

# ECRI REPORT ON THE SLOVAK REPUBLIC

(sixth monitoring cycle)



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## FOREWORD

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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 the fight against racism, discrimination (on grounds of “race”, ethnic/national origin, colour, citizenship, religion, language, sexual orientation and gender identity), xenophobia, antisemitism 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, antisemitism and intolerance.

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

ECRI’s country monitoring deals with all member States on an equal footing. The work takes place in 5-year cycles. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, those of the third round at the end of 2007, those of the fourth round in the beginning of 2014, and those of the fifth round at the end of 2019. Work on the sixth round reports started at the end of 2018.

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 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 sixth round country reports focus on three topics common to all member States: (1) Effective equality and access to rights, (2) Hate speech and hate-motivated violence, and (3) Integration and inclusion, as well as a number of topics specific to each one of them.

In the framework of the sixth 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 up to 1 July 2020; as a rule, developments since that date are neither covered in the following analysis nor taken into account in the conclusions and proposals therein.**



## SUMMARY

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**Since the adoption of ECRI's fifth report on the Slovak Republic on 20 March 2014, progress has been made and good practices developed in a number of fields.**

The budget of the Slovak National Centre for Human Rights (the Centre) was increased by 40% in 2019. School curricula promote diversity and inclusion. Irregularly present migrants have access to health care and schooling. People's attitudes towards LGBT persons are improving, albeit from a low initial level. Same-sex partners are now considered as "close persons" in Slovak law and are beginning to enjoy certain rights.

The authorities have adopted an action plan against racism, and Parliament has fined two of its members for hate speech. Sanctions for hate speech have also been imposed in the sphere of the media. Criminal proceedings against several members of the LSNS party and the request of the prosecutor general to dissolve that party appear to have prompted it to tone down its rhetoric.

The Criminal Code provisions covering hate crimes have been amended, and specialised units within the police, the prosecution service and the courts have been tasked with combating these crimes. 2 000 Roma are to be recruited as members of civic patrols.

The relevant documents contain important measures for inclusive integration of persons of migrant origin.

In the light of detailed statistics on the living conditions of Roma, the authorities are aware of the scale of the exclusion of a large part of the Roma population. The authorities are showing determination to improve the situation of Roma through systemic measures, including in the fields of education, housing and employment.

A compulsory year of pre-school education and free meals in primary schools have been introduced. Several thousand jobs have been created for Roma, who contribute by working as mediators, teaching assistants, caretakers and members of civic patrols to remedy the appalling living conditions of Roma in shanty towns. More Roma children have been given places in kindergartens and receive secondary education.

Police commissioners have put an end to large-scale police operations in Roma neighbourhoods and are promoting the use of body-cams as a means of preventing violent acts by the police.

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

The Centre does not have all the competences it should have, it is not sufficiently independent and the Ombudsperson has come under attack, including by a member of government. School-pupils appear to have limited knowledge of the rights to equality and non-discrimination. Numerous Ukrainian migrants are in an irregular situation because Slovak employers are reluctant to employ them legally, on a work contract.

A negative dynamic has developed as a result of persistent hate speech against LGBT persons, meaning that progress in promoting equality for them has been limited. The draft action plan intended to improve their situation was not adopted and an initiative aimed at introducing officially registered partnerships failed to gain the support of Parliament.

Similarly, there has been an escalation in hate speech against other groups, particularly Jews, Muslims, migrants, Roma and black persons. Traditional and electronic media outlets disseminate and amplify this hate speech by over-representing negative themes and showing inappropriate images. Very little hate content is removed from the Internet and operators do not enforce compliance with their ethics codes.

A great many hate crimes go unreported to the authorities, partly because victims do not trust the police, a sufficiently broad definition of the notion of hate crime is lacking, and investigations are not thorough enough.

Some key measures for inclusive integration of migrants have not been implemented, such as the introduction of free Slovak language and integration classes. In particular, schools are not using the funding made available for the teaching of Slovak to children of migrant origin. Migrants also experience difficulties in finding housing and places in kindergartens. Muslims encounter major problems in practising their religion.

A great many Roma still live in shanty towns in conditions of segregation, structural discrimination and extreme poverty. Many children are not taken care of prior to beginning primary school, accumulate substantial delays in their development and have no opportunity to learn Slovak, which is their future language of instruction. Far too many of them are placed in special education classes and establishments. Over half of Roma children suffer from segregation.

Many measures aimed at helping Roma are funded only by time-limited projects, and the key authorities do not assume their responsibilities in implementing and funding good practices that deserve to be developed sustainably on the necessary scale. Some municipalities do not use the funding made available to them to improve the situation of Roma. Roma women can suffer discrimination in the hospital environment and little has been done to compensate past victims of forced sterilisation.

Investigations into allegations of police brutality are inadequate, and the Police Force Inspectorate is not sufficiently independent.

**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.**

The authorities should strengthen the Centre's independence. Teaching on equality and non-discrimination should be stepped up in schools.

The authorities should develop and implement an action plan for LGBTI persons\*, abolish the requirement of sterilisation for transgender persons before they can change their officially registered gender, and ban treatments and operations that are not medically essential on intersex children.

The authorities should adopt a new action plan for preventing and combating racism, homophobia and transphobia and take steps so that Internet service providers and social network operators swiftly remove hate content.

They should also make racist, homophobic and transphobic motives an aggravating circumstance for any criminal offence, adopt a broad definition of hate crimes and establish dialogue and lasting cooperation between the police and minority groups.

The authorities should ensure that their Roma and migrant integration strategies incorporate indicators and a timetable and determine which institutions and individuals are responsible for achieving the objectives and implementing the measures. They should regularly evaluate the progress made, using those indicators.

The authorities should ensure that the transition to compulsory schooling for children aged five is properly prepared, build a sufficient number of nursery schools and train the required teaching staff, in particular for the teaching of Slovak as a second language\*. Other steps should be taken to improve learning conditions for Roma children and put an end to segregation in schools and the unjustified placement of Roma children in specialised education.

The authorities should expand their programmes for the housing and employment of Roma, put an end to all discrimination against Roma women in hospitals and set up a committee of inquiry to investigate the scale of the practice of forced sterilisations.

The authorities should reinforce the independence of the Police Force Inspectorate and generalise the wearing of body-cams by police officers during interventions.

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\* This recommendation will be subject to a process of interim follow-up by ECRI not later than two years after the publication of the report.

## FINDINGS AND RECOMMENDATIONS

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### I. EFFECTIVE EQUALITY AND ACCESS TO RIGHTS

#### A. Equality bodies<sup>1</sup>

1. In Slovakia, there are two independent institutions tasked with combating racism and intolerance and promoting equality: the Slovak National Centre for Human Rights (the Centre) and the Ombudsperson.
2. The Centre has most of the competences provided for in §§ 13 and 14 of ECRI's General Policy Recommendation (GPR) No. 2 on Equality Bodies. However, the law does not expressly empower it to promote the ratification and application of international treaties, have recourse to conciliation procedures, bring cases, in its own name, before institutions and courts, intervene as *amicus curiae* before courts or monitor the execution of decisions dealing with discrimination and intolerance (§§ 13n and 14 b and d-f).
3. To ensure the independence of equality bodies, ECRI recommends in § 23 of its GPR No. 2 that the executive should not have a decisive influence in any stage of the process of selecting persons holding leadership positions (§ 23 of GPR No. 2). ECRI considers that the provisions of Article 3a of Law no. 308/1993 on the Centre do not satisfy this recommendation, as several of the members of its governing board, which has nine members in total, are selected by the government. The dismissal of governing board members is not subject to any criteria (§ 3a.4.c of that law) and its members do not benefit from functional immunity (§ 24 of GPR No. 2).<sup>2</sup>
4. In recent years, two bills have been drawn up by the Ministry of Justice with a view to amending the legislation. The first of these proposed that the Centre focus on promoting equality and that the protection of other human rights be entirely transferred to the Ombudsperson. With regard to that bill which, however, has not been submitted to the Slovak Parliament, ECRI refers to §§ 5 and following of its GPR No. 2 on the institutional architecture of equality bodies and §§ 29 and following of its explanatory memorandum, which analyse the advantages of the different models possible. The second bill for the reform of the Centre sought to strengthen its independence by establishing a transparent procedure and strict criteria for the selection of governing board members. It also set out rules on activities and affiliations that would be incompatible with the exercise of the function of member of the governing board (§ 25 of GPR No. 2); this bill was rejected by Parliament.<sup>3</sup>
5. While the Centre is of the opinion that its budget is too tight, the authorities informed ECRI that it had been increased by 40% in 2019. The Centre now has a staff of 23 working in its head office on substantive issues and five others in the three regional offices. In 2018, the Centre processed 92 complaints (compared to 110 in 2019 up to November) and organised 317 educational activities.<sup>4</sup> Many of ECRI's talking partners thought that the Centre did not function adequately, not enough people knew about it, it received too few complaints and it did not intervene in cases of structural discrimination such as those involving segregation in the

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<sup>1</sup> The term "national specialised bodies" has been replaced by the term "equality bodies" in the revised version of GPR No. 2, published on 27 February 2018.

<sup>2</sup> For more details, see also UN International Coordinating Committee 2014: 8 ff; GANHRI 2019: 11. Under the Paris Principles this UN Committee accredited the Centre with only B status.

<sup>3</sup> It was said that some parliamentarians thought the amendments too ambitious, for example, while others did not approve of assigning the Centre certain additional powers, such as promotion of the ratification and application of international instruments (§ 13n of GPR no. 2), at a time when Parliament was debating the ratification of the Council of Europe's Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).

<sup>4</sup> Slovak National Centre for Human Rights 2019a: 4.

education sector. According to a study by the FRA, only 27% of respondents knew at least one equality body in Slovakia.<sup>5</sup> It was hoped by some that the new executive director, who was to be elected after ECRI's contact visit, would make the institution more effective. Others thought that another reform bill should be put forward after the parliamentary elections.

6. In the light of these findings, ECRI notes with regret that, in its 25 years of existence, the Centre has not managed to establish itself as the reference body for the promotion of equality. ECRI considers that the authorities should strengthen its independence and effectiveness by revising the legislative framework for it on the basis of the recommendations set out in GPR No. 2. Following the recent increase to the Centre's budget, its team and new management should work on increasing the Centre's accessibility, visibility, effectiveness and impact, following the guidelines laid down in §§ 27 to 40 of GPR No. 2 to improve access to justice for vulnerable groups.<sup>6</sup>

7. ECRI recommends that the Slovak authorities strengthen the independence of the Slovak National Centre for Human Rights (§§ 2 and 22 to 30 of ECRI's General Policy Recommendation No. 2). In particular they should (i) establish a transparent, competency-based and participatory procedure for selecting persons holding leadership positions, in which process the executive authorities should not have any decisive influence; and (ii) provide that these persons shall benefit from immunity, be protected against threats and coercion and have appropriate safeguards against arbitrary dismissal or arbitrary non-renewal of their appointment.

8. The Ombudsperson is competent in matters of discrimination when examining complaints alleging violations of fundamental rights and freedoms by public administrations. In 2018, she worked on 2 282 cases, many of which were discrimination cases.<sup>7</sup> According to many of ECRI's interlocutors, this institution is the only one that speaks up about human rights violations in Slovakia, including with regard to Roma and LGBT persons or allegations of police violence (see §§ 104 et seq.). ECRI is concerned that the Ombudsperson has come under attack, including by a member of government, with regard to her human rights protection work, which could undermine her independence. ECRI reiterates in this connection that this institution should not be subject to any interference by the State, political parties or other actors (§§ 2 and 22 of GPR No. 2).

## **B. Inclusive education**

9. This part of the report looks at the measures taken to ensure inclusive education for all; the specific measures for helping children belonging to minority groups are dealt with below in §§ 29 ff, 75 ff and 90 ff.
10. According to the authorities, school curricula, from nursery school upwards, are geared to promoting multiculturalism and inclusion. The Law on education provides for human rights education in primary and secondary schools. The annual guidelines of the Ministry of Education for teaching methods and organisation encourage schools to use the COMPASS and COMPASITO human rights education textbooks published by the Council of Europe. Activities such as the Human Rights Olympiad<sup>8</sup> and trips to places of Holocaust remembrance are organised. To promote full participation of all children in the education system, on an equal footing, the authorities have approved the introduction of a compulsory

<sup>5</sup> EU, Fundamental Rights Agency (FRA) 2017: 52. According to Iniciatíva Inakost 2017: 14, only 1.3% of LGBT persons seeking help turned to the Centre or the Ombudsperson.

<sup>6</sup> Regarding the problems in this sector, see *Poradňa pre občianske a ľudské práva 2019*.

<sup>7</sup> See the Ombudsperson's 2019 annual report and also below in the present report.

<sup>8</sup> For more details, see the sites [www.olympiady.sk](http://www.olympiady.sk) et <http://www.olp.sk>, consulted on 9.1.20.

pre-primary school year with effect from 1 September 2020 (see below, §§ 82 ff).<sup>9</sup> In addition, initiatives have been taken to reinforce teaching in the languages of the national minorities.

