

80. ECRI also strongly reiterates its recommendation that the Slovak authorities ensure effective investigations into allegations of racial discrimination or misconduct by the police and ensure as necessary that the perpetrators of these types of acts are adequately punished.

4. Integration policies

- Roma integration policies

81. The main beneficiaries of integration policies in Slovakia are Roma, the second largest minority after the Hungarian minority.⁵⁹ They live mainly in the Prešov, Košice and Banská Bystrica regions, which are the poorest in the country. Slovakia participates in the Decade of Roma Inclusion 2005-2015. A revised

168 complaints received of which 89% reviewed and rejected without initiating criminal prosecution; in 2012 158 complaints received of which 83 % reviewed and rejected without initiating criminal prosecution.

⁵⁵ See European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) 2010: 15; CERD 2013: paragraph 9.

⁵⁶ The Public Defender of Rights 2013.

⁵⁷ CCHR-PNSR written comments to CERD: pp. 11-12

⁵⁸ The report of the Ombudsman on this incident, which was presented to the Parliament, identified a number of human rights violations committed by the police against the Roma inhabitants of the settlement. However, following an internal investigation, the Minister of Interior denied any misconduct by the police.

⁵⁹ There are 12 recognised national minorities. While ethnic data is not officially collected, the 2011 census recorded 105 738 persons declaring themselves to be Roma. UNDP sources estimate the Roma population at around 400 000 persons, representing 7.45 % of the total population of the country.

action plan for the period 2011-2015⁶⁰ of the decade is now part of the national Roma Integration Strategy (NRIS)⁶¹ up to 2020. The NRIS aims to “close gaps” in education, employment, health and housing between the “marginalised Roma community” and the majority population.

82. The Plenipotentiary of the Government of the Slovak Republic for Roma Communities (GPRC) is the authority co-ordinating the implementation of Roma state policies. ECRI refers to the section on Topics specific to Slovakia for an assessment of the GPRC's role and performance. Despite the fact that a monitoring report on the NRIS should be produced yearly⁶², none has been published so far. In February 2014, the GPRC submitted to the competent ministries for comments a monitoring report on the implementation of the NRIS for the years 2012 and 2013. However, the progress of the NRIS has already been evaluated by NGOs⁶³ and IOs.⁶⁴ Moreover, ECRI has also discussed the matter with a number of officials, NGOs and institutions during its visit to the country.
83. According to these sources, the structure of the NRIS and its Action Plan are deemed satisfactory; IOs, as well as Roma and non-Roma NGOs were involved in the drafting process. However, despite the existence of a Commission for Roma Communities chaired by the GPRC, the implementation of the various programmes under the NRIS remains the responsibility of individual ministries (at least five). This makes it difficult to guarantee a comprehensive approach to Roma integration. Moreover, there is no part of the national budget specifically earmarked for the NRIS; the long term sustainability of the NRIS is doubtful since it almost exclusively relies on EU funds; NGOs⁶⁵ and local authorities have difficulties in accessing these funds directly and the monitoring of the implementation of the NRIS is impaired by scarce disaggregated equality data.
84. The NRIS aims also to tackle Roma stereotypes and stigmatisation within the majority population.⁶⁶ However, according to a number of reports⁶⁷, the inadequate enforcement of anti-discrimination legislation and measures against anti-Gypsyism⁶⁸ is a major obstacle to the achievement of this goal. In order to counter these problems, the authorities have informed ECRI that the GPRC is preparing an action plan to eliminate Roma stereotypes through improved communication of their image to the public. Moreover, a National Strategy for the Protection and Promotion of Human Rights is under preparation, involving the active participation of all stakeholders, including Roma, and this is expected to be approved in June 2014. ECRI urges the authorities to ensure that the GPRC action plan and the national strategy are coordinated with the NRIS.

⁶⁰ Resolution No. 255/2011, Revised National Action Plan for the Decade of Roma Community Inclusion 2005 – 2015 for the period of 2011 - 2015.

⁶¹ Under the EU Framework for National Roma Integration Strategies up to 2020, adopted by the EU Council in 2011, all 28 EU states had to adopt a NRIS.

⁶² The GPRC should produce an annual monitoring report of the NRIS to be submitted to the European Commission, NRIS: 56.

⁶³ Lajčáková, J. 2013.

⁶⁴ EC (2013), Progress report on the implementation of NRISs, COM (2013)454 final.

⁶⁵ In 2013 the Ministry of Foreign Affairs funded, for a total amount of 900 000 €, 58 NGO projects, which however concerned different human rights activities and not only Roma integration.

⁶⁶ NRIS: 46.

⁶⁷ See in particular section on Fighting discrimination convincingly of the above mentioned EC report.

⁶⁸ For a definition of Anti-Gypsyism, see ECRI's GPR No. 13.

85. ECRI strongly recommends making coordination between the ministries mandatory and ensuring the NRIS's long term sustainability by clearly earmarking a suitable portion of the national budget for it.

- **Policies' results**

86. ECRI finds it difficult to assess the progress of Roma integration, in the absence of comprehensive data on Roma access to education, employment, housing and health. Most of the available data comes from IOs or NGOs, but only a limited amount from the authorities.

87. The authorities are aware of this fact. For this reason, the 2013 UNDP Atlas of Roma Communities in Slovakia was prepared in cooperation with the GPRC, the Association of Towns and Municipalities and the University of Presov. The Ministry of Labour, Social Affairs and Family is also cooperating with UNDP on the collection of statistical data on the living conditions of Roma.⁶⁹

88. ECRI recommends that the authorities finalise without further delay an evaluation of the implementation of the National Roma Integration Strategy (NRIS) in order to measure its impact and redefine its parameters and goals where necessary. In this context the authorities should strength the collection of equality data on Roma, to assess progress in their integration, in particular in the fields of education, employment, housing and health, while ensuring respect for the principles of confidentiality, voluntary self-identification and informed consent. ECRI refers to paragraph 15 of its General Policy Recommendation No. 13 on combating anti-Gypsyism and discrimination against Roma.

