

**COMMENTAIRES DU GOUVERNEMENT CONCERNANT LE
RAPPORT SUR LA SLOVAQUIE**

ANNEXE

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

L'ECRI rappelle que l'analyse figurant dans son rapport sur la Slovaquie est datée du 19 décembre 2008, et que tout développement intervenu ultérieurement n'y est pas pris en compte.

Conformément à la procédure pays-par-pays de l'ECRI, le projet de rapport de l'ECRI sur la Slovaquie a fait l'objet d'un dialogue confidentiel avec les autorités slovaques. Un certain nombre de leurs remarques ont été prises en compte par l'ECRI, qui les a intégrées à son rapport.

Cependant, à l'issue de ce dialogue, les autorités slovaques ont demandé à ce que leurs points de vue suivants soient reproduits en annexe du rapport de l'ECRI.

ECRI Viewpoints of the Slovak Republic to the „Draft Fourth Report on Slovakia“ of the European Commission Against Racism and Intolerance (ECRI)

The Slovak Republic welcomes constructive dialogue with ECRI together with the fact that ECRI took into account and valued progress made in a number of fields since the last monitoring cycle. Recalling the importance the Slovak Republic ascribes to the principles pursued by the Council of Europe, the Slovak Republic will pay due attention to the recommendations contained in the draft Fourth Report (hereinafter referred to as Report).

In view of the Slovak Republic, however, the Report does not fully reflect recent development of the legislation, in particular amendments to the Anti-Discrimination Act. The Slovak Republic would further wish that the sources of information of ECRI are more balanced. It follows from the above that the Slovak Republic renders it necessary to provide for additional comments.

International legal instruments (paragraph 7)

The Slovak Republic is pleased to inform ECRI that on 24 April 2009, Slovakia ratified the Revised Social Charter.

Law on the Use of National Minority Languages (paragraphs 9-13)

The *Act on the Use of National Minority Languages* (Act No. 184/1999 Coll.) entered into force on September 1999. It lays down rules for the use of minority languages in official communications in municipalities where citizens of the Slovak Republic belonging to a national minority make up at least 20% of the population according to the results of the last census. In its instrument of ratification the European Charter for Regional or Minority Languages, Slovakia declared that pursuant to article 1 (b) "territory in which the regional or minority language is used" refers to a municipality

specified in Government Regulation No. 221/1999 Coll. of 25 August 1999 establishing the list of municipalities in which citizens of the Slovak Republic belonging to a national minority make up at least 20% of the population, including the application of article 10 thereof. There is a total of 655 such municipalities.

As to the *right to use a minority language in proceedings before courts* and law enforcement authorities or other authorities, the right is long-established in legislation on proceedings before these authorities. The Ombudsman encountered only isolated cases when the claimant raised objections about the use of their mother-tongue in criminal proceedings.

To support the use of the Roma language, the *Standardisation of the Roma Language* in Slovakia was ceremonially proclaimed on 29 June 2008 under the auspices of the Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities. The ceremony included the signing of the “Declaration of the Roma of the Slovak Republic on the Standardisation of the Roma Language in the Slovak Republic” by representatives of the Roma national minority. The objective of the standardisation of the Roma language was to officially proclaim the Roma language, lay the foundations for the creation of conditions for upbringing and education in the Roma language and place it on an equal footing with the other languages of national minorities living in Slovakia.

Anti-discrimination Act, Anti-discrimination bodies and other institutions (paragraphs 18-40)

Slovak National Centre for Human Rights

In accordance with §10 of the Anti-Discrimination Act (1) „Parties to the proceedings concerning the violation of the principle of equal treatment may also be represented by legal entities a) who have such authority under a separate law, or, b) whose activities are aimed at or consist in the protection against discrimination. (2) If a legal entity takes up representation pursuant to section 1, it shall assign one of its members and/or employees to act on behalf of the person represented”. The Act No. 308/1993 Coll. on establishment of Slovak National Centre for Human Rights as amended explicitly states in §2 Sect.3 that „Centre is empowered with competency to represent parties to the proceedings concerning the violation of the principle of equal treatment.“

Moreover, the recently adopted provision §9a of the Anti-Discrimination Act (the provision entered into force on 15 October 2008) provides: „Legal entity under the provision of § 10 shall be entitled to seek the protection of right to equal treatment if the violation of the principle of equal treatment could aggrieve the rights or interests protected by law or freedoms of greater or indefinite group of persons or if such violation could constitute serious threat to public interest. Legal entity shall be entitled to seek that the person violating the principle of equal treatment be made to refrain from such conduct and, where possible, rectify the illegal situation.” Such regulation entitles legal entity (NGO or the Centre) to act on behalf of potential victims of violation of the principle of equal treatment.

Bearing in mind the constant need for raising awareness of the Anti-Discrimination Act, the Slovak Republic has adopted a number of measures (media presentations, dissemination of information on discrimination measures and legal protection, training

to judges, prosecutors, other officials, and others as mentioned in the Report). The number of complaints received by the Slovak National Centre for Human Rights, as indicated in the Report, shows these measures successful.