11. Where teacher training is concerned, two public bodies, the Centre of methodology and pedagogy and the Centre of education for Roma lay on programmes to help teachers better address topics linked to minority groups and hate speech. The Ministry of Education disseminates information and teaching tools to help teachers make their teaching more inclusive.<sup>10</sup>
12. Law no. 317/2009 sets out an obligation for teachers and the other staff members in schools to protect children's rights. As of the beginning of the 2018 school year, Directive 36/2018 stipulates measures for the prevention and resolution of bullying. This prevention work is chiefly carried out within the education process itself, including via the positive influence of teaching staff through their daily teaching, content and teaching on transversal topics. The registration of cases of bullying is compulsory, and statistics must be compiled.<sup>11</sup> These statistics were not yet available when this report was adopted. The authorities ran a programme entitled "A hate-free school" in seven primary and secondary schools, which produced a self-assessment regarding the measures they had taken to prevent hate speech and bullying and the activities they had carried out to foster the values of tolerance and mutual respect in communication. The schools concerned then improved and reinforced these measures and obtained a certificate.<sup>12</sup>
13. According to the Centre for Scientific and Technical Information's assessment of human rights and democratic citizenship education, around 50% of pupils had personally experienced a human rights violation, 16% had suffered from bullying and 7% from discrimination.<sup>13</sup> While the pupils are capable of identifying a whole host of individual human rights, they appear to have limited knowledge of the rights to equality and non-discrimination, and also of tolerance. Around three-quarters of teachers have observed positive changes, but they believe that multicultural education is not sufficiently reflected in social interactions and the school atmosphere. The Centre concluded that further emphasis is required on implementing human rights education.<sup>14</sup> According to civil society, it is also important to develop teaching regarding the use of electronic media to ensure that young people obtain their information from neutral sources and are not influenced by biased information.
14. ECRI recommends that the Slovak authorities maintain and increase the budget to ensure inclusive education and continue to devote greater attention, within human rights education, to the topics of equality, non-discrimination and mutual respect.

### **C. Irregularly present migrants**

15. The authorities have stressed that it is difficult to estimate the number of migrants who are irregularly present in Slovakia. The official statistics put the figure at 2 819 in 2018, of whom around two-thirds were of Ukrainian nationality.<sup>15</sup> Civil society has pointed out that many of these Ukrainian nationals are in an irregular situation

<sup>9</sup> See Resolution n° 302/2018, in which the government approved the application of the National Programme for development in the spheres of education and training. Ombudsperson 2019: 203.

<sup>10</sup> UN, CERD 2017: 2-3, 6.

<sup>11</sup> Directive no. 36/2018 on the prevention and resolution of bullying of children and pupils in schools and school establishments. See in this connection the sites [www.komposyt.sk](http://www.komposyt.sk) and [www.prevenciasikanovania.sk](http://www.prevenciasikanovania.sk), consulted 09.01.2020.

<sup>12</sup> Other measures in this field are financed with EU-money.

<sup>13</sup> According to another survey published by the organisation Inakost 2017: 16, 49.6% of LGBT persons questioned had had bad experiences. 43.8% said that their aggressor had been a teenager and 50.5% that they had had experiences of this kind at school or university.

<sup>14</sup> Ministry of Education 2015: 7 ff.

<sup>15</sup> Presidium of police forces 2018: 26 ff. The figure given by Eurostat 2019 is 2 635, of whom 45 were minors.

because Slovak employers are reluctant to comply with the regulations on minimum wages and working time; for this reason, employers do not want to employ them legally, on a work contract, which would enable them to apply for a temporary stay permit.<sup>16</sup> In 2018, 2 209 people left the territory and ECRI takes positive note of the fact that the number of migrants in irregular situation in administrative detention fell from 119 at the beginning of 2018 to 31 by the end of the same year.<sup>17</sup>

16. In its GPR No. 16<sup>18</sup>, ECRI recommends the creation of "firewalls" to protect fundamental human rights in a number of areas such as education, health care, social security and welfare. These firewalls must decouple the activities of the public authorities tasked with providing social services from those of the immigration control authorities so that migrants in irregular situations are not deterred from contacting the public authorities for fear of being deported.
17. Regarding access to health care for persons in irregular situations, ECRI notes with satisfaction the information provided by the authorities that there is no obligation for healthcare professionals to report these individuals to the immigration services; furthermore, pregnant women and children under 18 years of age are considered as vulnerable persons and therefore not subject to expulsion measures.
18. Concerning the enrolment of children at school, an obligation to register the parents' residential status was introduced for the beginning of the 2019 school year. Notwithstanding this, according to the authorities, no children were refused admission to schools. ECRI encourages the authorities to ensure that this obligation does not deter migrants in irregular situation from registering their children for school.

#### **D. LGBTI equality<sup>19</sup>**

19. There are still no official data on the size and situation of LGBTI communities in Slovakia. Based on international studies, suggesting that between 1 and 8% of the population identify as LGBTI, it can be estimated that Slovakia's LGBTI communities taken together constitute anywhere between several tens of thousands and several hundreds of thousands of individuals.<sup>20</sup>
20. Through its contribution to the funding of a study on the situation of LGBT persons in Slovakia, published in 2017, the Ministry of Justice has partially applied the recommendation made in § 135 of the last ECRI report.<sup>21</sup> Of the participants in this study, 81% thought that the biggest problems of LGBT persons in Slovakia were prejudice, stereotyping, misconceptions and ignorance in their respect. Jokes and expressions of hatred and dislike were commonplace according to 75% of the respondents, and 39% said that they had been victims of discrimination in at least one instance in recent years. Only 58% of the respondents had come out as LGBT to their mothers, 51% to their fathers, 52% to certain work colleagues, 47% to certain classmates and only 16% to their teachers. 94% of LGBT persons who had experienced negative behaviour towards them had not reported it to anyone. 41% of those who had lodged complaints with the police had perceived negative attitudes when doing so.

<sup>16</sup> CVEK 2018: 3 ff; see also below in § 65 of this report.

<sup>17</sup> Presidium of police forces 2018: 99.

<sup>18</sup> See paragraphs 3, 4, 11 and 12 of the GPR and paragraphs 3, 4, 11 and 12 of its explanatory memorandum.

<sup>19</sup> For the terminology, see the definitions in Council of Europe Commissioner for Human Rights 2011.

<sup>20</sup> See IFOP 2017 and the studies cited on this point in ECRI's last reports.

<sup>21</sup> Iniciativa Inakost 2017. The survey was carried out among 2 088 LGBT persons.

21. Ninety-two per cent of the respondents thought that the adoption of legislation on same-sex partnerships was a priority requirement for improving their situation, 87% spoke of the importance of the rights of LGBT persons in the working world, 82% mentioned support for organisations helping young LGBT persons, 82% also stressed the need to improve prevention of sexually transmissible diseases and 70% spoke of abolishing the obligation, for transgender persons, to undergo sterilisation before obtaining legal recognition of their chosen gender. In the view of 77% of respondents, knowing an LGBT person personally was beneficial. 54% thought it beneficial when a politician who was not LGBT openly supported LGBT persons and 53% thought the same when well-known personalities spoke openly of their LGBT identity. 85% of respondents felt under constant pressure as they had to be constantly prepared to face up to discrimination, 75% constantly thought things over before coming out to new acquaintances, 51% suffered from anxiety and depression, and 27% sometimes or often had suicidal thoughts.<sup>22</sup>
22. According to the Eurobarometer, public attitudes towards LGBTI persons are improving, although they started at a low level: in 2019, 24% (in 2015: 5%) of respondents said that they would feel comfortable if two men showed affection in public, and 28% (in 2015: 5%) in the case of two women showing affection. However, only 31% thought that LGB persons should have the same rights as heterosexuals; this is the lowest level among the 27 member countries of the EU and has actually fallen by 5% since 2015.<sup>23</sup> According to civil society, politicians are under the impression that the rights of LGBT persons could not be promoted as the majority of society would not be in favour. A survey showed teenagers to be more open on this issue<sup>24</sup> and it would appear that the situation is better in Bratislava than in other regions.<sup>25</sup>
23. Under the instructions of the Ministry of Justice, the Committee tasked with questions relating to LGBT persons has been working since 2012 to improve the situation of LGBTI persons.<sup>26</sup> At the same time, traditionalist movements and religious authorities<sup>27</sup> have run anti-LGBT campaigns that have been bolstered by homophobic comments made, for example, by a catholic priest and his brother, a member of Parliament.<sup>28</sup> In June 2014, Parliament approved a draft constitutional amendment by a large majority (102 for, 18 against) defining marriage as "the union of a man and a woman" which currently makes it impossible for same-sex couples to marry.<sup>29</sup> The public debate on LGBT questions then further deteriorated during the campaign for a referendum initiated by the "Aliancia za rodinu" (Alliance for the family) group seeking to expressly prohibit gay marriage and ban homosexual couples from adopting children, and also to make sex education in schools non-compulsory. During this campaign, which included a "March for life" by 70 000 people, the Alliance for the family assimilated LGBTI persons and their rights with a "culture of death".<sup>30</sup> Ultimately, the results of the referendum, held in February 2015, were not validated owing to a low turnout (21.41%).

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<sup>22</sup> Iniciatíva Inakost 2017.

<sup>23</sup> EU EC 2019a: 118 ff.

<sup>24</sup> Inštitút pre verejné otázky 2019: 24 ff

<sup>25</sup> Balkan Insight 2019b.

<sup>26</sup> The Slovak Spectator 2012.

<sup>27</sup> See also EELN 2019: 6.

<sup>28</sup> In 2013, S. Kuffa stated: "The World Health Organisation once classified homosexuality as a mental illness. [...]. It is a grave mistake to leave sick people running around the streets without help". This was followed by statements by other MPs from the same party describing homosexuality as "morally wrong and perverted", ILGA Europe 2013: 199. In 2015, Marián Kuffa said in the context of same sex-partnerships: "They are not common murderers but I say that they are mass murderers; this is a genocide of our nation!", The Slovak Spectator 2015.

<sup>29</sup> The following sentences were added to Article 41.1 of the Constitution: "*Marriage is solely a union between a man and a woman*" and *the Slovak Republic fully protects marriage and contributes to its good*".

<sup>30</sup> ILGA 2015: 146.

24. Far-right political parties such as the Slovak National Party (SNS) or the People's Party – Our Slovakia (LSNS) have also put out anti-LGBT slogans, while the former Prime Minister and leader of the biggest party in the government coalition "DIRECTION – Social Democracy" (SMER-SD) has repeatedly stated that LGBT rights went against "traditional" family values. Several political and other public protagonists have conflated their opposition to the rights of LGBTI persons with opposition to ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) and campaigned under the slogan "Let us stop the evil coming from Istanbul".<sup>31</sup> In July 2018, the leader of the SMER-SD stated that, as long as he was its leader, the party would never support homosexual marriage but had no problem with granting specific rights to cohabiting couples.<sup>32</sup>
25. On the other hand, leading figures such as the President, the Ombudsperson, the mayor and the governor of Bratislava and numerous companies have supported events in favour of LGBTI persons, such as the Pride marches in Bratislava. In 2015, a draft Action plan for LGBTI persons was presented by the Ministry of Justice but it was not adopted.<sup>33</sup> In September 2017, the Ombudsperson concluded in an opinion that the Slovak Republic was violating its human rights obligations as it did not recognise same-sex partnerships.<sup>34</sup> Unfortunately, the bill aimed at introducing such officially registered partnerships tabled by the "Freedom and Solidarity" party failed to gain the support of Parliament in September 2018, obtaining only 30 votes.<sup>35</sup> Since 2018, the authorities have been emphasising that Slovak law comprises the notion of "close persons" ("*blízke osoby*") which could be applied to same-sex couples "if a prejudice suffered by one of them is reasonably experienced as a prejudice suffered by the other person". However, these "close persons" are granted only limited rights, notably where inheritance law is concerned.<sup>36</sup> ECRI finally welcomes the statement by the leaders of the Catholic Church of Slovakia that priests, and in particular the one mentioned in § 23, should refrain from intervening in the political debate.<sup>37</sup>
26. Following the Coman-Hamilton judgment of the European Court of Justice<sup>38</sup>, the Ministry of the Interior specified, in 2018, that anyone having married an EU citizen of the same sex in another country had the right to reside in Slovakia. However, that same year, it refused to grant a long-term residence permit to the New Zealand partner of a homosexual Slovak man. The Ombudsperson quite rightly pointed to the case-law of the European Court of Human Rights, under which such a refusal is a violation of Articles 8 and 14 ECHR (ECHR), which protect the rights to private life of homosexual partners and prohibit discrimination.<sup>39</sup> In 2019, the Ministry of Culture halted funding for activities in favour of the LGBTI community. According to the authorities, the organisation benefiting from that funding could no longer receive grants as it was deemed to be exercising profit-making activities.
27. ECRI notes with regret this negative dynamic which has developed in recent years and has allowed only limited progress with regard to fostering equality for LGBTI persons. ECRI encourages the authorities to take up this challenge, set about paving the way for better understanding of LGBT persons within society and form

<sup>31</sup> Dennik.sk 2017a; China-CEE Institute 2018. For details see Secretary General of the Council of Europe 2019.

<sup>32</sup> ILGA Europe 2019: 2; Balkan Insight 2019b.

<sup>33</sup> EELN 2019: 102.

<sup>34</sup> EELN 2018: 15; 2019: 5; Ombudsperson 2017.

<sup>35</sup> ILGA Europe 2019: 2; Teraz.sk 2017; Dennik.sk 2017b.

<sup>36</sup> See § 116 of the Slovak Civil Code; Dobrovodsky, R. 2015: 2; The Slovak Spectator 2018.

<sup>37</sup> Webnoviny.sk 2019.

<sup>38</sup> CJEU Coman and others, no. C-673/16, judgment of 5 June 2018, ECLI:EU:C:2018:385.

<sup>39</sup> Court, Taddeucci and McCall v. Italy, no 51362/09, 30 June 2016: §§ 81 ff; Ombudsperson 2019: 39 ff.

the foundation that will make it possible to comply with their obligation to protect the rights of LGBTI persons and to promote equality for them. To that end, the authorities should *inter alia* disseminate the findings of scientific research on the subjects of sexual orientation, gender identity and human diversity concluding that homosexuality and transsexuality are natural forms of human diversity and cannot be regarded as illnesses.