89. Concerning the results of the NRIS in combating segregation of Roma pupils, ECRI refers to the section Topics specific to Slovakia. The NRIS aims also to address other issues affecting the integration of Roma pupils in school, such as high absenteeism, poor school performance and high drop-out rates.⁷⁰

90. However, the responses of the national educational system to these issues sometimes seem too rigid. For example, while the educational support provided by Romani-speaking teaching assistants has proved instrumental for Roma-pupil integration, ECRI has been informed that it is not always easy to recruit such teaching assistants, because they often lack the academic qualifications required by law.⁷¹ The result is that only a minority of the 400 teaching assistants speaks the Romani language. ECRI understands the need to ensure respect for the teaching-qualifications requirement; however, the added value of proficiency in the Romani language should be recognised and legislative changes should be introduced accordingly.

91. Moreover, the so-called "Roma Reform – the Right Way" ("Rómska Reforma – Správna Cesta") policy proposals, which were launched in 2012 by the GPRC, in point 1.5.1 of their explanatory memorandum, want to create a stricter link between parents' social benefits and the school-attendance rate of their children. ECRI understands the importance of encouraging school attendance; however, it wonders how a policy which relies predominantly on sanctions can succeed in promoting school attendance or enhance educational results, in the absence of concrete steps to address the other causes of high absenteeism of Roma pupils (e.g. poor housing in settlements which, while being far from the

⁶⁹ Statistical Monitoring of living conditions of selected population groups 2010-2015.

⁷⁰ Drop-out figures show that 20% of Roma aged 17-23 did not completed lower secondary education (the national average is 1%) and 95% of Roma aged 18-22 did not completed education higher than lower secondary. Only 60% of the Roma population completed primary school, while only 0.3% of the Roma population completed university education

⁷¹ Act No. 248/2008 Coll. on Upbringing and Education.

city centre, lack school and/or transport facilities). Moreover, according to NGOs, using the threat of sanctions to promote school attendance would run against the spirit of the NRIS itself. ECRI is therefore pleased to learn from the authorities that the current government does not plan to link social benefits with the school-attendance rate of pupils (although ECRI does note that the “Roma Reform – the Right Way” proposals continue to figure in their entirety on the Ministry of Interior’s website).

92. Another negative factor for Roma integration is their limited access to employment. Poor access to education resulting in lower qualifications of Roma can only partially explain this situation.⁷² The high rate of unemployment of Roma is also the result of: poor support in job search by labour offices; programmes of vocational training not suited for long-term unemployed persons like the Roma; and the reluctance of employers to employ Roma despite initial wage subsidies.⁷³ Finally, there have been no concrete measures addressing the multiple discrimination of Roma women in the labour market.
93. In addition, the level of social benefits assigned to low-income large families, mostly Roma, is a disincentive to taking on low paid work.⁷⁴ To remedy this problem, a draft law planned to be approved in 2014 provides that in order to continue receiving minimal income assistance and the social benefits linked to it, the beneficiaries will have to accept a certain amount of municipal work⁷⁵ (mainly public maintenance work or service projects assigned by the municipality).⁷⁶ A number of NGOs fear that the fact that this work will be linked to the reception of minimal income assistance means that in some regions it will be almost exclusively assigned to Roma. This will contribute to maintain ethnic differences in employment rather than helping Roma succeed in the job market. However these measures are supported by the GPRC, which considers them a positive step towards developing work habits possibly leading to re/insertion in the labour market; such measures can also help counter the stereotype of all Roma being “lazy persons”.
94. Another disincentive to employment is the lack of regular access to microcredit, which is provided only by a few NGOs on an irregular basis⁷⁷ for self-employment businesses or housing. Roma borrow money from private sources at unreasonable interest rates and quickly find themselves unable to repay the loans and subject to execution orders. Since the minimal income assistance is constitutionally protected from garnishment, Roma borrowers prefer to stay on welfare assistance instead of seeking a proper job whose salary would immediately be subjected to deduction to pay back their debts.
95. It appears therefore that NRIS policies supporting Roma employment have not adequately addressed these “vicious circles” which continue to exist. On the other hand, a good practice of positive incentives to Roma employment is the

⁷² 36% of Roma job seekers indicated that they were discriminated against at least once in the 12 months preceding the survey when they applied for a job. EU-MIDIS Main Results Report, FRA, p. 42.

⁷³ Support measures require that after an initial period of government subsidy, the cost of employment must be borne by the employer; Messing, V. 2013: paragraph 4.7.

⁷⁴ Gross wages for low paid work are around 400 €. The income assistance varies from 61 € to 212 € per month depending on number and age of household members. Considering the amount of income-assistance and the additional benefits attached to it (free meals for children at school, subsidy for travel expenses to go to school, etc.) taking on low paid work is not convenient for low-income families.

⁷⁵ This employment scheme started in 2004 in order to enhance the employability and maintain the work habits of job seekers.

⁷⁶ Changes would see it decreases of income assistance by 60.50 € per month for every adult household member able to work who declines to participate in activation work organised by the municipality or alternatively volunteers for at least 32 hours per month.

⁷⁷ For example the ETP Slovakia’s Individual Development Account for housing.

creation of the so called municipal firms providing job opportunities for Roma, often in traditional crafts, such as the one in the village of Spišský Hrhov in Eastern Slovakia. ECRI would encourage the authorities to support further these kinds of local initiatives which are in line with the recommendation in its GPR No. 13 to find, in consultation with Roma, alternatives to the vanished trades in which they have traditionally engaged.