Education (paragraphs 41-64)

In May 2008, the National Council of the Slovak Republic adopted Act No. 245/2008 Coll. on *Education and Training (The School Act)* and amendments to certain acts. The School Act accentuates the following main principles of training and education (§3): The principles of equal access to education and training, taking into account the educational needs of individuals and their co-responsibility for their own education; and prohibition of all forms of discrimination and, in particular, segregation. The new School Act clearly defines and distinguishes between children and students with special educational needs, handicaps, disabilities, or feeble health from those children and students, who come from a socially disadvantaged environment.

The above principles and definitions are in full compliance with the recommendations of the Council of Europe Commissioner for Human Rights on equal treatment in education and training in the education system.

In compliance with the National Plan for Human Rights Education for 2005-2014, the Action Plan for the Prevention of All Forms of Discrimination, Racism, Xenophobia, Anti-Semitism and Intolerance for the 2006-2008 period, the Concept of Migration Policy of the Slovak Republic adapted for the education sector and the National Action Plan for Children, *the Pedagogical and Organizational Guidelines* for school year 2008/2009 emphasizes the need to address educational tasks more intensively and effectively in line with the principles of humanism, and with the focus on intensive human rights education, the rights of the child and the prevention of all forms of discrimination, xenophobia, intolerance, and racism. Furthermore, the *Policy on the Training and Education of Roma Children and Students*, including the Development of Secondary and Tertiary Education approved by the Slovak Government in 2008, builds on the measures adopted to improve the education of Roma and socially disadvantaged children and students from the perspective of the Ministry of Education, and puts forward further solutions.

As regards Roma issues, in March 2008, the Government of the Slovak Republic adopted the Medium-term Concept of Development of the Roma Ethnic Minority in the Slovak Republic Solidarity-Integrity-Inclusion 2008-2013 (the "Medium-term Concept"), which is based on an analysis of previous governments' concepts. In the field of education and training of Roma children and pupils the Government of the Slovak Republic adopted in April 2008, the *Concept of Education and Training of Roma Children and Pupils*, including the Development of High Schools and University Education. The individual recommendations of the Concept are formulated for the period 2008-2015. One of the objectives of the concept is to lower the percentage of Roma children attending special elementary schools for pupils with mental disabilities.

In this context, we cannot agree with the opinion of ECRI expressed in paragraphs 42, 43 and 46 that the "zero year" would have the effect of continuing the segregation of Roma children. The *zero grade of elementary school* is designated for children who, as of September 1, reach the physical age of 6 but fail to achieve school competence, come from socially disadvantaged environments and due to that social environment

there exists the pre-qualification that they will not manage the education program of the first grade of elementary school. Children are only included in the zero grade with the informed consent of the legal representative of the child.

Housing (paragraphs 65-74)

It is regrettable the Report pays little attention to the *positive results and measures* taken by the Slovak authorities in order to improve housing conditions of marginalised groups and to fight segregation. Successful projects in the municipalities of Zborov, Sveržov, Nálepko, Moldava nad Bodvou and elsewhere serve as a good example. As regards the issue of accessibility of social housing, it should be noted that in case of marginalised groups affirmative action is allowed for and up to 80 percent of social housing is funded by the authorities.

Employment (paragraphs 80-84)

The Constitution of the Slovak Republic stipulates that human rights are guaranteed to every individual regardless of sex, race, colour, language, belief and religion, political affiliation or other conviction, national or social origin, nationality or ethnic origin, property, descent or any other status. No person shall be denied their legal rights, discriminated against or favoured on any of these grounds. This also concerns Roma and their access to labour market. They have the equal right to re-training, vocational training, and inclusion into the labour market.

Racist violence, Racism in Public Discourse and Antisemitism (paragraphs 89-100, 131-135)

The Government of the Slovak Republic, in the interest of developing the multiethnic and multicultural character of the Slovak society, fights against all forms of racial, ethnic, religious and political hatred. Rising figures of racially-motivated criminal acts noted by ECRI in paragraph 92 have to be read in conjunction with the fact that in 2006 the Slovak Republic adopted the new Criminal Code, which provides for a new system of gathering statistics on racist crimes.

With the aim of eliminating and preventing all expressions of discrimination in society, the Government of the Slovak Republic adopted the *“Action Plan for the prevention of all forms of discrimination, racism, xenophobia, anti-Semitism and other expressions of intolerance”*. The Action Plan focuses on the prevention and reduction of negative phenomena in society such as racism, xenophobia, and many other expressions of intolerance and discrimination. It also has long term objectives of fighting these negative phenomena in society in order to increase the level of tolerance among all citizens of Slovakia, including foreigners. The means are, for instance, systematic education of professionals, presentations of minority cultures under auspices of the Ministry of Culture, or grant projects “Culture of Ethnic Minorities”, and “Culture of disadvantaged groups”. An important part of the Action Plan are activities carried out by non-governmental organisations or other subjects working in this area. An amount of 287 000 EUR has been allocated of the state budget for 2008 to fund project activities by eligible subjects.