28. In the light of the survey findings mentioned in §§ 20 ff, the authorities should also support civil society in its efforts to encourage LGBTI persons to speak more openly, including in the media. When people know that a famous personality, a politician, a member of family or a friend is LGBTI and there is open interaction with such individuals, this is an effective means of breaking down fears and stereotypes. This support could be via campaigns and projects aimed at the general public, but also through better information on the situation of LGBTI persons within the framework of in-school and extracurricular activities.<sup>40</sup> All this information and awareness-raising work should be grouped together in a comprehensive action plan also encompassing other areas where progress is required, such as the collection of statistical data in official surveys and the reinforcement of structures providing information and assistance for young LGBTI persons during the difficult "coming-out" phase. An action plan of this kind should also pave the way for the introduction of officially registered partnerships for all and for successfully exploiting the openings that nevertheless seem to be opening up in this direction.
29. ECRI recommends that the Slovak authorities develop and implement an action plan for LGBTI persons, in close consultation with civil society, which includes the objectives to raise public awareness of the conditions in which LGBTI persons live, foster better understanding of their situation, protect them from hate crimes<sup>41</sup>, hate speech and discrimination and make their right to equality effective.
30. Where transgender persons are concerned, ECRI regrets that the ground of gender identity has still not been explicitly incorporated in the relevant law or in legislation against discrimination and hate crimes. Transition and a change of the registered first name and gender are possible in practice for transgender persons but still subject to an obligation to undergo sterilisation. Given that there is no legal basis for such a requirement in Slovak legislation<sup>42</sup> and it is contrary to European Court of Human Rights case-law regarding Articles 3 and 8 ECHR<sup>43</sup>, ECRI considers that the authorities should ensure that the change of first name and gender of transgender persons is registered without requiring them to undergo sterilisation.. In addition, medical guidance for transition should be modernised in the light of the findings of scientific research. The authorities should also ensure transgender people retain their diplomas after registering in their preferred gender.
31. With regard to intersex persons, ECRI was informed there are no statistics on the number of them or on the operations that continue to be carried out on intersex babies to give them a male or female appearance. To protect the corporal integrity of such babies, ECRI considers that the legislator should ban this practice in law and make the general public aware of the fact that intersex persons exist. At the same time, the authorities should develop awareness-raising initiatives and

<sup>40</sup> Regarding the considerable resistance to sex education in Slovakia, see the results for question 17.3 of the Eurobarometer EU EC 2019a: T 189.

<sup>41</sup> In the present report, hate crime is taken as meaning any criminal offence motivated by hatred or prejudice on grounds such as "race", colour, language, religion, nationality, national or ethnic origin, sexual orientation or sexual identity, whether actual or presumed. For further information on the notion of hate crime, see <http://hatecrime.osce.org/what-hate-crime>.

<sup>42</sup> According to a legal opinion of the Ministry of Health, the text of 1981 which regulated these matters is no longer applicable. See also Ombudsperson 2019: 39.

<sup>43</sup> See European Court of Human Rights, A.P., Garçon and Nicot v. France, nos. 79885/12, 52471/13 and 52596/13, 06.04.2017: §§ 116 ff.

practices that will enable parents to have their children accepted within society as they are and create an environment in which intersex children, teenagers and adults may freely decide, at an age which suits them, whether or not they wish to use hormonal treatment and operations to modify their body.

32. ECRI recommends that the Slovak authorities abolish, as soon as possible, the requirement imposed on transgender persons to undergo sterilisation before being allowed to change their registered first name and gender. Furthermore, authorities should ban in law treatments and operations that are not medically necessary on intersex persons before they are old enough to give their free and informed consent to such actions.

## II. HATE SPEECH AND HATE-MOTIVATED VIOLENCE

### A. Hate speech<sup>44</sup>

#### Data

33. ECRI was informed of a considerable increase in hate speech in Slovakia, in a great many cases by political figures, particularly during election campaigning. Hate speech has also been spread via the Internet and social networks. The demonisation inherent in such comments has affected a broad spectrum of groups, including LGBTI persons, women, Jews, Muslims, migrants, Roma, black athletes and also representatives of NGOs and lawyers defending the rights of those persons.<sup>45</sup> This finding is corroborated by several surveys: 37% of the Roma participants in one of these surveys said that they had been victims of harassment in the last 12 months<sup>46</sup>; in another survey, 79% of the LGBT participants thought that hateful and homophobic comments were frequent, and 63% thought that use of offensive language by politicians was widespread.<sup>47</sup> It would appear that, to date, only a small proportion of this hate speech has been reflected in the official statistics of the police and the courts. In 2018, the police logged 266 cases as extremist crimes, and only 43 were classified as hate speech.<sup>48</sup>

#### Public discourse

34. Where hate speech in public is concerned, ECRI refers firstly to the upsurge of homophobic hate speech described in §§ 23 ff of this report. The arrival of a large number of migrants and the terrorist attacks in Paris and Brussels in 2015 were exploited by far-right parties among others to step up islamophobic and anti-migration hate speech. Furthermore, the then Prime Minister, told the Slovak press agency on 15 November 2015 that Islam was not compatible with Slovak culture and that "Islam had no place in Slovakia"<sup>49</sup>; ECRI has serious doubts as to whether that statement is compatible with Articles 1, 12 and 24 of the Slovak Constitution and Article 9 ECHR on freedom of religion. During the 2016 parliamentary election campaign, the conflation of Islam and terrorism further reinforced islamophobia.

<sup>44</sup> According to ECRI's GPR No. 15 on combating Hate Speech, "hate speech" shall mean the advocacy, promotion or incitement, in any form, of the denigration, hatred or vilification of a person or group of persons, as well as any harassment, insult, negative stereotyping, stigmatisation or threat in respect of such a person or group of persons and the justification of all the preceding types of expression, on the ground of "race", colour, descent, national or ethnic origin, age, disability, language, religion or belief, sex, gender, gender identity, sexual orientation and other personal characteristics or status.

<sup>45</sup> See in this context the results of the survey Eurobarometer, EU EC 2019c and EELN 2018: 14 ff.

<sup>46</sup> EU FRA 2017: 59; see also EU FRA 2016: 36. Other surveys show high levels of "social distance" or negative feelings towards these groups which may give rise to hate speech. The Eurobarometer shows high levels of "social distance" with regard to LGBTI persons and Roma in particular, EU, EC 2019a: 39 and 70 and a survey by the Centre reveals a high level of negative feelings among young people towards Roma and Muslims, Slovak National Centre for Human Rights 2018: 41 ff.

<sup>47</sup> Iniciatíva Inakost 2017; see also FRA 2013: Question on "Most serious incident of harassment".

<sup>48</sup> See in this connection the statistics gathered by the OSCE's Office for Democratic Institutions and Human Rights Bureau (ODIHR), OSCE ODIHR 2020.

<sup>49</sup> Islamic Foundation in Slovakia 2017: 15; Islamonline.sk 2016.

The LSNS enjoyed growing success, particularly among young people<sup>50</sup>, and won 14 of the 150 seats in parliament<sup>51</sup>, which is seen as a change in the political landscape.<sup>52</sup>

35. SNS members of Parliament then followed up a promise made to the electorate by tabling a bill aimed at making it impossible to register a Muslim community in Slovakia. Throughout the parliamentary debates on this bill, which sought to increase the number of believers required for registration from 20 000 to 50 000, politicians of various persuasions made statements describing refugees and Muslims as terrorists and a menace for society. On 5 December 2016, the Commission for parliamentary mandates and immunities decided that members of Parliament of the LSNS<sup>53</sup> must publicly apologise for making Islamophobic statements. When these two MPs responded with more of the same hate speech, the Commission decided to fine them 1 000 €. Its decision was confirmed in plenary sitting and it was decided that this amount would be deducted from their salary.<sup>54</sup>
36. Again in January 2017, the Prime Minister stated that a united Muslim community on the country's territory would be a "constant source of security risks" and that this would justify refusing to take in refugees under the EU resettlement programme.<sup>55</sup> In February 2017, the leader of the "Freedom and Solidarity" party said that Christianity was "better" than Islam, that Islam was an "aggressive religion" which was incompatible with Slovak culture and that "we are not all equal". During a debate in April 2017 on an opposition bill seeking to ban mosques, a Sme Rodina party MP said that most Muslims wanted to change the political systems in Europe and make them "totalitarian or Islamic theocracies". The bill was ultimately defeated.<sup>56</sup>
37. A number of court cases have been brought for antisemitic statements, made by the LSNS in particular. An MP of the LSNS was charged with publishing an article on Facebook in January 2017 which criticised President for awarding prizes to people of Jewish origin.<sup>57</sup> The chairman of the LSNS was indicted following a symbolic donation of 1 488 euros to three families in need at an event held in 2017 which played on nostalgia for the nazi regime.<sup>58</sup> In February 2018, a MP of the LSNS verbally attacked an expert witness at a court hearing, saying that he would not be impartial because he was Jewish.<sup>59</sup> This antisemitism is also reflected in statements by politicians belonging to other parties. In March 2018, for example, the Prime Minister accused the Jewish philanthropist George Soros of provoking a putsch against his government.<sup>60</sup> According to civil society, there was a strong

<sup>50</sup> UN CERD 2018: § 11; for an overview of the rise in islamophobic statements in Slovakia, see Islamic Foundation in Slovakia 2017.

<sup>51</sup> European Network of Legal Experts (2018), Country report - Non-discrimination – Slovakia, pp. 14-15.

<sup>52</sup> For the entire paragraph, see Walter A. 2019. In 2013, the leader of the LSNS party was elected regional governor of Banská Bystrica.

<sup>53</sup> Stanislav Mizik claimed that Islam was "the Satanic and paedophile work of the Devil", and Milan Mazurek described Islam as a "cruel, disgusting and anti-human system", SETA 2018: 567.

<sup>54</sup> Milan Mazúrek said: "Islam justifies paedophilia, bestiality, and even necrophilia... Islam is nothing more than the work of the Devil", Aktuality.sk 2017; SETA 2018: 567; Islamic Foundation in Slovakia 2017: 19 ff; Romea.cz 2017.

<sup>55</sup> On another occasion, a former prime minister remarked that tourists wished to come to the country because they did not have to worry about being blown up by bombs and they knew that they would not be harassed by Muslims in public places.

<sup>56</sup> Islamic Foundation in Slovakia 2017: 21; US Department of State 2017: 5-6.

<sup>57</sup> In July 2018, the specialised criminal court acquitted him at first instance for lack of proof that he had drafted or published the statement.

<sup>58</sup> For the time being, proceedings have not yielded results owing to procedural shortcomings, The Slovak Spectator 2019 a and c; US Department of State 2019: 20.

<sup>59</sup> US Department of State 2019: 19-20.

<sup>60</sup> Balkan Insight 2019b; US Department of State 2019: 20.

surge in anti-Semitic comments on the Internet following that statement.<sup>61</sup> A survey in 2018 revealed that a majority of Slovaks endorsed antisemitic conspiracy theories.<sup>62</sup> The Jewish representatives spoken to by the ECRI delegation had the impression that, today, Jews are publicly held responsible for any negative development.

38. Anti-Gypsyism is another topic that fuels racism in Slovakia. In 2015, a MP of the LSNS compared Roma to animals and claimed that they produced children in order to use them as a source of income from begging and by making them commit petty offences.<sup>63</sup> Other comments present Roma as a security risk.<sup>64</sup> In January 2018, the Minister of the Interior at that time (SMER-SD), announced a new package of legislative measures including the gathering of data on "Roma criminality", increased police powers and a constitutional amendment aimed at cancelling welfare benefits for people who did not look after their children. NGOs and the Plenipotentiary of the Government for Roma Communities (the Plenipotentiary) condemned this hate speech.<sup>65</sup>
39. Numerous traditional and electronic media outlets disseminate and amplify this kind of hate speech<sup>66</sup>, for example by selecting and over-representing negative themes concerning Islam, or by accompanying these articles with inappropriate images showing women wearing burkas or violent incidents taking place in the Middle East or West European cities.<sup>67</sup>
40. Some social networks and alternative electronic media also disseminate large amounts of hate content, and politicians from various parties have played their part in promoting these alternative media, which are also criticised for not checking the accuracy of the content published.<sup>68</sup> It is teenagers and young adults who are the most exposed to such content. 93% of them obtain information from blogs, 90% from on-line diaries and 83% from postings on social networks while only 16% always check the information through other sources.<sup>69</sup> Another survey has revealed that 68% of young people in the 18-24 age-group have found inappropriate content on social media, with hate speech topping the league, followed by incitement to violence, discrimination and bullying. Only 9% of users report these types of content.<sup>70</sup> A Slovak NGO participating in EU monitoring exercises submitted no fewer than 106 cases of hate speech during the six weeks of the fourth exercise alone; 85.8% of this content was subsequently deleted by the operators.<sup>71</sup> According to civil society, the operators do not have enough Slovak-speaking staff to ensure compliance with their ethics codes which prohibited the publication of hate speech on their sites; moreover, the police have asked victims and operators not to delete hate speech so that the evidence is not lost.<sup>72</sup> As a result, a large proportion of hate speech remains on the Internet<sup>73</sup>, and the stereotypes and hate speech disseminated on social media can continue to

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<sup>61</sup> US Department of State 2019: 19-20.

<sup>62</sup> 5% said that Jews had too much power and secretly controlled numerous governments and institutions around the world, Globsec 2018: 30 ff.