96. ECRI also notes with interest that it is now possible to adopt temporary “equalising measures” (positive measures) also for the elimination of disadvantages suffered on grounds of racial or ethnic origin or affiliation to a national minority or ethnic group. This would create new opportunities for Roma integration in the field of education and employment. Since the implementation of these measures requires further clarification, the authorities have commissioned a study providing for guidelines on this matter. Needless to say that the availability of equality data would help greatly to devise positive measures in areas where disadvantages are greater between vulnerable groups and the rest of the population.
97. ECRI recommends that, in line with the Anti-discrimination Act, the authorities adopt as soon as possible a comprehensive positive action scheme in favour of Roma and amend legislation, if necessary, to stimulate their employment, as well as that of other particularly disadvantaged groups. This scheme should be prepared in co-operation with local authorities, NGOs and the representatives of the Roma community.
98. In so far as access to housing is concerned, ECRI notes that the NRIS aims at reducing the proportion of shacks and illegal dwellings by 25%.⁷⁸ According to a UNDP survey, housing ranked among the most palpable evidence of the widespread inequalities encountered by Roma in Slovakia in the last 20 years.⁷⁹ The housing situation of Roma has worsened recently with some 14 walls segregating predominantly Roma neighbourhoods, which have been erected in various locations since 2008; the latest was erected in Košice, the country’s second largest city, in June 2013. The walls differ in size and scope, but all have resulted in deepening the segregation between the poorer Roma communities from and their better-off neighbours. Moreover, a number of anti-Roma protest marches (11 between 2010 and 2012⁸⁰) were organised to oppose the inclusion of Roma settlements in “urban areas” populated by non-Roma.⁸¹ While ECRI considers that these episodes must be firmly condemned, they are also to be understood as the most extreme examples of the frustration of the population with the way Roma problems are (not) dealt with by the authorities at central level.
99. ECRI was able to witness *in situ* the Roma very poor housing and health conditions of a Roma settlement near the village of Moldava nad Bodvou. At the same time, ECRI also witnessed, in the nearby village of Kecervec, the positive impact that housing desegregation had had in other sectors of Roma integration, such as education and community work.⁸² ECRI has also been

⁷⁸ NRIS: 37.

⁷⁹ UNDP 2012. A more recent UNDP survey, published in 2014, indicates that only 46% of the Roma population live mixed with non-Roma, while the rest live in settlements of which 17% are completely segregated settlements far from the urban area.

⁸⁰ ERRC, Milana Šimecka Foundation and the Centre for the Research of Ethnicity and Culture (CVEK) (2013): 9, § 28.

⁸¹ For the content of discourses addressed by local authorities during these marches, see Slovak National Centre for Human Rights 2012: 106-107.

⁸² Kecervec is one of the few municipalities where field social work and community activities are organised mainly by Roma themselves living in the village.

informed that a new Building Act is being drafted taking into account also the problem of access to decent housing. The intent of the authorities is to address the legal issues which make it impossible to regularise most Roma dwellings. This draft legislation requires municipalities to update or adopt a “land-use plan” where they will have to include the existing Roma settlements in the category of areas for “marginalised groups of inhabitants” within the urban area. The municipality will have to adopt a clear blueprint in this connection for the future (settlement development, including the legalisation of individual buildings or optional relocation/resettlement and subsequent closure of the original settlement).

100. The authorities are of the opinion that the solution should start from the identification by municipalities of appropriate land use for their territory. Only when the land use plan is adopted will municipalities receive funds to build legal settlements and expropriate private land, if needed. However, NGOs fear that in the absence of other measures (adequate transport infrastructure, utilities, etc.) this law simply risks relocating marginalised settlements at best or allowing mass demolition of illegal settlements in the worst case.

101. ECRI recommends that the authorities ensure an integrated approach to the Roma housing issue going beyond the simple urban planning aspects; this should include the necessary infrastructure for facilitating access to employment and education, as well as participation in community activities; assistance to Roma to register their home in the cadaster when possible; formalising lease agreements or facilitating land purchase from private owners; and ensuring the involvement of Roma in the decision-making process concerning housing allocation and creation.

102. Educational and employment gaps, associated with poor housing conditions in most Roma settlements,⁸³ also result in poor health conditions for the Roma population. This is caused by reduced access to health insurance, lower child vaccination rates, difficult access to medical services and affordability of healthcare. Already in 2008 the Slovak Government adopted the Health support of disadvantaged communities in Slovakia Programme 2008-2015⁸⁴ including a number of awareness-raising activities regarding healthcare-related issues (vaccination, birth-control measures, patient's rights and insurance). This programme was successfully carried out by social workers in Roma settlements, acting as health mediators between Roma communities and local hospitals. In spite of the insufficient number of social workers employed⁸⁵, the programme resulted in an increased number of vaccinations and preventive checks in the Banská Bystrica, Košice and Prešov regions. ECRI has been informed by the authorities that this programme, which was interrupted in 2012 due to budget cuts, has now been resumed and there are plans to expand it.

103. ECRI notes that measures are envisaged by the NRIS to improve the particularly vulnerable situation of Roma women, also in the area of reproductive rights. Following the three European Court of Human Rights judgments finding a violation of the ECHR in cases concerning the involuntary sterilisation of young Roma women in public hospitals having taken place around the year 2000⁸⁶, a decree was adopted laying down a clear procedure for obtaining informed consent prior to sterilisation. However, some NGOs have

⁸³ According to the 2014 Atlas of Roma Communities in Slovakia, only 32 % of Roma dwellings use sewage while 11% do not have access to running water.

⁸⁴ Government of the Slovak Republic 2008, Report submitted by Authorities to ECRI: 17.

⁸⁵ 30 field workers to serve 160 000 Roma inhabitants, according to ENAR 2012: 26.

⁸⁶ K.H. and Others v. Slovakia, 28 April 2009 No. 32881/04, V.C. v. Slovakia, 8 November 2011 No. 18968/07 and N.B. v. Slovakia, 12 June 2012 No. 15966/04.

reported shortcomings in the application of this procedure.⁸⁷ In this context ECRI suggests that the programme of Roma health mediators, mentioned in paragraph 102 be expanded under the next 2014-2020 phase of the NRIS, in order to engage Roma mediators in gynaecology and obstetrics wards in hospitals frequently attended by Roma women.