Special attention is paid to the development of Roma culture. Under the auspices of the Ministry of Culture, numerous cultural activities are organized for children from socially-

disadvantaged environment, in particular Roma children, with a view to raise their awareness in the area of culture. In 2006, the Government of the Slovak Republic adopted a Development Strategy for museums and galleries in the Slovak Republic, which projects creation of permanent exposition of Roma culture as well as establishment of research and documentary centres. The Ministry of Culture has provided a valuable contribution to the commemoration of the Roma Holocaust by carrying out the project *Ma bisterň – Nezabudnite* (Remember). In the framework of the project, commemorative tablets were placed where Roma persecutions took place during the Second World War.

Developments in allegations of sterilisations of Roma women in the Slovak Republic without their full and informed consent (paragraphs 110-114)

The accusations of alleged forced sterilisations of Roma women in Eastern Slovakia caused immediate reaction from the Government, which initiated a criminal prosecution against unidentified offender for the criminal offence of genocide. On 24 October 2003, the criminal prosecution was stopped since it was apparent that the act for which the criminal prosecution was undertaken had not happened. The decision of the investigator was, among other things, based on the opinion of the Faculty of Medicine, which on the scientific grounds confirmed that the sterilisations were performed *lege artis* and the medical interventions had no influence on the reproductive ability of the Roma ethnic minority. The investigation did not reveal commission of any other criminal act in connection with the investigated commission. However, in course of the prosecution some deficiencies in the Slovak healthcare legislation and, in some cases, administrative shortcomings made by individual physicians and healthcare establishments were identified, but these were however of purely administrative character.

The suspension of prosecution was also based on the fact that the control executed by the inspection group of the Ministry of Health confirmed that genocide, discrimination against or segregation of Roma women had not occurred at any of the gynecological and obstetrical departments. The conclusions done by experts proved that in those regions where it was possible to assess indirectly the ratio of Roma patients in relation to the total number of patients, the frequency of sterilisations and c-sections was considerably lower than the number of interventions on the majority population. Moreover, the experts stated that all medical interventions on women, complaining about the forced sterilisations, were done in sake of their health and life, irrespective of their ethnic origin and in compliance with the then legislation. As a warning served an example of one Roma women who died after having refused to undergo the sterilisation.

The relevant institutions of the international organisations, with whom the Government of the Slovak Republic communicated intensively, closely observed the issue of alleged forced sterilisations. The information was submitted also to the Committee on the Elimination of Discrimination against Women. The Slovak Republic prepared observations that informed in detail about the investigation of the incident in Slovakia and about the measures taken (including legislation modifications). The Committee decided not to conduct an inquiry under article 8 of the Optional Protocol.

Hungarian minority (paragraphs 115-118)

Investigation of the case of *H. Malinová* has been conducted by independent investigatory bodies. The Slovak Republic refuses to politicise the case.

The right to education in the languages of national minorities is guaranteed in the Constitution of the Slovak Republic and Act No. 245/2008 Coll. on training and education (the schools act) and the amendment of certain acts. Training and education for children and pupils is provided in elementary and secondary schools with teaching of the language of a national minority, with tuition in the language of a national minority and with tuition in Slovak language based on the free decision of parents or legal guardians. Pre-school education and extracurricular education and training in education facilities also take into consideration children's mother tongue.

As mentioned above, the schools act establishes the prohibition of all forms of discrimination and especially segregation as one of the principles of education and training. If an applicant, child, pupil or student believes that his or her rights or legally protected interests have been offended as a result of a breach of the principle of equal treatment the schools act allows them to obtain legal protection from the courts in accordance with specific legislation. The specific legislation is Act No. 365/2004 Coll. on equal treatment in certain areas and protection against discrimination and the amendment of certain acts, as amended.

Schools with tuition in the language of a national minority always use translations of Slovak textbooks or adapted textbooks approved by the Ministry of Education of the Slovak Republic. The necessary textbooks and workbooks for schools with tuition in the language of a national minority and with the teaching of the language of a national minority are approved each year.

With regards to the paragraph 116, the respective bill was adopted by the National Council of the Slovak Republic as amendment to the Act No. 245/2008 Coll. on training and education (the Schools Act) in February 2009.

The languages of national minorities are also taught in state higher education institutions. These institutions are part of the education and training system of the Slovak Republic and are financed from the state budget. In addition to state schools, the law allows the establishment of private or church schools that also receive funding from the state budget in accordance with relevant legislation.

Migrants (Paragraph 121)

The review of appeals against asylum decisions are made by regional courts who cannot take a decision, but send the case back to the Migration Office to re-examine them. Migration office is nevertheless bound by the opinion of the Court. Asylum seekers do receive legal aid also at the appellate stage of the proceeding. Except for numerous NGOs, since December 2008 also the Centre for Legal Aid established by the Ministry of Justice offers these services.