<sup>63</sup> France24 2019.

<sup>64</sup> US Department of State 2019: 23.

<sup>65</sup> US Department of State 2018: 23.

<sup>66</sup> See for example the data provided in Islamic Foundation in Slovakia 2017.

<sup>67</sup> SETA 2019: 748.

<sup>68</sup> See for example the sites Hlavne spravy, Infovojna, Slobodny vysielac or Zem a Vek, Balkan Insight 2019b; SETA 2019: 750.

<sup>69</sup> Rada mládeže Slovenska 2019.

<sup>70</sup> Globsec 2018: 34 ff.

<sup>71</sup> EU EC 2019b.

<sup>72</sup> According to the authorities, the police now save such comments as soon as they are detected.

<sup>73</sup> For other examples of this kind of hate speech, see for example US Department of State 2017: 2 and 5.

influence teenagers' attitudes towards minority groups.<sup>74</sup> According to a survey at the end of 2019, 19% of young adults aged 18-29 intended to vote for the LSNS.<sup>75</sup>

41. ECRI is pleased to note that hate speech was not rewarded in the February 2020 parliamentary elections: the SNS is no longer represented in parliament, and the SMER-SD lost a considerable number of seats.<sup>76</sup>

### Responses to hate speech

42. As pointed out in its GPR No. 15 on combating hate speech, ECRI considers that, to effectively prevent and combat hate speech, action is required in a number of areas, including awareness-raising, prevention and counter-speech, victim support, self-regulation, the use of regulatory powers and, as a last resort, criminal investigations and sanctions.
43. Given the extent and trivialisation of hate speech in Slovak public debate, ECRI considers that people must be made aware of the dangers of hate speech in society and politics as a matter of urgency. Experience and history show that such an upsurge in hate speech in public debate must be seen as an alarm signal. It paves the way for the emergence and multiplication of racist, homophobic and transphobic violence, creating ever greater fractures within society and potentially leading to the outbreak of conflict between different groups.
44. In this context, ECRI takes note with satisfaction of the adoption of the national action plan for the prevention and elimination of racism, xenophobia, antisemitism and other forms of intolerance for the period 2016-2018. Its prime goal was to prevent prejudice, stereotyping and hate speech, as well as to prevent the emergence and spread of attitudes and activities promoting racism and intolerance. The four operational objectives were to: (i) create an information base, (ii) raise public awareness of diversity, (iii) provide targeted training and (iv) implement, evaluate and follow up the plan. The authorities told ECRI that its implementation had been evaluated in May 2019 and they were preparing a new document for the period 2020-2024, which would focus on combating radicalisation and extremism.
45. ECRI considers that this new document should once again concentrate on promoting diversity and equality with special emphasis on raising awareness of the dangers of racism and intolerance (§ 4 of ECRI's GPR No. 15). Given the prevalence of racist ideas among young people, developing appropriate in-school and extramural activities (see also §§ 12 ff) should also be part of this plan. Organising encounters with people belonging to different minorities is an effective means of promoting diversity and combating prejudices and stereotypes. For that reason, it is a matter of urgency to put an end to the segregation of Roma children in schools (see §§ 89 ff). Teaching on the Holocaust and organising class visits to extermination camps should be stepped up. These measures should go hand-in-hand with education for digital citizenship in order to make young people aware of on-line hate speech and enable them to find reliable sources of information on the Internet. Activities aimed at countering on-line hate speech could also be encouraged.<sup>77</sup>
46. ECRI recommends that the Slovak authorities adopt a new action plan comprising a coherent set of measures aimed at preventing and combating racism, homophobia and transphobia, particularly in the form of hate speech.

<sup>74</sup> Inštitút pre verejné otázky 2019: 24 ff; The Slovak Spectator 2019b.

<sup>75</sup> Dennik.sk 2019.

<sup>76</sup> As for the LSNS, it lost 0.7% but gained three seats.

<sup>77</sup> See in this connection EEND 2020.

47. Concerning hate speech in politics, ECRI notes with interest that in 2016 Parliament discussed the possibility of excluding hate speech from parliamentary immunity. It also welcomes the passing of a resolution by Parliament in June 2018, expressing deep concern over the rise of extremism and hatred in the country and stressing that the country must remain "built on values such as democracy, freedom and tolerance".<sup>78</sup> ECRI encourages Parliament to continue to punish hate speech by its members, as it did in 2017 (see § 35) and to draw on § 6a of ECRI's GPR No. 15 to assess whether its code of conduct should be rendered even more effective.
48. With regard to racism and hate speech in the media, sanctions were imposed in two major cases. A television presenter who had made false claims concerning refugees and Muslims, was forced to step down; that said, she was later elected to the Slovak Parliament.<sup>79</sup> In the other case, the Broadcasting Council (CRR) fined Frontinus radio 15 000 euros for broadcasting the anti-Gypsy statements cited in § 38, which were made by a MP from the LSNS.<sup>80</sup>
49. ECRI was informed that the CRR's terms of reference had been extended in 2017 and that its code of conduct now covers the Internet and social networks. It is preparing a handbook to ensure that all content conforms to legislation. The television sector has also developed a code of conduct for those working for it. ECRI encourages all the players in this sphere to work towards preventing the dissemination of hate speech. To counteract false information on the Internet, the police have created a hoax-busting Facebook page. Some web users have engaged in combatting misinformation on the Internet through humour while others have developed the blbec.online site intended to help individuals, institutions and companies to combat fake news.<sup>81</sup>
50. In May 2017, the prosecutor general brought proceedings to dissolve the LSNS for violating the Constitution and various laws. The Supreme Court ultimately rejected the petition on 29 April 2019, stressing in the reasons given for its decision that the dissolution of a political party was to be pronounced only if no other less constraining means of protecting the constitutional order existed; in the Court's view, the prosecutor general had been unable to submit sufficient evidence to justify that ultimate measure.<sup>82</sup> Despite their failure, the proceedings were seen by some to achieve a positive effect, as the party in question is said to have toned down its statements. Given the serious nature and frequency of racist, homophobic and transphobic slurs made by the members of that party and other parties, the authorities should look at whether such racism would be grounds for cutting off their public funding. If necessary, they should enact rules for cutting off public funding to racist parties in law, as recommended by ECRI in § 16 of its GPR No. 7.
51. Given the scale of public hate speech in Slovakia, it is also important to make effective use of the remedies available in criminal law so that the authors of this type of rhetoric are sent a clear message regarding the limits of freedom of expression. That is why ECRI welcomes the amendments made in 2017 to the provisions of the Criminal Code relating to hate crimes (Articles 421 ff) and the creation of a specialised unit within the national criminal investigations police ("NAKA"), which is tasked with combating extremism, hate crimes and hate speech.<sup>83</sup> Within the prosecution service and the courts, these cases have also been given to specialised departments to deal with (cf § 67 of the explanatory

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<sup>78</sup> US Department of State, Slovakia 2018 report, p.24.

<sup>79</sup> Romea.cz 2016.

<sup>80</sup> Radio Slovakia International 2019c.

<sup>81</sup> Balkan Insight 2019c.

<sup>82</sup> Reuters 2019; US Department of State 2017: 5-6. Concerning possible outside pressure on the court, see Balkan Insight 2019a.

<sup>83</sup> Reuters.com 2017. This unit is a division of the National anti-crime agency – NAKA.

memorandum to ECRI's GPR No. 11). This specialisation has already borne fruit, as these departments have lodged a considerable number of strategic court actions, some of which have been successful while others have had the merit of raising public awareness of the dangers of hate speech, the damage it causes to individuals and society and the limits of freedom of expression. In September 2019 the Supreme Court confirmed the verdict against the LSNS MP who had uttered the anti-Gypsy statements cited in § 38; he subsequently lost his parliamentary mandate. ECRI notes with great concern that, despite his conviction, it was possible for him to be recruited as a parliamentary assistant and encourages the authorities to review the rules governing staff recruitment for their law-making body.<sup>84</sup> ECRI notes with satisfaction that the NAKA has opened an investigation into the former Prime Minister and leader of SMER-SD for endorsing the previously mentioned statements of this MP following his conviction.<sup>85</sup> ECRI strongly encourages the authorities to pursue their efforts to prevent and punish hate speech that may or does emanate from high-profile figures in public life.

52. As for the collection of data and statistics on hate speech, ECRI had noted improvements in the conclusions regarding implementation of the recommendation made on this point in § 43 of its 5th report on Slovakia. While the statistics forwarded to ECRI contain information on the follow-up given to the different cases (130 judicial investigations opened in 2018 and indictment of 95 people) and these statistics are classified by the types of offence committed, they are not broken down by the specific discriminatory motives of the perpetrators. Moreover, the court statistics are still not linked to those of the police. It is difficult, therefore, to track cases from the opening of a police investigation until the final decision taken by the judicial bodies, as recommended by ECRI in § 12 of its GPR No. 11.<sup>86</sup> ECRI encourages the authorities to refine the gathering of statistics in order to have available to them a solid tool for evaluating their action and to publish those statistics on a regular basis.
53. Regarding hate speech on the Internet, ECRI welcomes the fact that the authorities have realised that they must step up their efforts to counteract it and its deeply negative influence on society. Accordingly, Slovakia has partially implemented the recommendation made in § 53 of ECRI's last report by signing, on 19 December 2019, the Additional Protocol to the Convention on cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems. ECRI encourages the authorities to ratify this Protocol as soon as possible. ECRI also takes note with satisfaction of the NAKA's initiatives to encourage victims and NGOs to report on-line hate speech. A workshop on this topic has been organised, and sites and links have been published to encourage the reporting of hate speech.
54. ECRI observes with regret that a large proportion of hate speech is not removed from the Internet and network operators do not generally enforce compliance with their ethics codes in Slovakia (see § 42 of the report). It considers that the authorities should ensure that the operators enforce these codes systematically and set them a deadline for effective application. At the same time, they should take an interest and initiate debate on the legislative solutions adopted by other countries, notably the introduction of a legal obligation for operators to remove hate speech as soon as possible (24 hours, for example) and preserve and pass on the evidence to the police (cf. § 7 of GPR No. 15).

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<sup>84</sup> The same person was re-elected to Parliament during the 2020 legislative elections.

<sup>85</sup> Radio Slovakia International 2019b.

<sup>86</sup> According to the authorities, individual cases can nevertheless be traced by file markers.

55. ECRI recommends that the Slovak authorities ensure in the light of § 54 that Internet service providers and social network operators swiftly and systematically remove hate speech from their systems and forward the evidence to the judicial authorities.

## B. Hate-motivated violence

56. According to police statistics, there were nine violent hate crimes in 2017 and 2018. The acts committed in 2018 mainly targeted Roma, Jews and Muslims. Here again, the official statistics fail to provide a true picture of the scale of hate crimes in Slovakia. In a survey carried out in 2016, 11% of the Roma participants in Slovakia said that they had been subjected to hate-motivated violence in the last 12 months<sup>87</sup> and in another study 19% of the LGBT persons questioned said that they had been threatened or physically attacked.<sup>88</sup> During its visit, the ECRI delegation met Muslim victims who claimed to have suffered 12 attacks since 2015. One of them told the delegation that she had been attacked in a tram, choked and beaten up, losing a tooth in the process. In addition, she had received no information on how her complaints had been followed up.
57. The most serious hate crimes include an attack carried out on 16 June 2012 by an off-duty municipal policeman, who killed three Roma victims and seriously injured two others.<sup>89</sup> In its judgment of 11 December 2018, the European Court of Human Rights concluded that the authorities had failed to thoroughly examine powerful indicators of racist motives of the perpetrator, who had said that he had been thinking about "a radical solution" for "dealing with" Roma people; he had been given a sentence of only 9 years' imprisonment. ECRI considers that the authorities should ensure that, at the level of criminal law, a racist, homophobic or transphobic motive constitutes an aggravating circumstance for all offences (§ 22 of its GPR No. 7 and §§ 9 and 10 of ECRI's fifth report); such a provision would help to make sure that judicial authorities more thoroughly check whether such motives exist.
58. ECRI recommends that the Slovak authorities add a provision to the Criminal Code expressly stipulating that a racist, homophobic or transphobic motive constitutes an aggravating circumstance for any ordinary offence.
59. To remedy the under-reporting of hate crimes, the police and the judicial authorities should follow a dual strategy: improving detection of hate-related motives and forging a relationship of trust with minority groups.
60. To ensure that possible hate crimes are properly detected, ECRI encourages the authorities to adopt a broad definition of a racist, homophobic and transphobic incident, as recommended in § 14 of its GPR No. 11, taking in "any incident which is perceived to be racist [, homophobic or transphobic] by the victim or any other person". This broad definition would help police officers to consider the possibility of hate-related motives from their very first involvement and then secure the evidence.<sup>90</sup> Basic and further training for police officers should include modules on the duty of every officer to check, as of the first intervention at the scene of an offence, whether there is anything to suggest that the perpetrator was motivated by hatred, as well as the obligation to secure any evidence. Departments specialising in investigations into hate crimes should devise guidelines for investigating motives, ensure that they are applied and raise awareness among the other police departments as to what measures should be taken from the very outset of investigations into hate crimes.

<sup>87</sup> EU FRA 2017: 64.

<sup>88</sup> *Iniciativa Inacost* 2017: 13. See also FRA 2012, questions concerning violence and harassment.

<sup>89</sup> For other hate crimes, see *Romea.cz* 2018a and b, *Le Monde* 2017, *The Slovak Spectator* 2015b and *TVNoviny.sk* 2016.

<sup>90</sup> ECRI considers that the fatal attack carried out on a Philippino in 2018, for example, should, under this broad definition, appear in the statistics on hate crimes, as the perpetrator had shouted anti-gay insults, *US Department of State* 2018: 25.