- **Hungarian minority**

104. The largest national minority in Slovakia is the ethnic Hungarians totalling 8.5% of the national population. The Hungarian minority is not the target of specific integration policies. As indicated in another part of this report, anti-“minorities” political discourse continues to be a problem. In comparison to the Roma minority, ethnic Hungarians are better represented, especially at local level, by two political parties, one of which was able to pass the 5% score of votes thus securing parliamentary seats. ECRI considers that effective participation in public affairs also through political representation is in itself an essential precondition for integration.⁸⁸

- **Refugees and asylum seekers**

105. In the last 20 years only 618 asylum seekers have been granted refugee status and 518 subsidiary protection status.⁸⁹ A study funded by the UNHCR identified the lack of affordable rental housing for low-income groups as the key issue hindering integration. This applies to all beneficiaries of international protection (i.e. refugees and beneficiaries of subsidiary protection). In addition, the study identified as specific obstacles to the integration of beneficiaries of subsidiary protection, social exclusion and the lack of an integration programme that would include free Slovak language classes, the recognition of educational and professional certificates obtained abroad and one-time start-up financial aid.

106. ECRI recommends that the authorities promote the integration of persons with subsidiary protection through a State-funded integration programme guaranteeing minimal rights, such as the free access to Slovak language classes, the recognition of educational and professional diplomas obtained abroad and all other social services provided to refugees.

107. As of May 2013 both refugees and beneficiaries of subsidiary protection, after residing lawfully in Slovakia for five years, may apply for a long-term residence permit, which is a type of permanent residence, granted for an unlimited period. In the same way as refugees and asylum seekers, beneficiaries of subsidiary protection are now no longer required to obtain a work permit prior to entering the labour market. Moreover all these three categories have been qualified as “disadvantaged job-seekers” under the Act on Employment Services, which enables foreign nationals to benefit from special employment measures. ECRI takes positive note of these legislative improvements.

108. However, according to the Asylum Act, an asylum-seeker is entitled to work, only if no final decision on his/her application has been reached within one year from the commencement of the asylum procedure. In its fourth report ECRI recommended to reduce the one-year period and the UNHCR has requested to reduce it to six months.

⁸⁷ Lajčáková, J. 2013: p 71 and CCHR-PNSR written comments to CERD: p. 15.

⁸⁸ For information on legislative and practical measures in the field of national minorities protection see ACFC 2010 and FCNM State Report 2014.

⁸⁹ Data from the Migration Office of the Ministry of Interior. The UNHCR data indicates that between 1992 and 2012, 669 persons were provided international protection of which 214 acquired citizenship. Concerning the subsidiary protection status, see EU Council Directive 2004/83/EC.

109. ECRI reiterates its recommendation that measures be taken to provide asylum seekers with the possibility of working in Slovakia earlier than the current one year time-limit which runs from the beginning of the asylum procedure.

- **Other non-nationals**

110. As of June 2013 the foreign population lawfully residing in the country totalled 68 405 individuals, mainly from the Czech Republic, Hungary, Poland, Ukraine, as well as from Serbia, the Russian Federation and a few Asian countries.⁹⁰ Their number has constantly increased from around 20 000 in 2004 to a peak of more than 70 000 in 2011. However they represent less than 2% of the total population and they mainly reside in the Bratislava region. While estimates on irregular migrants vary between 20 000 and 30 000 individuals, their presence is no longer exclusively linked to the East-West transit through the non-Schengen border with Ukraine. Once they have entered, an increasing number stay as irregular workers.⁹¹

111. Two policy documents – Integration Policy of the Slovak Republic⁹² and Migration Policy of the Slovak Republic Perspective until the Year 2020⁹³ – contain guidelines for the integration of non-nationals. However, these papers are very general and only reproduce the main EU standards and policies⁹⁴ rather than proposing specific integration measures for the country. For example, although they set meaningful goals (such as foreigners' access to healthcare and social security, the gradual harmonisation of their legal status with the legal status of Slovak citizens, setting up a comprehensive mechanism for monitoring compliance with indicators of migrants' integration and involving in the integration process of members of migrant associations and communities), they do not specify how these goals can be achieved in practice. The authorities have informed ECRI that measures to achieve specific goals for the integration of non-nationals were discussed with target groups and will be outlined by the competent ministries in detailed action plans. Other criticisms of the integration policies for non-nationals involve the absence of a clear monitoring system capable of measuring the level of integration attained, excessive reliance on NGOs' activities and lack of communication and coordination among the authorities responsible for their implementation.⁹⁵

112. In so far as the policies' results are concerned, a recent study published by the IOM (already mentioned in the section on Racist and homo/transphobic violence) reported that 56 % of the migrants interviewed felt entirely or partially accepted in Slovakia (in the Asian community this number was only 32 %). Only 46 % of the respondents thought that they had the same rights as Slovak nationals. This should be contrasted to the findings of another recent study⁹⁶, according to which one of the main objectives of the foreigners' integration policy - the gradual harmonisation of the legal status of foreigners living in Slovakia with the legal status of Slovak citizens - was being achieved. The second study also reported success in connection with another of the integration policies' objectives, migrants' access to healthcare and social

⁹⁰ Office of Border and Foreign Police, Ministry of Interior.

⁹¹ Mrlianova, Ulrichova, and Zollerova, 2011.

⁹² Resolution No. 45 of 29 January 2014.

⁹³ Resolution No. 574 of 31 August 2011.

⁹⁴ Treaty of the European Union, European Pact on Migration and Asylum, Stockholm Programme and the Global approach to Migration.

⁹⁵ Chudžíková, A. 2011.

⁹⁶ National Contact Point of the European Migration Network in the Slovak Republic 2013.

security. However, according to the same study, non-EU nationals still had problems in getting real access to social assistance benefits that were guaranteed by law.

113. Generally speaking, the IOM study found that less than 38 % of the migrants interviewed thought that they had the same opportunities as Slovak nationals. The most significant factors causing inequality were, in the migrants' view, the country they came from, the type of residence permit granted, knowledge of the Slovakian language and their religion. ECRI recalls, in this connection, its often repeated position that the fight against discrimination should be a central plank of any integration policy.
114. Another worrying finding of the IOM study is that police action does not focus on the protection of migrants as beneficiaries of services, but rather on their prosecution as perpetrators of offences. This is why the IOM recommended the creation of a civil structure of first contact for migrants, which should replace the Aliens Police in handling matters related to the granting of residence permits.
115. ECRI recommends that the authorities complement as soon as possible the principles contained in the Integration Policy of the Slovak Republic and the Migration Policy of the Slovak Republic – Perspective until the Year 2020, with specific measures in order to achieve tangible results in the integration of non-nationals.