61. Another reason for the under-reporting of hate crimes and offences to the police is a lack of trust on the part of victims and their entourage towards the police services. These victims have often had or heard of bad experiences with the police services (see below in §§ 104 ff) or may feel, going by their own experience or by hearsay, that it is pointless to lodge a complaint as the investigations yield no results. ECRI considers that one way of overcoming this lack of trust is to nominate within the police and the prosecution specific liaison officers and to organise regular round tables between the police and minority groups in the capital city and the regions.<sup>91</sup> The NAKA and other police departments should also invite representatives of civil society and equality bodies to these round tables and ask them to help forge relationships of trust with minority groups, which should increase the chances of hate crimes being reported (§ 18 of ECRI's GPR No. 11). Basic and further training should also be developed in order to make police officials aware that racist, homophobic and transphobic behaviour by police officers is extremely damaging to the victims of hate crimes and their future relations with them.
62. ECRI recommends that the Slovak authorities establish a framework for dialogue and cooperation between the police and members of minority groups and adopt a broader definition of hate crimes for their logging and investigation.
63. In this connection, ECRI welcomes plans to recruit 2 000 Roma as members of civic patrols<sup>92</sup> who should contribute, in close cooperation with the police services, to improving security for Roma. According to the authorities, 1 185 out of the 1 396 persons recruited in mid-2020 were of Roma origin. ECRI encourages the police to invest in training for these individuals so that they may subsequently join the police (§ 17 of ECRI'S GPR No. 11).

### III. INTEGRATION AND INCLUSION

#### A. Migrants

64. At the end of 2018, 121 264 foreigners were residing in Slovakia (2.2% of the population). While the number of EU nationals has remained relatively stable (55 883), the number of third country nationals has risen by about 30% to 65 381. Of these individuals, 17 050 had a permanent residence permit and 48 316 had a temporary residence permit; 24 913 were from Ukraine, 14 208 from Serbia, 4 698 from Russia, 4 008 from Vietnam and 2 561 from China.<sup>93</sup> The main reason for migration to Slovakia is employment. The number of foreign workers reached 69 116 in 2018 and the number of Ukrainian workers rose by 7 216 to 11 072.<sup>94</sup> In 2018, just 175 applications for international protection were registered and no one was granted refugee status.<sup>95</sup>
65. It is worth recalling that on 31 August 2011, the Government approved the "Migration Policy of the Slovak Republic".<sup>96</sup> It highlights the importance of immigration for the labour market and the Slovak social security system. The "Integration Policy of the Slovak Republic", which was approved by the Government on 29 January 2014 by Resolution no. 45, covers eight fields of integration<sup>97</sup> and contains goals and concrete measures in fields of key importance for inclusive integration, such as rallying support for integration at municipal level, developing the public rental housing sector and better access for foreigners to

<sup>91</sup> In this context, ECRI takes positive note of the annual police plan for the year 2020 which provides for the establishment and strengthening of contacts with civil society.

<sup>92</sup> For more details, see Roma Civil Monitor 2019: 46.

<sup>93</sup> Presidium of the Police Forces 2018: 9 ff.

<sup>94</sup> IOM 2019.

<sup>95</sup> Eurostat 2020a.

<sup>96</sup> Government of the Slovak Republic 2011.

<sup>97</sup> Ministry of Labour, Social Affairs and Family of the Slovak Republic 2014: 12.

rental housing, implementing a programme for the teaching of Slovak as a second language, developing a programme of free language and integration classes for adult migrants, and adopting measures to facilitate family reunification. In addition, a Foreign Labour Mobility Strategy was adopted in 2018<sup>98</sup>; it stresses that residence permits should be issued more quickly and that nationals of third countries are struggling to exercise their rights due to inadequate knowledge of Slovak.<sup>99</sup> ECRI welcomes in particular the fact that this strategy underlines that integration is a process that works both ways and also includes efforts by the host country to put in place the conditions necessary for inclusive integration of migrants.

66. It is difficult to evaluate the outcomes of these integration policies as it would appear that there is no consistent national system of integration indicators that is systematically used to evaluate the various measures and the achievement of goals. It does not appear that the EU's "Zaragoza" integration indicator system is being used for the purposes of such evaluation either.<sup>100</sup>
67. ECRI notes with regret that certain key measures in these policies have not been implemented. The Slovak authorities have still not introduced any free language and integration classes for adult migrants, and migrants themselves have to pay for language classes, which are currently only offered by NGOs and international organisations. According to ECRI's talking partners, the central, regional and municipal authorities disagree as to how these classes should be funded and the central authorities should give municipalities the necessary funds so that these classes can be provided free of charge.
68. The system that is supposed to enable migrant children to learn Slovak is not working in practice. Provision has been made for head teachers to be able to request funds for the purposes of teaching Slovak to foreign children for a period of three months (with the possibility of an extension). However, only 190 requests of this kind were made for the 2019/2020 school year, even though 5 019 foreign children were enrolled in schools. In addition, migrant families are also having problems in arranging childcare for their young children due to a shortage of childcare places. This appears to be resulting in a kind of structural discrimination against foreign women, who are obliged to keep their children at home, while the vast majority of foreign workers (75%) are men.<sup>101</sup>
69. A fourth problem concerns access for migrants to housing. Since the rental housing market is under strain and the Slovak State has very few housing units, many migrant workers have to be housed by their employers and live in collective housing that host only workers, which is a barrier to family reunification. In this context, ECRI welcomes the authorities' decision to stop making the granting of temporary residence permits subject to proof of housing.<sup>102</sup>
70. ECRI notes that the Slovak authorities have identified all of these problems in their strategic documents on integration policies. ECRI infers from this that the lack of progress in these areas is due to inadequate implementation and follow-up of the measures set out in these documents and considers that the authorities should improve their implementation in order to build an inclusive society and prevent social tensions from arising.

<sup>98</sup> Ministry of Labour, Social Affairs and Family of the Slovak Republic 2018: 14. On 1 January 2019, legislative changes entered into force which provided for an accelerated admissions procedure for third country nationals exercising certain rare professions and which made conditions for granting temporary residence permits more flexible.

<sup>99</sup> In this context, see Centre for Research into Ethnicity and Culture (CVEK) 2018.

<sup>100</sup> See for example Eurostat 2019b.

<sup>101</sup> IOM 2019.

<sup>102</sup> Ministry of Labour, Social Affairs and Family of the Slovak Republic 2018: 21.

71. ECRI recommends that the Slovak authorities incorporate into the new integration strategy, for each goal and for each measure, indicators, baseline figures, target figures, a timetable for achievement and the institutions and senior officials responsible for achieving these goals and implementing these measures. The implementation of this strategy should be evaluated regularly.
72. Slovak Muslims and Muslims with migration background are experiencing problems in practising their religion. Because they are not registered as a religious community, they cannot provide any religious classes in state schools, as other religious communities do. Imams cannot provide religious assistance to Muslim prisoners or soldiers and cannot conduct funeral rites in accordance with Islamic religious tradition. In addition, there is currently no mosque or official Islamic centre in Slovakia. In this context, the amendment to the Law on the Registration of Religious Communities (see § 35) appears to discriminate indirectly against the Muslim community.<sup>103</sup> It was very openly stated during the parliamentary debates that this measure was intended to prevent the registration of a Muslim community in Slovakia. However, all of the 18 communities that are already registered have retained their status even though, according to observers, 14 of them fall short of the new threshold of 50 000 members.<sup>104</sup> ECRI therefore encourages the authorities to reconsider whether this amendment complies with Articles 9 and 14 ECHR and to take the necessary steps to ensure that Muslims can also enjoy their freedom of religion and express their religion individually and collectively.

## B. Roma

73. ECRI welcomes the detailed mapping of Roma communities carried out by the authorities and regard its outcome, the “Atlas of Roma Communities”<sup>105</sup>, as **good practice**. This database contains a large amount of up-to-date information about the living conditions of Roma. The approximately 440 000 Roma, many of whom declared themselves to be Slovak in the latest census, live in approximately 825 municipalities. According to the authorities, there are serious problems in a third of these municipalities and 261 000 Roma live in shanty towns. On a positive note, ECRI also notes that on the basis of these statistics, the authorities are aware of the extent of the problem of Roma exclusion and that some departments, including the Office of the Plenipotentiary of the Government for Roma Communities (the Plenipotentiary), are showing great determination to improve the situation of these groups, for whom the authorities use the term “marginalised Roma communities”.
74. The National Roma Integration Strategy covers the years 2012 to 2020 and its action plan was updated in 2017 and 2019.<sup>106</sup> Its priority areas include education, employment, health, housing, financial inclusion, non-discrimination and initiatives aimed at the majority society. ECRI is pleased to note that a considerable number of goals are accompanied by indicators and even baseline figures, target figures and a calendar. The Plenipotentiary is responsible for co-ordinating the implementation of the strategy, which is mainly being carried out by the various ministries.
75. The Plenipotentiary’s annual reports on the strategy’s implementation have the advantage of compiling the activities which have been carried out and the significant financial resources that have been used (EUR 118 million in 2018, for example). Unfortunately, these reports do not mention any progress in terms of the

<sup>103</sup> See Court, case of D.H. and Others v. Czech Republic [G.C.], no. 57325/00, 13.11.2007, § 184: “The Court has already accepted in previous cases that a difference in treatment may take the form of disproportionately prejudicial effects of a general policy or measure which, though couched in neutral terms, discriminates against a group.”

<sup>104</sup> SETA 2019: 751.

<sup>105</sup> <https://www.minv.sk/?atlas-romskych-komunit-2019>, viewed on 30.01.2020.

<sup>106</sup> Government of the Slovak Republic 2012 and 2019.

strategy's indicators.<sup>107</sup> As for the Atlas, ECRI regrets that it does not contain such precise data about the education, employment and health of Roma and encourages the authorities to include such information in it.

76. Civil society welcomes the authorities' willingness to adopt systemic measures at the legislative and political levels to facilitate the integration of marginalised Roma. Among other things, it mentions the new personal bankruptcy regulation which enables people to get out of debt, new provisions simplifying the process of purchasing plots of land on which housing inhabited by Roma has been built, the introduction of free lunches for children in the last year of pre-school education and in primary schools, and several programmes which have created jobs for Roma – as mediators, teaching assistants, caretakers and members of civic patrols.<sup>108</sup> According to the authorities, the number of people living in marginalised Roma communities who have access to drinking water is now 33% and 25% of them have benefited from home renovation works. In addition, 40 Roma candidates were elected in the 2018 municipal elections, a Roma MP has a seat in the Slovak Parliament, and another Roma MP has been elected to the European Parliament. All these positive developments are important components of inclusive integration.
77. At the same time, the Atlas, information sent by the authorities and studies show that a very large number of Roma have lived for generations, and still live today, in shanty towns in conditions of segregation, structural discrimination and extreme poverty. Almost 85% of them live below the poverty line and 53% of Roma who are employed are part of this group. Furthermore, according to survey data of the Fundamental Rights Agency of the EU, only 34% of Roma children aged 4-6 attend nursery school (as compared with 77% of the population as a whole), and only 94% attend school when they have reached compulsory school age. Only 33% of Roma children aged 15-18 are in education corresponding to their age (as compared with 74% among the population as a whole) and 42% are not in any form of education (as compared with 9%). In addition, 61% of Roma girls and 54% of Roma boys leave school early (as compared with 7%). The majority of Roma children (62%) experience a form of school segregation: in 2016, 22% were enrolled in classes in which all of the pupils were Roma and 40% were enrolled in classes with a majority of Roma pupils. 25% of Roma were living in housing without running water, 43% were living in homes without toilets, showers or bathrooms inside them (as compared with 0.6% of the population as a whole) and 27% were living in housing with leaks or infiltration of water from the roof, with walls, windows, floors or foundations suffering from damp. The life expectancy of Roma is 6 years less than the national average, child mortality is three times higher, and 5% have no health insurance. 54% of the persons questioned said that they had suffered discrimination over the last five years. Although 51% knew that discrimination was against the law, only 16% knew of an organisation that could help them.<sup>109</sup>
78. In view of the scale and persistence of exclusion of Roma in shanty towns, ECRI considers that the authorities should change their overall approach to Roma inclusion. At the moment, substantial activities are heavily reliant on projects co-financed by the EU which are strictly time-limited. These projects have created a large number of good practices and revealed the avenues that should be pursued in order to find a solution to the current situation, which is untenable. However, it seems clear that it cannot be hoped that the hundreds of thousands of Roma can be lifted out of such exclusion on the basis of projects alone. Their inclusion and social advancement<sup>110</sup> can only come about if the whole of the government, those

<sup>107</sup> EU FRA 2016: 23 ff; Plenipotentiary of the Government for Roma Communities 2019.

<sup>108</sup> Roma Civil Monitor 2019: 7 ff.

<sup>109</sup> EU FRA 2016: 23 ff. The Plenipotentiary also based analysis on these data, which have been collected in urban and rural areas, EU FRA 2016: 43. See also EU EP 2020.

<sup>110</sup> With regard to these aspects, see Mušinka, A. and Pollák, M. 2018: 53 ff.

in charge of key authorities and municipalities take back and assume responsibility for implementing and financing these good practices and other measures over the long term and on the scale necessary to improve the situation of all Roma in a sustainable manner. To this end, responsibilities for the achievement of the various goals and the implementation of measures should be clearly established in the new version of the National Roma Integration Strategy. In particular, the aforementioned key actors should take responsibility for making real progress which can be measured with key integration indicators, like the ones mentioned in the previous paragraph.

79. The fact that the situation of strong exclusion of Roma only exists in a third of the 825 municipalities that have a Roma population shows that municipalities have a major role to play in Roma inclusion.<sup>111</sup> ECRI considers that more effort should be made to communicate and share good practices which have been developed at local level and which can encourage leaders of other municipalities to follow examples and invest in a better future for all of their citizens. At the same time, it is important for the State to equip itself with an effective tool to ensure that recalcitrant municipalities take all the necessary steps to fulfil Slovakia's positive obligation to protect the human rights of its poorest citizens.
80. ECRI recommends that the central, regional and municipal Slovak authorities introduce, for all of the goals and measures listed in the National Roma Integration Strategy, indicators, baseline figures and target figures, a timetable, and the administrative bodies and senior officials responsible for implementing them. They should regularly measure progress on the basis of the various indicators, carry out independent evaluations and equip themselves with effective tools to ensure that all municipalities take the measures necessary for Roma inclusion.

### Education

81. During its visit to the Košice region, the ECRI delegation had another opportunity to observe the crucial importance of investing in the education of Roma children from a very early age.<sup>112</sup> Teachers at the elementary school in Vel'ka Ida, for example, underlined on the basis of scientific research that children living in shanty towns suffer significant delays in their development before they reach primary school if they are neglected and left to their own devices and are unable to attend nursery schools, to get out of their shanty towns and to participate in out-of-school activities, especially from the age of three years onwards.<sup>113</sup>
82. ECRI welcomes the fact that the authorities have recognised the importance of early childhood education for Roma children and that they have introduced a year of pre-school education for all children aged five from 1 September 2021. Significant financial resources have been made available to municipalities to build new nursery schools. At the same time, representatives of municipalities consider that pre-school education is not within their remit and that the central authorities should manage it. Consequently, it is to be feared that a considerable number of municipalities are not making the investments necessary to provide this pre-school education. In addition, during its visit, the ECRI delegation formed the impression that the main focus was on building nursery schools and that little attention has been paid to recruiting and training a sufficient number of educators and teachers to provide quality education during this pre-school year. Another major challenge

<sup>111</sup> See for example the description of the policies of the villages of Raslavice, Spišský Hrhov, Sveržov and Čirč in Roma Civil Monitor 2019: 83 ff and Mušinka, A. and Pollák, M. 2018 and the description of a microcredit programme in Rankovce for the construction of housing by Roma, Ombudsperson 2019: 105.

<sup>112</sup> See also EU EC 2019b: 5 ff.

<sup>113</sup> Harvard University, Center on the Developing Child 2012; ETP Slovensko 2019.

is the fact that many Roma children speak only Romani at home<sup>114</sup> and arrive at kindergarten, nursery school or even elementary school with little knowledge of the future language of instruction, namely Slovak. To address this challenge, teaching staff at nursery schools should receive suitable training so that they can teach Slovak as a second language. There is also an urgent need to develop and distribute textbooks for the learning of Slovak as a second language and to develop appropriate university education for future educators and schoolteachers.

83. ECRI recommends that the Slovak authorities take the necessary measures to properly prepare the transition for children aged five to compulsory schooling, in notably in municipalities with a significant proportion of Roma children. In particular, the authorities should build a sufficient number of nursery schools while also training and recruiting the required teaching staff with a view to providing a good standard of education, including in relation to the teaching of Slovak to children who do not speak it within their family.
84. ECRI has serious doubts as to whether one year of pre-school education is sufficient for children growing up in shanty towns. It therefore welcomes the various programmes developed by the Plenipotentiary, aimed *inter alia* at financing the building and renovation of 33 kindergartens<sup>115</sup>, 13 nursery schools and 153 community centres and making EUR 20 million available to the 150 municipalities with “marginalised communities” to ensure that nursery schools are run properly. In addition, a subsidy system has been created to cover the running costs of pre-school institutions (EUR 164 per year for each “marginalised” child). Civil society believes that this subsidy is too low and that it should also be allocated to families on very low incomes.<sup>116</sup> On a positive note, ECRI notes that 1 200 additional children have been enrolled in pre-school institutions thanks to these programmes. However, it underlines that further efforts are vital to ensure that all Roma children can attend pre-school institutions from the age of three onwards.
85. Furthermore, ECRI considers that awareness-raising and motivational work should be carried out among Roma parents in order to convince them to send their children to pre-school institutions on a long-term basis. The Roma mediators and teaching assistants who have been recruited in many municipalities are predestined to carry out this work in close consultation with teachers. The creation of incentives and rewards to encourage regular school attendance and the tackling of the real causes of absenteeism – such as poverty, discrimination in schools and transport problems – are also important factors. An approach which is primarily based on coercive measures - with the involvement of members of civic patrols, the use of education inspections or the reduction or transfer to a tutor of welfare benefits in the event of absenteeism<sup>117</sup> - can cause rejection among the families concerned and should only be used as a last resort.
86. A second serious problem, yet to be resolved, is currently the subject of European Union infringement proceedings.<sup>118</sup> By comparison with the European average, Slovakia has far too many Roma children placed in special education programmes which were originally intended for children with mild intellectual disabilities.<sup>119</sup> Many

<sup>114</sup> For more details, see the Atlas of Roma Communities which is quoted below in note 105 and the map at [https://www.minv.sk/swift\\_data/source/romovia/obrazky/fotky/jazykova%20mapa%20romskych%20komunit%20na%20Slovensku.jpg](https://www.minv.sk/swift_data/source/romovia/obrazky/fotky/jazykova%20mapa%20romskych%20komunit%20na%20Slovensku.jpg), viewed on 04.02.2020.

<sup>115</sup> In a second programme, 64 additional applications have been made.

<sup>116</sup> Roma Civil Monitor 2019: 10 ff.

<sup>117</sup> With regard to recent legislation which could constitute indirect discrimination against Roma, see Poradňa pre občianske a ľudské práva 2019: 7.

<sup>118</sup> EU EC 2019a. In this context, see also the Amnesty International 2017 recommendations.

<sup>119</sup> In Košice, for example, 95% of all children in special education are Roma children. The figure was 76% in another village visited by the ECRI delegation. See also Poradňa pre občianske a ľudské práva 2019: 7.

actors in civil society and the education sector underline that the tests that are set before children start attending primary school do not make it possible to establish whether a child is actually suffering from mild intellectual disabilities or merely difficulties due to the highly precarious circumstances in which he or she is growing up. Since most of the children affected by this practice are Roma children, this system appears to constitute indirect discrimination against Roma children which would be contrary to Article 14 ECHR and Article 2 of Protocol No. 1 thereto.<sup>120</sup>

87. According to the schoolteachers whom the ECRI delegation met, placing Roma children in special classes and schools is often the only way of teaching them in smaller classes and obtaining the essential extra teaching staff. Without these additional resources, it is indeed not possible to do more for these children, who are often left to their own devices, and try to compensate for all the developmental problems that they have accumulated before being enrolled in a school. At the same time, it would seem that there are financial incentives, for both schools and families, which encourage the enrolment of Roma children in special education, and this education is also perceived by Roma parents as a means of protection against the considerable discrimination to which their children are exposed in mainstream education.
88. ECRI concludes from this that the authorities are allocating far too many resources to an oversized special education system.<sup>121</sup> This system is not suitable for remedying the difficulties experienced by Roma children who have grown up in a world of exclusion, and many of whom have not been prepared linguistically for education in Slovak. ECRI considers that the authorities should firstly – drawing inspiration from the statistics from other countries – make a realistic estimate of special education needs. They should then reduce the capacities of special education to the level necessary to meet these needs and use the financial and human resources that are freed up by investing them in inclusive pre-school and school education. This conclusion is supported by the fact that, of the 2 000 Roma children who have attended pre-school education, only 12 were placed in special education. As for elementary schools, innovative methods<sup>122</sup> should be introduced for the education of Roma children. During its visit to the school in Veľka Ida, for example, the ECRI delegation found that the Feuerstein Instrumental Enrichment Programme<sup>123</sup> has achieved excellent results.
89. The unjustified placement of a large number of Roma children in special education contributes in addition to their strong segregation.<sup>124</sup> This results in a disproportionately high number of children having to repeat a year and poor school results; only half of Roma children who attend Year 5 reach Year 9 and obtain a certificate.<sup>125</sup> According to the latest information transmitted by the authorities, digital distance education was not introduced in most Roma settlements during the containment phase which was ordered due the Covid-19 pandemic. To ensure the continuation of education, workbooks and other educational materials were printed for the pupils of the first cycle of primary education. They were distributed in some

<sup>120</sup> D.H. and Others v. Czech Republic [G.C.], no. 57325/00, 13.11.2007, §§ 175 ff; Court 2019: 26 ff.

<sup>121</sup> With regard to the excessive size of the special education system, see *Poradňa pre občianske a ľudské práva* (Centre for Civil and Human Rights) 2019: §§ 6 ff. According to the latest European figures from 2014, the number of children placed in special education was nearly four times higher in Slovakia (5.9%) than in other EU countries (1.9%). In the 2017/2018 school year, this percentage was still 5.8% in Slovakia. More than 16% of Roma children from marginalised communities have attended special education, which is five times more than the level among the Slovak population as a whole. According to the authorities, there is still a higher number of teaching assistants working in special education (692.2 in April 2019) by comparison with other schools (225 teaching assistants and 462 people working for inclusion).

<sup>122</sup> In this context, see also the “School open to all” projects, the Erasmus+ programme “Innovation in the teaching of the Romani language for inclusive education for pupils from disadvantaged backgrounds”, *Ikatika* in relation to bilingual education and “Inschool”.

<sup>123</sup> Feuerstein R. 1996.

<sup>124</sup> On this subject, see Amnesty International 2017 and *Poradňa pre občianske a ľudské práva* 2019: 4.

<sup>125</sup> Roma Civil Monitor 2019: 10.

settlements on the personal initiative of several teachers and by associations. No information was available concerning preparation of teachers for distance teaching.

90. A second cause of the segregation of thousands of Roma children lies in the power that municipal and regional authorities have to set the boundaries of school catchment areas themselves, as this power is used to create or maintain segregation. The central authorities do not have the power to stop these practices<sup>126</sup>, which once again appear to be contrary to the Court's case-law in relation to Article 14 ECHR and Article 2 of Protocol No. 1 to the Convention.<sup>127</sup> In ECRI's opinion, the Slovak authorities should take effective measures to end this segregation, if necessary by changing the regulations concerning the way in which the boundaries of school districts are set and enforcing the new Article 424 of the Criminal Code, which has made segregation and all other forms of generalised or systematic discrimination a criminal offence since 2017.
91. On a positive note, ECRI takes note of a programme based on an amendment to the law on education and co-financed by the EU which allows a teaching assistant to be recruited at elementary schools with at least 50 pupils from "marginalised communities".<sup>128</sup> In addition, a considerable number of community centres have been built to help Roma pupils do their homework and to organise out-of-school activities. However, the funding for these positive measures is under threat and not all centres have a sufficient number of teachers. ECRI considers that this is a clear example of a situation where the Ministry of Education should make these **good practices** a long-term feature of its budget and thus ensure that Roma teaching assistants can have permanent contracts. Until Roma children whose native language is Romani learn Slovak in pre-school education, teaching of Slovak as a second language should be arranged at primary schools. In addition, new methods aimed at inclusive education should be taught as part of university education for future schoolteachers.
92. With regard to secondary education, ECRI is pleased to note the increase in the number of Roma pupils, which rose to 19 143 in 2018. At the same time, like civil society, it takes a very critical view of the creation of 30 new external classrooms close to Roma shanty towns.<sup>129</sup> Although these classrooms bring the advantage, albeit a small one, that children do not need to use public transport to go to school, they also present a major disadvantage, which is that they perpetuate the segregation of Roma teenagers, who thus remain confined in their environment, follow in practice an education of lesser quality, do not have the opportunity to form relationships or interact with children from other backgrounds, and obtain certificates which often do not enable them to find work. These factors partly explain why only 870 Roma pupils obtained a certificate in 2018.
93. ECRI recommends that the Slovak authorities (i) put in place the conditions necessary to ensure that all Roma children from disadvantaged neighbourhoods attend pre-school education from the age of three years, (ii) arrange for Slovak to be taught as a second language to all Roma children who generally only speak Romani with their family, (iii) significantly reduce the number of Roma children enrolled in special education, (iv) abolish school segregation, (v) make the positive measures designed to support Roma children in primary education a permanent fixture, and (vi) increase the number of Roma children who attend secondary education and obtain a certificate.

<sup>126</sup> For examples, see *Poradňa pre občianske a ľudské práva* 2019: 6 and *Ombudsperson* 2019: 33.

<sup>127</sup> *Oršuš and Others v. Croatia* [G.C.], no. 15766/03, 16 March 2010; ECtHR 2019: 27 ff.

<sup>128</sup> See Law No. 381/2019 and *Roma Civil Monitor* 2019: 10.

<sup>129</sup> *Centre for Research into Ethnicity and Culture (CVEK)* 2015: 69 ff; *Roma Civil Monitor* 2019: 10.