II. Topics specific to Slovakia

1. Interim follow-up recommendations of the fourth cycle

- Functioning of the Slovak National Centre for Human Rights

116. The first recommendation invited the authorities to strengthen the role of the Slovak National Centre for Human Rights (the Centre) as an anti-discrimination body by ensuring its independence and granting adequate resources for its activities, including the representation in courts of victims of discrimination. In its 2012 conclusions on the implementation of the recommendation, ECRI remarked that neither of the two goals could be considered attained. Concerning the issue of independence ECRI refers to the sub-section on Independent authorities.
117. The analytical report on the functioning and status of the Centre, issued by the Government in June 2011⁹⁷, confirmed a number of shortcomings in the way the Centre operated, including lack of clarity regarding the duty to provide legal aid; lack of expertise to monitor the compliance of anti-discrimination legislation in line with human rights; undue political influence; low visibility and lack of sufficient personnel to meet its objectives; irregular use of public funds; and failure by the Centre's management and its supervisory boards to address the above-mentioned deficiencies.
118. The Director of the Centre has informed ECRI that the functioning of the institution is now streamlined as recommended by the report. However, the Director regrets that the financial and human resources allocated to the Centre have decreased constantly over the years, jeopardising its capacity to fulfil its role. A number of NGOs have indicated that the current situation has led to the practical non-existence of an anti-discrimination institution in Slovakia; this has significant impact on the affective application of the anti-discrimination legislation.

⁹⁷ Debrecéniovà, J. 2011.

119. ECRI has been informed that the reform of the Centre is being discussed by the Government Council for Human Rights, National Minorities and Gender Equality. The options examined include: either the maintenance of an equality body but with stronger powers in the area of anti-discrimination or the creation of a general human rights institution with anti-discrimination being one of its tasks. The first option would also imply the transfer of some of the Centre's competencies to the Office of the Ombudsman while preserving the Centre's core competencies as an anti-discrimination body. However, the authorities have stressed that a decision has not yet been taken and, in any case, it would imply changes to the Anti-discrimination Act and to the statutes of the Centre and the Ombudsman. A working group has been established, consisting of experts of the Ministry of Foreign and European Affairs and the Ministry of Justice, in order to draft the amendments of the Act on the Centre.

120. ECRI recommends that the authorities complete without delay the reform of the Slovak National Centre for Human Rights in light of the findings of the recent evaluation of its performance. The reformed institution should be endowed with sufficient financial and human resources in order to fulfil independently and efficiently the tasks assigned to it by the Anti-discrimination Act, whether the authorities opt for the maintenance of an equality body or for the creation of a general human rights institution (anti-discrimination function being one of its tasks).

- **Capacity of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities**

121. The second recommendation concerned the Plenipotentiary of the Government of the Slovak Republic for Roma Communities (GPRC). Firstly, ECRI recommended the authorities to increase the capacity of the GPRC to manage funds allocated to Roma-related development projects by increasing its human and financial resources. Secondly, the recommendation stressed the importance of wide-ranging consultations with Roma community leaders and of regular monitoring of the progress of the projects.

122. In its 2012 conclusions on the implementation of the recommendation, ECRI noted that neither of the two goals could be considered attained (increasing human and financial capacities of the Office and consulting Roma). The staffing of the Office was still insufficient (especially after a reduction of the staff from 28 to 20 employees as of April 2012), its budget had not been disclosed to ECRI and no measures to consult Roma community leaders had been taken. In June 2012 the GPRC was also placed under the Ministry of the Interior.

123. Moreover, according to some NGOs⁹⁸ the fact that the head of the GPRC is also an MP (the first ever Roma to be elected MP), does not allow him sufficient time to run the office and pursue, at the same time, his own political agenda. In addition, the GPRC does not have any powers over the core funds allocated to the integration of Roma communities, which remain under the exclusive control of the ministries. Therefore, the GPRC seems to be an advisory organ without the necessary powers to guide and co-ordinate the implementation of Roma integration policies. As far as NGO consultation and monitoring are concerned, ECRI refers to the section on Integration.

124. ECRI reiterates its recommendation that the authorities raise the profile and increase the capacity of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities (GPRC) in order to ensure that Roma issues continue to be a cross-cutting priority. In particular, the human and financial

⁹⁸ Lajčáková, J. 2013.

resources of the GPRC should be increased; it should directly manage some of the funds allocated to Roma integration; and it should have ample decision-making powers in the field of his/her competence.

- **Segregation of Roma children in education**

125. In its third recommendation, ECRI invited the authorities to fight the de facto segregation of Roma children in education through the provision of financial and non-financial incentives to desegregate schools. As noted in ECRI's conclusions in 2012, such incentives were not adopted and school segregation seemed to be an ongoing reality in Slovakia.
126. Despite the ban on ethnic segregation guaranteed by the Anti-Discrimination Act and the School Act⁹⁹, de facto segregation continues to be practiced. For example, in August 2013 the Ombudsman expressed concerns over the ongoing existence of Roma-only classes in Slovak schools. Moreover the authorities have admitted that 30% of Roma pupils attend special schools for children with mental disabilities.¹⁰⁰ Roma pupils are also overrepresented in special schools for pupils with health disabilities (between 60% and 85%). This is often due to an incorrect diagnosis as well as state subsidies which create incentives for school managers and Roma parents to enrol children in special schools. To counter this situation, Roma pupils are often placed in “zero-year classes” in primary schools to support their educational needs before being enrolled in regular classes. However, in most cases the class composition remains the same until the end of the education cycle, resulting in segregation.
127. ECRI considers that given the differences in quality between mainstream education and education provided in special schools or classrooms, unjustified placement in such schools seriously affects Roma children's future education and employment opportunities. ECRI also refers to the case law concerning segregation in schools of the European Court of Human Rights¹⁰¹ which found that the unjustified placement of children of Roma origin in “special schools” intended for pupils with learning disabilities or Roma only classes had a disproportionate effect on the Roma community as a whole thus violating Article 14 (prohibition of discrimination) together with Article 2 of the Protocol (right to education). The Ombudsman recommended in a special report addressed to the Parliament a number of measures against the segregation of Roma pupils in schools.
128. A positive development is the judgment of the Prešov Regional Court of 30 October 2012, in a case of segregation of a student of Roma origin at a primary school in Šarišské Michaľany. The court held that the school, by placing children of Roma ethnicity in separate classrooms, violated the principle of equal treatment and discriminated against Roma children on account of their ethnic origin.¹⁰² This case was initiated by the Centre for Civil and Human Rights, one of the few NGOs pursuing public interest litigation.
129. The authorities have informed ECRI that they are aware of this persisting problem despite all the legal and practical steps taken so far. The issue has now been discussed in the context of the next phase of the NRIS with a view to