## Housing and employment

94. To lift Roma out of exclusion and enable them to leave shanty towns, further investments are needed in relation to housing and employment. The teachers whom the ECRI delegation met underlined that a good number of Roma children have only one set of clothes. Others live in homes without running water, without sanitary facilities or even without electricity, or are unable to do their homework at home. These housing conditions and extreme poverty cause constant and toxic stress within Roma families, and according to many contacts, this is one of the reasons behind Roma children's absenteeism and the school-related difficulties they experience.
95. ECRI considers that in the field of housing, the development of projects co-financed by the EU makes complete sense, in view of the need to make one-off investments. In this respect, ECRI welcomes the purchase of homes by municipalities to house Roma families and the programme to "legalise" homes inhabited by Roma.<sup>130</sup> However, it regrets that some municipalities are not harnessing the potential of this programme, which is still time-limited; as a result, some Roma dwellings remain illegal.<sup>131</sup> In addition, the financial resources that have been made available to municipalities to connect the 30% of homes that do not have running water to distribution systems are not being used everywhere. ECRI notes another **good practice** in this regard, which consists of enabling Roma to contribute themselves to the building of their homes in specific programmes.<sup>132</sup> However, civil society rightly points out that these programmes should also be designed to reduce housing segregation.<sup>133</sup>
96. The various programmes that promote the training and preferential recruitment of Roma as mediators, teaching assistants and members of civic patrols as positive action are having numerous positive effects. Firstly, they have created thousands of jobs and helped to lift thousands of families out of great poverty. Secondly, the Roma who perform these roles have detailed knowledge of problems and interactions within Roma communities and can intervene in a very targeted manner. Thirdly, many of them have been able to continue with their studies or acquire new professional skills. Fourthly, and lastly, because of their success in terms of work, these people serve as examples for pupils and their parents by showing that investment in education and regular school attendance lead to a lasting improvement in living conditions.
97. ECRI considers that the authorities should encourage the employment of Roma without a school-leaving qualification or certificate even more widely within these programmes and make arrangements so that they can continue with their education in parallel with their work. At the same time, these positions should be turned into lasting jobs funded by the authorities and the contracts of employment should be long-term or permanent contracts. According to Law No. 112 of 2018 on social enterprises, Municipalities should recruit a larger number of Roma within their social enterprises, especially female and young Roma.<sup>134</sup> ECRI welcomes the activities implemented in the framework of the Diversity Charter, which recommends and supports, for example, businesses wishing to recruit Roma in order to overcome the shortage of labour.

<sup>130</sup> Mušinka 2018: 73 ff; Roma Civil Monitor 2019: 7 ff.

<sup>131</sup> Roma Civil Monitor 2019: 8 ff.

<sup>132</sup> Roma civil Monitor 2019: 38 ; Romea.cz 2020.

<sup>133</sup> Roma Civil Monitor 2019: 8 ff.

<sup>134</sup> For some good examples in this field, see Roma Civil Monitor 2019: 20. The authorities provided subsidies with a total value of EUR 13.5 million for the creation of social enterprises in 2018.

98. ECRI recommends that the Slovak authorities expand their programmes to improve the living conditions of Roma, including in shanty towns, and fully encourage the employment of Roma as a whole, including through positive action.

### Health

99. ECRI welcomes the project “Healthy Regions” and the recruitment of 245 health mediators<sup>135</sup> with the aim of improving health conditions for Roma. At the same time, ECRI’s attention has been drawn to repeated acts of discrimination against Roma in healthcare services. In some hospitals, such as that of Prešev, practices involving the segregation of Roma women in maternity hospitals have been reported.<sup>136</sup> The ECRI delegation also met former female patients who confirmed these reports and spoke of the low level of service provision in these areas and rooms for Roma women and mistreatment. ECRI points out that segregation is a criminal offence and encourages the authorities to end these practices.
100. With regard to sterilisations carried out on Roma women without their free and informed consent, a committee of experts was created in 2003 and its report was submitted to the Parliamentary Committee for Human Rights and National Minorities. However, the authorities have no reliable information about the number of women who have fallen victim to such practices. In addition, no action has been taken to compensate them, except in the small number of cases brought before the courts.<sup>137</sup> Like the Ombudsperson<sup>138</sup>, ECRI considers that the authorities should once again create an independent committee to examine the documentation of hospitals and hear witnesses in order to shed full light on the scale of this practice in the past. On this basis, the authorities should then take a decision with regard to the creation of a compensation scheme.
101. ECRI recommends that the Slovak authorities (i) end all practices which segregate and discriminate against Roma women in obstetrics departments at hospitals and (ii) establish an independent committee of inquiry to investigate the scale of the past practice of sterilising Roma women without free and informed consent and propose a compensation scheme.

## IV. TOPICS SPECIFIC TO THE SLOVAK REPUBLIC

### A. Interim follow-up recommendations

102. The first interim follow-up recommendation, namely the introduction of a mechanism for collecting data on hate speech incidents, was looked at in §§ 52 ff of this report; ECRI still concludes that this recommendation has still been only partially implemented.
103. The second, to launch a reform of the Slovak National Centre for Human Rights and endow it with sufficient financial and human resources, was looked at in §§ 1 ff of the report. In view of the significant increase in the Centre's human resources, ECRI concludes at present that this recommendation has been partially implemented.

### B. Police brutality

104. ECRI notes, as have other national and international independent bodies, the substantial number of complaints relating to serious acts of violence committed by members of the police services against Roma.<sup>139</sup> These cases include police

<sup>135</sup> 85% of these mediators are Roma and thus speak Romani.

<sup>136</sup> Roma Civil Monitor 2019; Poradňa pre občianske a ľudské práva 2017 and 2019: 2 ff.

<sup>137</sup> Košice Regional Court recently awarded 16 000 € in damages and interest to a Roma woman who had been sterilised without prior consent. The judicial proceedings had gone on for 15 years, Romea.cz 2020.

<sup>138</sup> Ombudsperson 2019: 43.

<sup>139</sup> See Ombudsperson 2019: 22, Poradňa pre občianske a ľudské práva 2017b and 2019, European Roma Rights Centre 2017 and 2019 and Amnesty International 2018.

interventions in April 2013 in Vrbnica<sup>140</sup>, June 2013 in Moldava nad Bodvou leaving over 30 injured<sup>141</sup>, February 2015 in Rudňany, May 2017 in Zborov, July 2019 in Milhost and 27 April 2020 in Krompachy. According to the information gathered by ECRI, none of the investigations carried out following those interventions has resulted in a conviction or disciplinary sanction against the police officials involved. With regard to the intervention in Zborov in 2017, the European Court of Human Rights ruled that the authorities had violated the procedural limb of Article 3 ECHR, as they had failed to act of their own motion and thoroughly to investigate all aspects of relevance, including whether the use of force had been strictly necessary and proportionate.<sup>142</sup> With regard to the incident in June 2013 in Moldava nad Bodvou, ECRI expresses deep concern that the investigation was opened only seven months after the police intervention in order to clarify whether it was in itself a retaliatory act, whether a disproportionate number of police had been deployed and whether they had abused their powers. Five years after the Moldava nad Bodvou incident, Roma trust in the police was heavily shaken again by accusations levelled at some of the alleged victims for false testimony. For the same reason, the intervention of the police and the army during the Covid 19 pandemic caused a lot of fears of stigmatisation among the Roma. According to the authorities, 6,636 Roma have been tested as part of these operations in 258 "marginalised communities", 180 infections have been identified in 45 locations and a total of 12 collective quarantine measures have been ordered and enforced by the police and army.<sup>143</sup>

105. Owing to failings in the investigation procedures, it is obviously difficult for courts to determine whether and to what extent there was police brutality. Some observers have pointed out that these shortcomings are chiefly due to the lack of independence of the Ministry of the Interior Inspectorate in charge of these investigations. ECRI reiterates in this connection the recommendation made in §10 of its GPR No. 11 to provide for a body, independent of the police and prosecution authorities, entrusted with the investigation of alleged cases of racial discrimination and racially-motivated misconduct by the police.
106. The old inspection and supervision department was reformed by Law no. 6/2019, under which it now operates as a special entity within the police force (new § 4a of Law no. 171/1993 on the police). While the head of the Inspectorate of the Police Services answers directly to the government, the Inspectorate is still located on the premises of the Ministry of the Interior and depends on its budget. ECRI regrets finding that this department still lacks independence and is still located within the police, while victims of alleged abuse and violence by the police are generally reluctant to lodge complaints with institutions that cooperate closely and on a daily basis with the police. For that reason, ECRI considers that the authorities should take further measures and substantially reinforce the independence of the Inspectorate or task an independent outside body, allocated adequate funding, with carrying out investigations in this area.
107. Given the unreliability of the internal investigations system and the mistrust in the police this engenders, ECRI furthermore encourages the authorities and the prosecution service in particular to be especially attentive to any retaliatory action by members of the police services or their superiors, including through complaints

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<sup>140</sup> An application was lodged with the European Court of Human Rights concerning this incident, on 28 November 2018: T.K. and Others against Slovakia, no. 57085/18.

<sup>141</sup> An application was lodged with the European Court of Human Rights concerning this incident, on 25 April 2018, R.R. and R.D. v. Slovakia, no. 20649/18. In its judgment of 1 September 2020, the court found violations of Article 3 and Article 14 in conjunction with Article 3.

<sup>142</sup> A.P. v. Slovakia, no. 10465/17, 28 January 2020: §§ 64 ff.

<sup>143</sup> According to the Centre, a Roma neighbourhood was put into general quarantine when a resident broke the mandatory quarantine after returning from abroad. The quarantine was lifted after tests were carried out on all the inhabitants who gave negative results, Equinet 2020.

against alleged victims or witnesses of disputed police actions for slander and false testimony.

108. ECRI further notes with great satisfaction that the chief of police of the Košice region told the ECRI delegation that he would no longer authorise large-scale police operations in Roma districts.<sup>144</sup> It also welcomes the initiative taken by the police to make police officers wear body-cams to film their interventions. Not only can these cameras protect police officers from false allegations, but they constitute, according to the opinion expressed by the chief of police of the Košice region, also a method of prevention for the police, as they give police officers an incentive to check, prior to any intervention, if use of the means envisaged is necessary and proportionate. That's why, ECRI sees this initiative as a **promising practice**.<sup>145</sup> ECRI considers, finally, that the recruitment and training of 2 000 Roma as members of civic patrols (see § 63) opens up a tremendous opportunity for restoring trust in some cases, or building greater trust in others, between the police and Roma communities. Lastly, ECRI refers to the recommendation made in § 62 of this report to establish regular dialogue and cooperation with Roma communities.

109. ECRI recommends that the Slovak authorities (i) substantially reinforce the independence of the Police Force Inspectorate or task another body, which is independent of the police and the prosecution service and allocated adequate resources, with investigating allegations of racial, homophobic and transphobic discrimination and racially, homophobically or transphobically motivated misconduct and violence by the police and (ii) generalising the wearing of body-cams by police officers during interventions.

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<sup>144</sup> Regarding this practice of large-scale police interventions, for which there was an "action code 100" see ERRC 2019: §§ 16 ff.

<sup>145</sup> Obviously, this practice cannot resolve all the issues. During the 2019 incident, for example, the use of cameras was still not enough to determine what actually took place.

## INTERIM FOLLOW-UP RECOMMENDATIONS

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

- (§ 29) ECRI recommends that the Slovak authorities develop an action plan for LGBTI persons, in close consultation with civil society, making provision inter alia to raise public awareness of the conditions in which LGBTI persons live, foster better understanding of their situation, protect them from hate crimes, hate speech and discrimination and make their right to equality effective.
- (§ 83) ECRI recommends that the Slovak authorities take the necessary measures to properly prepare the transition for children aged five to compulsory schooling, including in municipalities with a significant proportion of Roma children. In particular, the authorities should build a sufficient number of nursery schools while also training and recruiting the required teaching staff with a view to providing a good standard of education, including in relation to the teaching of Slovak to children who do not speak it within their family.

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

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

1. (§ 7) ECRI recommends that the Slovak authorities strengthen the independence of the Slovak National Centre for Human Rights (§§ 2 and 22 to 30 of ECRI's General Policy Recommendation No. 2). In particular they should (i) establish a transparent, competency-based and participatory procedure for selecting persons holding leadership positions, in which process the executive authorities should not have any decisive influence; and (ii) provide that these persons shall benefit from immunity, be protected against threats and coercion and have appropriate safeguards against arbitrary dismissal or arbitrary non-renewal of their appointment.
2. (§ 14) ECRI recommends that the Slovak authorities maintain and increase the budget to ensure inclusive education and continue to devote greater attention, within human rights education, to the topics of equality, non-discrimination and mutual respect.
3. (§ 29) ECRI recommends that the Slovak authorities develop and implement an action plan for LGBTI persons, in close consultation with civil society, which includes the objectives to raise public awareness of the conditions in which LGBTI persons live, foster better understanding of their situation, protect them from hate crimes, hate speech and discrimination and make their right to equality effective.
4. (§ 32) ECRI recommends that the Slovak authorities abolish, as soon as possible, the requirement imposed on transgender persons to undergo sterilisation before being allowed to change their registered first name and gender. Furthermore, authorities should ban in law treatments and operations that are not medically necessary on intersex persons before they are old enough to give their free and informed consent to such actions.
5. (§ 46) ECRI recommends that the Slovak authorities adopt a new action plan comprising a coherent set of measures aimed at preventing and combating racism, homophobia and transphobia, particularly in the form of hate speech.
6. (§ 55) ECRI recommends that the Slovak authorities ensure in the light of § 54 that Internet service providers and social network operators swiftly and systematically remove hate speech from their systems and forward the evidence to the judicial authorities.
7. (§ 58) ECRI recommends that the Slovak authorities add a provision to the Criminal Code expressly stipulating that a racist, homophobic or transphobic motive constitutes an aggravating circumstance for any ordinary offence.
8. (§ 62) ECRI recommends that the Slovak authorities establish a framework for dialogue and cooperation between the police and members of minority groups and adopt a broader definition of hate crimes for their logging and investigation.
9. (§ 71) ECRI recommends that the Slovak authorities incorporate into the new integration strategy, for each goal and for each measure, indicators, baseline figures, target figures, a timetable for achievement and the institutions and senior officials responsible for achieving these goals and implementing these measures. The implementation of this strategy should be evaluated regularly.
10. (§ 80) ECRI recommends that the central, regional and municipal Slovak authorities introduce, for all of the goals and measures listed in the National Roma Integration Strategy, indicators, baseline figures and target figures, a timetable, and the administrative bodies and senior officials responsible for implementing them. They should regularly measure progress on the basis of the various indicators, carry out independent evaluations and equip themselves with

effective tools to ensure that all municipalities take the measures necessary for Roma inclusion.