⁹⁹ The Ministry of Education has issued an internal regulation banning segregation, defined as the “spatial, organisational, physical and symbolic exclusion or separation of Roma students due to their ethnic affiliation (often combined with social disadvantage) from other students”.

¹⁰⁰ ACFC 2014: 27.

¹⁰¹ D.H. and Others v. the Czech Republic 13 November 2007 (Grand Chamber), Sampanis and Others v. Greece 5 June 2008 and Orsus and Others v. Croatia 16 March 2010 (Grand Chamber).

¹⁰² Four more recent proceedings connected to the violation of the principle of equal treatment against individuals of Roma origin are pending before the Spišská Nová Ves District Court.

allocating adequate funds to programmes countering Roma segregation in school. In particular, the authorities consider that “it is necessary to increase the quality of the diagnosis prior to assignment to special schools”.¹⁰³

130. ECRI recommends that authorities monitor even more closely the system for assigning Roma pupils to special schools; ensure that the assessment of special needs is used to design an individual curriculum within the mainstream education rather than placing pupils in special schools; adequately inform Roma parents of what special schooling entails; introduce a clear duty for schools to desegregate education and at the same time provide effective support to schools and teachers to achieve this goal.

131. ECRI considers that one of the best ways to counter segregation of Roma in primary education and avoid their placement in special schools is to ensure that pre-school education is readily available to Roma children aged between three and six. For this reason, it notes with interest that the GPRC, in co-operation with the World Bank, is carrying out a pilot project supporting 315 mothers of 525 children attending kindergartens in 21 localities in the country. However, ECRI is of the opinion that more than one pilot project is needed to ensure that preschool education is made available to all Roma children aged between three and six years old. In particular, Roma families should be made aware of the role of pre-school education in preventing segregation in primary school.

132. ECRI recommends that the authorities ensure that preschool education is readily available to all Roma children; support Roma parents so they can afford to send their children to pre-school; and create measures conducive to an inclusive environment in pre-school facilities.

2. Policies to combat discrimination and intolerance against LGBT persons

- Data

133. Comprehensive information on the LGBT population in Slovakia does not exist since section 8 of the Act on Personal Data prohibits the processing of data concerning health or sex life without the person’s consent. According to the authorities this prohibition includes sexual orientation or gender identity.

134. Recommendation CM/Rec(2010)5 of the Council of Europe’s Committee of Ministers on measures to combat discrimination on grounds of sexual orientation or gender identity indicates that personal data referring to a person’s sexual orientation or gender identity can be collected when this is necessary for the performance of a specific, lawful and legitimate purpose. It is clear that, without information about LGBT persons’ experiences of discrimination and intolerance, there can be no solid basis for developing and implementing policies to address intolerance and discrimination of LGBT.

135. ECRI encourages the authorities to undertake research and collect data on LGBT persons in Slovakia as well as on discrimination and intolerance against them, while ensuring respect for the principle of confidentiality, informed consent and individuals’ voluntary self-identification as a member of a particular group.

- Legislative issues

136. As concerns criminal law, ECRI refers to the section on Legislation. Concerning family law matters, the legislation does not recognise registered partnerships or other formalised forms of relationship, except for marriage which however can

¹⁰³ ACFC 2014: 27.

be contracted only between two persons of opposite sex.¹⁰⁴ In August 2012, the Freedom and Solidarity opposition party (SaS) introduced a draft bill on registered partnerships for same-sex couples, which was rejected by an overwhelming majority of MPs. Had the bill been approved, same-sex couples would have had similar rights (except in relation to adoption) and obligations as married couples, including alimony, inheritance, access to medical documentation and the right to a widow's/widower's pension. ECRI would like to recall paragraph 25 of the above-mentioned Recommendation CM/Rec(2010)5, which indicates that States should consider the possibility of providing same-sex couples with legal or other means to address the practical problems related to the social reality in which they live.

137. There are legislative provisions relating to issues concerning transgender persons which are problematic, such as changing name and personal identification number given that in Slovakia this shows your gender. In principle such changes are made by the Ministry of Interior and are based on a written declaration of the person concerned or his/her legal representative and the presentation of a medical certificate stating that the person in question has undergone sex change (it appears that in the Slovakian language the word sex is also used for gender)¹⁰⁵. The legislation is silent concerning specific medical requirements for changing sex. Many doctors interpret this requirement in a strict manner and in order to provide a certificate require proof of permanent change of the original reproductive organs or that the person has been diagnosed as permanently infertile. It appears therefore that the lack of clarity concerning the requirements for the change of name and personal identification number in the civil registry could be an obstacle for the acquisition of appropriate identity documents by transgender persons.¹⁰⁶

138. In ECRI's view closing this legal gap is urgent, but it should not lead necessarily to the strict requirement of proof of permanent sterility, or operations that inevitably lead to sterility, prior to the change of name and identification number. While ECRI is aware that, on this specific issue, States enjoy a certain margin of appreciation,¹⁰⁷ it notes that many countries' laws do not require sterilisation surgery in relation to name or gender marker's change.

- **Asylum**

139. The Asylum Act contains a quasi-literal transposition of the provisions of the EU Council Directive 2004/83/EC on grounds for granting refugee status. On this basis, asylum seekers fleeing persecution due to their sexual orientation can be granted asylum.

- **Independent authorities**

140. The Centre, which is mandated to monitor the implementation of the Act, should deal with discrimination on grounds of sexual orientation and gender identity, to the extent that this can be interpreted to include the latter under the concept of

¹⁰⁴ According to an amendment adopted by the Parliament in June 2014, the following sentence will be added to Article 41 of the Constitution "Marriage is a union solely between man and woman. The Slovak Republic fully protects the marriage and provides all the means to secure its wellbeing".

¹⁰⁵ The law regulating the change of name and personal identification number contains provisions for changing the name of a person who is currently undergoing a sex change and a person who has already undergone this change: in the first case, the municipal office authorises the use of a neutral name based upon a written declaration of the person concerned and a medical certificate (Act No. 300/1993 Coll.).

¹⁰⁶ See the judgement of the ECHR in *L. v. Lithuania*, 11 September 2007, No. 27527/03.

¹⁰⁷ See, for example, paragraphs 70 and 71 of the judgement of the ECHR in *Van Kück v. Germany*, 12 June 2003, No. 35968/97.

gender. As concerns the Centre's activities in this field, ECRI refers to the sub-section on Hate speech targeting sexual orientation / gender identity.

- **Access to employment and health**

141. A recent survey of FRA indicates that the vast majority of LGBT persons in Slovakia avoid revealing their sexual orientation at work. Moreover 19% of the persons interviewed replied that they felt discriminated against because of their sexual orientation. Transgender people are obviously even more vulnerable to harassment and discrimination in employment due to their gender expression. This survey also measured LGBT persons' experiences of discrimination in areas other than employment, namely education, healthcare and social services, and when accessing goods and services available to the public. 33% of the respondents in Slovakia replied that during the last 12 months (i.e in 2012) they had personally felt discriminated against because of being LGBT.

142. Concerning health, ECRI has been informed that there is no adequate access to gender reassignment treatment, although this is required by law in order to change name and personal identification number. This is mainly because certain doctors do not approve gender transitioning or are simply unwilling to help. Moreover, due to lack of specialised medical care, doctors send their patients abroad for surgery or to private health clinics for other treatments. Moreover, the psychiatric diagnosis of "transsexualism", which is required before a person can change name and identification number, in Slovakia still falls under the category of mental and behavioural disorder. The public health scheme only refunds sex-change treatment based on such a psychiatric diagnosis, which is not acceptable to everybody. These facts, coupled with the legislative issues mentioned in paragraphs 137 and 138, make access to health for transgender persons particularly difficult.

143. ECRI recommends that the authorities ensure that gender reassignment treatments, which are required by law to change name and gender identification in official documents, are made available for transgender persons in Slovakia and that their cost is reimbursed by public health insurance schemes.

- **Education and awareness raising**

144. The above-mentioned FRA survey indicates that nine out of 10 persons interviewed in Slovakia have rarely encountered measures taken by their authorities to promote respect for the human rights of LGBT people. However in July 2012, the Government Council for Human Rights, Minorities, and Gender Equality decided to establish a Committee for LGBTI issues. The decision was unanimous and was taken on the initiative of nine different NGOs to promote policy with improvements in this area. The task of creating the Committee and establishing its activities was assigned to the Ministry of Foreign Affairs. Despite strong criticism by part of the public opinion of the inclusion of LGBT issues in the human rights agenda of the Government, the Committee has held several meetings.

145. ECRI hopes that this committee will become a forum for the discussion of the LGBT persons' problems that have identified in this report, such as hate speech and unclear legal and medical standards for gender reassignment, as well as the implementation of concrete education and awareness-raising activities in favour of LGBT persons.

INTERIM FOLLOW-UP RECOMMENDATIONS

The two specific recommendations for which ECRI requests priority implementation from the authorities of Slovakia are the following:

- To ensure that a mechanism for collecting disaggregated data on hate speech incidents is put in place, recording the specific bias motivation, as well as the follow-up given to them by the justice system, and that this data is made available to the public.
- To start without delay reforming the Slovak National Centre for Human Rights in light of the findings of the recent evaluation of its performance. The reformed institution should be endowed with sufficient financial and human resources in order to fulfil independently and efficiently the tasks assigned to it by the Anti-discrimination Act, whether the authorities opt for the maintenance of an equality body or for the creation of a general human rights institution (anti-discrimination function being one of its tasks).

A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

LIST OF RECOMMENDATIONS

The position of the recommendations in the text of the report is shown in parentheses.

1. (§2) ECRI reiterates its recommendation that Slovakia ratify Protocol No.12 to the European Convention on Human Rights.
2. (§7) ECRI recommends that, in line with its General Policy Recommendation No. 7, the authorities ensure that citizenship is included among the characteristics of potential victims of racist conduct and racial discrimination, which are punishable under the Criminal Code.
3. (§8) ECRI also recommends that the criminal law is amended in order to punish, when committed intentionally, public incitement to discrimination and public insults against a person or a grouping of persons on grounds of their race, colour, language, religion, nationality, or national or ethnic origin, as per its General Policy Recommendation No. 7 paragraph 18 b) and c).
4. (§10) ECRI recommends that the Slovakian authorities insert a provision in the Criminal Code expressly stating that motivation on grounds of race, colour, language, religion, citizenship, or national/ethnic origin constitutes an aggravating circumstance for any offence, as per its General Policy Recommendation No. 7 paragraph 21.
5. (§13) ECRI recommends that the authorities include in the Criminal Code provisions criminalising defamation and threats, as well as public incitement to violence and hatred against a person or a grouping of persons on the ground of their language, as per its General Policy Recommendation No. 7 paragraph 18 a), b) and c).
6. (§16) ECRI recommends that the authorities include in the Criminal Code provisions criminalising the dissemination, production or storage of racist material directed against a person or a grouping of persons on the ground of their language, as well as the creation and leadership of a group which promotes racism against a person or a grouping of persons on the ground of their language, support for such a group and participation in its activities, as per its General Policy Recommendation No. 7 paragraph 18 f) and g).
7. (§19) ECRI recommends that the authorities amend the Criminal Code in order to ensure that legal persons can also be held criminally responsible for the offences related to racism and racial discrimination set out in paragraphs 18, 19, 20 and 21 of its General Policy Recommendation No. 7.
8. (§26) ECRI recommends that the authorities amend the law in order to ensure that NGOs who have successfully brought cases on behalf of victims of discrimination can obtain payment for their legal work in the same way that lawyers can recover their fees under the Bar Regulations.
9. (§36) ECRI recommends that the authorities amend the legislation concerning the composition and the appointment of the governing and the controlling bodies, as well as of the director, of the Slovak National Centre for Human Rights in order to strengthen its independence. This will ensure that Slovakia has an independent authority expressly entrusted with the fight against racism and racial discrimination in both the public and the private sectors.
10. (§43) ECRI recommends that the authorities ensure that a mechanism for collecting disaggregated data on hate speech incidents is put in place, recording

the specific motivation, as well as the follow-up given to them by the justice system, and that this data is made available to the public.