11. (§ 83) ECRI recommends that the Slovak authorities take the necessary measures to properly prepare the transition for children aged five to compulsory schooling, in notably in municipalities with a significant proportion of Roma children. In particular, the authorities should build a sufficient number of nursery schools while also training and recruiting the required teaching staff with a view to providing a good standard of education, including in relation to the teaching of Slovak to children who do not speak it within their family.
12. (§ 93) ECRI recommends that the Slovak authorities (i) put in place the conditions necessary to ensure that all Roma children from disadvantaged neighbourhoods attend pre-school education from the age of three years, (ii) arrange for Slovak to be taught as a second language to all Roma children who generally only speak Romani with their family, (iii) significantly reduce the number of Roma children enrolled in special education, (iv) abolish school segregation, (v) make the positive measures designed to support Roma children in primary education a permanent fixture, and (vi) increase the number of Roma children who attend secondary education and obtain a certificate.
13. (§ 98) ECRI recommends that the Slovak authorities expand their programmes to improve the living conditions of Roma, including in shanty towns, and fully encourage the employment of Roma as a whole, including through positive action.
14. (§ 101) ECRI recommends that the Slovak authorities (i) end all practices which segregate and discriminate against Roma women in obstetrics departments at hospitals and (ii) establish an independent committee of inquiry to investigate the scale of the past practice of sterilising Roma women without free and informed consent and propose a compensation scheme.
15. (§ 109) ECRI recommends that the Slovak authorities (i) substantially reinforce the independence of the Police Force Inspectorate or task another body, which is independent of the police and the prosecution service and allocated adequate resources, with investigating allegations of racial, homophobic and transphobic discrimination and racially, homophobically or transphobically motivated misconduct and violence by the police and (ii) generalising the wearing of body-cams by police officers during interventions.

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## **APPENDIX: GOVERNMENT'S VIEWPOINT**

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**The following appendix does not form part of ECRI's analysis and proposals concerning the situation in the Slovak Republic**

ECRI, in accordance with its country-by-country procedure, engaged into confidential dialogue with the authorities of the Slovak Republic on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which, in line with ECRI's standard practice, could only take into account developments up until 1 July 2020, date of the examination of the first draft).

The authorities also requested that the following viewpoint be reproduced as an appendix to the report.



**Statement of the Slovak Republic  
on the 6th Report of the European Commission against Racism and Intolerance  
ECRI of the Council of Europe on the Slovak Republic**

The Slovak Republic appreciates the constructive dialogue with ECRI. We are convinced that the progress noted by ECRI is the result of a mutually beneficial, interactive dialogue that has been achieved in many areas since the last monitoring cycle.

The ECRI Report and its recommendations will be subject to a careful assessment by the Government of the Slovak Republic in the next process and subsequently implemented by the relevant institutions of the Slovak Republic in order to eliminate the shortcomings arising from ECRI's recommendations.

At the same time, the Slovak Republic uses this opportunity to provide additional and explanatory information.

**I. Ad recommendations No. 2, No. 11 and No. 12**

In accordance with the Programme Manifesto of the Government of the Slovak Republic for the period 2020-2024, the Government of the Slovak Republic will:

**a/** pay attention mainly to the training of children with disabilities and from socially disadvantaged backgrounds in kindergartens so that they can move smoothly to primary schools and achieve adequate school results,

**b/** support projects aimed at validating approaches to reducing segregation in education,

**c/** adopt a strategy for an inclusive approach to education and training at all levels and, in accordance with it, create the conditions for the provision of eligible support services and measures, including the provision of the necessary professional staff and support teams to schools and school facilities.

**d/** An individualized approach to education and support will be available to all children, pupils and students according to their needs, with a specific emphasis on pupils and students with disabilities and from socially disadvantaged backgrounds.

**e/** Special attention will also be paid to pupils with a different mother tongue from the language of instruction at school. The government will include insufficient mastery of the school's language of instruction among the criteria of special educational and training needs and at the same time will provide these pupils with sufficient support. The Slovak Republic will

**f/** introduce a coordinated supra-ministerial system of early intervention for children with disabilities and for children from socially disadvantaged backgrounds and their families in the child's natural environment,

**g/** place emphasis, in matters of the national education system, on strengthening its quality and professional background, on creating equal opportunities for all pupils with regard to their mother tongue,

**h/** ensure the improvement of vocational training, continuing education and personal development of teachers and professional staff teaching at schools with the language of instruction or with the teaching of the language of national minorities, with emphasis on the principles of inclusive education, intercultural and interethnic dialogue, including training of qualified Hungarian, Romani and Ruthenian teachers as a basic precondition for ensuring the possibility of continuous education in the language of national minorities. It will analyze the position of small-class schools, which contribute to the preservation of the minority identity of members of national minorities.

**II. Ad recommendations No. 3 and No. 4**

a/ The Slovak Republic is fully committed to creating a just and inclusive society. No one shall be a victim of unfair discrimination. All people, regardless of their sexual orientation, gender or any other status, deserve to be treated with respect and to be allowed to participate fully in society.

b/ The Ministry of Labour, Social Affairs and Family of the Slovak Republic and the Ministry of Health of the Slovak Republic stated that the Slovak legislative framework and practice recognize the complex nature of this issue, each case being approached separately, taking into account the specific situation of each individual patient, his or her family situation, as well as the recommendations of health professionals with the aim of healing the person or improving the person's condition, while taking into account current knowledge of medical science, including psychological aspects. While the previous practice was to identify a person's gender primarily by observing the external genitalia, the current practice is to consider the chromosomal configuration as well. Although there is still room for improvement, the Slovak system has significantly improved in taking into account the needs of intersex people.

c/ In connection with the issue of hate speech and hate violence, it should be noted that the Slovak Republic strongly opposes any unfair discrimination and violence motivated by hatred against LGBTI people. However, the Ministry of Labour, Social Affairs and Family of the Slovak Republic does not fully agree with ECRI's statement that "negative dynamics have developed as a result of persistent hate speech against LGBT people", as it does not consider the lively public debate to be negative dynamics. Discussions about same-sex marriages, registered partnerships or gender identity are legitimate discussions, and the Government of the Slovak Republic is of the opinion that a free, fair and decent discussion on these issues should be maintained and facilitated.

**III. Ad recommendation No. 6**

a/ As part of fulfilling tasks related to the detection, clarification and investigation of crimes of extremism, members of the Anti-Terrorism Headquarters of the National Criminal Agency of the Presidium of the Police Force aim to identify individuals or groups or organizations that incite and support racial, national, ethnic or religious discrimination, discrimination based on sexual orientation or gender. Part of the Anti-Terrorism Headquarters of the National Criminal Agency of the Presidium of the Police Force is the extremist screening centre, which primarily seeks out, monitors and analyzes manifestations of extremism, racism and xenophobia within cyberspace.

b/ The Police of the Slovak Republic backs up hate speech published on social networks on recording media and then analyzes it. After evaluating the identified hate speech, this information is forwarded to the relevant investigators of the National Criminal Agency of the Presidium of the Police Force, who specialize in the investigation of extremist crimes.

c/ Although most hate speech is published on social networks, with operators based in third countries and legislation other than that of the Slovak Republic, it should be pointed out that in recent years the operators themselves have shown interest in preventing hate speech and they remove a large number of such speech. The Police of the Slovak Republic considers it necessary to hold negotiations with providers of such services, in order to provide more effective tools for combating hate speech on these platforms.

d/ Based on the obligation to implement the revised Directive of the European Parliament and of the Council on audiovisual media services, the Ministry of Culture of the Slovak Republic is preparing a completely new media act, which will replace the currently valid legislation contained in the Broadcasting and Retransmission Act and the Digital Broadcasting Act. The forthcoming media act will, among other things, partially address this issue and guarantee that entities covered by the new legislation will have to comply with the established rules, including the obligation to refrain from any expressions of hatred.

**IV. Ad recommendation No. 7**

The Criminal Code of the Slovak Republic (Act No. 300/2005 Coll. of Laws of the Slovak Republic, as amended) contains provision - paragraph 140, letter e/, on the commission of a criminal offence on a specific motive, including a racist, homophobic or transphobic motive. The substance of the provision of the Slovak Criminal Code in paragraph 140a/ governs hate against a group of persons or an individual for their actual or presumed affiliation to a race, nation, nationality, ethnic group, their actual or presumed origin, skin colour, gender, sexual orientation, political belief or religion. The commission of a criminal offence on a specific motive forms part of a qualified factual substance, for which the perpetrator also faces a higher penalty.

**V. Ad recommendation No. 8**

Creating a framework for dialogue and cooperation between police and members of minority groups: Intensification and deepening of cooperation, as well as establishing new contacts and dialogue with NGOs and representatives of minorities, especially in order to detect indicators of radicalization, extremism and hate crimes, is one of the priorities of the National Criminal Agency of the Presidium of the Police Force defined in the basic planning document - annual plan of main tasks of the Presidium of the Police Force for 2020.

**VI. Ad recommendation No. 14**

a/ In the Slovak Republic, the fundamental right to health protection together with the fundamental right to free health care is guaranteed by the Constitution of the Slovak Republic. The priority of the Slovak Republic is equal access in ensuring affordable and quality health care for all citizens, including compliance with all human rights aspects. National legislation takes full account of patients' rights enshrined in international documents.

b/ In order to prevent illegal sterilizations, the Slovak Republic has taken systemic, legislative and other practical measures. An institute of informed consent was established, which is a demonstrable consent of a person to the provision of health care, and which was preceded by an instruction. The attending healthcare professional is required to inform about the purpose, nature, consequences, options and risks of any healthcare provided. Sterilization can only be performed on the basis of a written request from the person to the healthcare provider performing the sterilization and written informed consent after prior instruction of the person fully qualified for legal acts or legal representative of the person incapable of giving informed consent or on the basis of a court decision upon request from the statutory representative. The information prior to informed consent must include information on alternative methods of contraception, planned parenthood and the medical consequences of sterilization.

c/ In the event of a violation of fundamental human rights and freedoms, there is an effective mechanism in the Slovak Republic for their protection through an independent judiciary. Education of health professionals in reproductive health and sex education, including sterilization and other contraceptive methods, as well as focusing on the legal aspects of health care provision, taking into account the need to obtain informed consent and instruction of it, is included in relevant study programmes for health professions. Likewise, every healthcare professional has a legal obligation to comply with the Code of Ethics.

**VII. Ad recommendation No. 15**

a/ The Office of the Inspection Service (hereinafter referred to as the "Office") is a special part of the Police Force with competence for the entire territory of the Slovak Republic for the detection, investigation and summary investigation of criminal offences of members of the armed security forces and members of the financial administration. The Office is independent of the authority of the Minister of the

Interior of the Slovak Republic and is largely separated from the police and the Ministry of the Interior of the Slovak Republic, as the Director is directly responsible for its activity to the Government of the Slovak Republic. The Office's main activities include investigating cases of suspected inappropriate misuse of police force or ill or discriminatory treatment.

b/ The Slovak Republic has taken a number of legislative steps to maintain, to the greatest extent possible, a high degree of effective functionality of the inspection in the environment of the Police Force in order to ensure its integrity. Despite the above steps, which significantly contributed to strengthening the independence of the inspection, the Government of the Slovak Republic undertook in the Programme Manifesto for 2020-2024 to reassess the position and activities of the Office and, on the basis of the results of the analysis, to ensure even greater independence and efficiency through legislative measures.

#### **VIII. Comment of the Slovak Republic on paragraph 72 of the ECRI Report**

a/ Freedom of religion is guaranteed by the Constitution of the Slovak Republic and other norms that are part of the national legislation of the Slovak Republic. The conditions for the registration of a church or religious society do not in any way restrict (affect) the exercise of the right to express one's religion or belief freely. Like members of other registered and unregistered churches, Muslims also have the right to freely express their religion or belief, alone or in association with others, privately or publicly, by worship, teaching, religious acts or observance of ceremonies.

b/ No national act prohibits or restricts the right of Muslims to build a mosque, Islamic centre, or practice their religion, either in the form of worship services or in the form of traditional religious (and funeral) ceremonies. The registration of a church or religious society is not a necessary condition for the exercise of freedom of religion, it only concerns the conditions for their establishment as state-recognized churches and religious societies and has legal relevance, especially in terms of economic aspects of their functioning. Regarding the "preservation of the status of a registered community" in connection with the requirement of membership under the applicable act on religious freedom, it is necessary to realize that churches and religious societies that operated in our territory by law or with the consent of the state on 1 September 1991, shall be deemed to be registered irrespective of the number of their members.

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The European Commission against Racism and Intolerance (ECRI) is a unique human rights monitoring body which specialises in questions relating to the fight against racism, discrimination (on grounds of “race”, ethnic/national origin, colour, citizenship, religion, language, sexual orientation and gender identity), xenophobia, antisemitism and intolerance in Europe; it prepares reports and issues recommendations to member States.

European Commission  
against Racism and Intolerance

**ECRI**  
Commission européenne  
contre le racisme et l'intolérance

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