11. (§47) ECRI recommends that the authorities implement the legislation on banning political parties openly hostile to human rights and enact legislation on suspending state funding for these parties and banning persons convicted of offences of racism or racial discrimination from running for public offices.
12. (§53) ECRI reiterates its recommendation to ratify the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.
13. (§57) ECRI recommends that, without interfering with the independence of the media, the authorities encourage the latter to ensure better compliance with ethical standards, verify that the Code of Ethics is an effective means for combating all forms of hate speech in the media, including coded racist language, and strengthen it if necessary.
14. (§58) ECRI also recommends that the authorities encourage the Press Council to consider ways at raising its profile and visibility among the general public and journalists.
15. (§78) ECRI recommends that the authorities, with the support of NGOs and representatives of vulnerable groups, raise public awareness of the legal tools against racist violence and the steps taken by the police to combat it, focusing their efforts on those most at risk.
16. (§79) ECRI reiterates its recommendation that, in accordance with its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, the Slovak authorities provide for a body which is independent of the police and prosecution authorities, entrusted with the investigation of alleged cases of racial discrimination and misconduct by the police.
17. (§80) ECRI also strongly reiterates its recommendation that the Slovak authorities ensure effective investigations into allegations of racial discrimination or misconduct by the police and ensure as necessary that the perpetrators of these types of acts are adequately punished.
18. (§85) ECRI strongly recommends making coordination between the ministries mandatory and ensuring the NRIS's long term sustainability by clearly earmarking a suitable portion of the national budget for it.
19. (§88) ECRI recommends that the authorities finalise without further delay an evaluation of the implementation of the National Roma Integration Strategy (NRIS) in order to measure its impact and redefine its parameters and goals where necessary. In this context the authorities should strength the collection of equality data on Roma, to assess progress in their integration, in particular in the fields of education, employment, housing and health, while ensuring respect for the principles of confidentiality, voluntary self-identification and informed consent. ECRI refers to paragraph 15 of its General Policy Recommendation No. 13 on combating anti-Gypsyism and discrimination against Roma.
20. (§97) ECRI recommends that, in line with the Anti-discrimination Act, the authorities adopt as soon as possible a comprehensive positive action scheme in favour of Roma and amend legislation, if necessary, to stimulate their employment, as well as that of other particularly disadvantaged groups. This scheme should be prepared in co-operation with local authorities, NGOs and the representatives of the Roma community.

21. (§101) ECRI recommends that the authorities ensure an integrated approach to the Roma housing issue going beyond the simple urban planning aspects; this should include the necessary infrastructure for facilitating access to employment and education, as well as participation in community activities; assistance to Roma to register their home in the cadaster when possible; formalising lease agreements or facilitating land purchase from private owners; and ensuring the involvement of Roma in the decision-making process concerning housing allocation and creation.
22. (§106) ECRI recommends that the authorities promote the integration of persons with subsidiary protection through a State-funded integration programme guaranteeing minimal rights, such as the free access to Slovak language classes, the recognition of educational and professional diplomas obtained abroad and all other social services provided to refugees.
23. (§109) ECRI reiterates its recommendation that measures be taken to provide asylum seekers with the possibility of working in Slovakia earlier than the current one year time-limit which runs from the beginning of the asylum procedure.
24. (§115) ECRI recommends that the authorities complement as soon as possible the principles contained in the Integration Policy of the Slovak Republic and the Migration Policy of the Slovak Republic – Perspective until the Year 2020, with specific measures in order to achieve tangible results in the integration of non-nationals.
25. (§120) ECRI recommends that the authorities complete without delay the reform of the Slovak National Centre for Human Rights in light of the findings of the recent evaluation of its performance. The reformed institution should be endowed with sufficient financial and human resources in order to fulfil independently and efficiently the tasks assigned to it by the Anti-discrimination Act, whether the authorities opt for the maintenance of an equality body or for the creation of a general human rights institution (anti-discrimination function being one of its tasks).
26. (§124) ECRI reiterates its recommendation that the authorities raise the profile and increase the capacity of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities (GPRC) in order to ensure that Roma issues continue to be a cross-cutting priority. In particular, the human and financial resources of the GPRC should be increased; it should directly manage some of the funds allocated to Roma integration; and it should have ample decision-making powers in the field of his/her competence.
27. (§130) ECRI recommends that authorities monitor even more closely the system for assigning Roma pupils to special schools; ensure that the assessment of special needs is used to design an individual curriculum within the mainstream education rather than placing pupils in special schools; adequately inform Roma parents of what special schooling entails; introduce a clear duty for schools to desegregate education and at the same time provide effective support to schools and teachers to achieve this goal.
28. (§132) ECRI recommends that the authorities ensure that preschool education is readily available to all Roma children; support Roma parents so they can afford to send their children to pre-school; and create measures conducive to an inclusive environment in pre-school facilities.
29. (§135) ECRI encourages the authorities to undertake research and collect data on LGBT persons in Slovakia as well as on discrimination and intolerance against them, while ensuring respect for the principle of confidentiality, informed consent and individuals' voluntary self-identification as a member of a particular group.

30. (§143) ECRI recommends that the authorities ensure that gender reassignment treatments, which are required by law to change name and gender identification in official documents, are made available for transgender persons in Slovakia and that their cost is reimbursed by public health insurance schemes.

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