



---

## Joint Submission

### Shadow Report to the Committee on the Elimination of Discrimination against Women for the Slovak Republic

41st Session  
30 June to 18 July 2008

---

Alliance of Women in Slovakia  
Center for Civil and Human Rights  
Centre on Housing Rights and Evictions  
Cultural Association of Roma in Slovakia

EsFem  
Fenestra  
Milan Šimečka Foundation  
Pro Choice Slovakia

**Joint Submission**

**Shadow Report  
to the Committee on the Elimination  
of Discrimination against Women  
for the  
Slovak Republic**

**41st Session  
30 June to 18 July 2008**

**May 2008**



**This shadow report was produced with support from the Open Society Institute's Public Health Program.**

**We thank to the International Women's Rights Action Watch Asia Pacific, the Open Society Institute's Public Health Program and the Slovak-Czech Women's Fund for making a presentation of the shadow report at the 41st session of the Committee on the Elimination of Discrimination against Women possible.**

Editor: Adriana Lamačková, Pro Choice Slovakia

Translation: Sylvia Králová

Printed in Slovakia at the OKAT PLUS s.r.o., Bratislava, 2008.

## Table of Contents

|  |    |
|--|----|
| <b>Submitting Organizations</b> .....  | 6  |
| <b>Executive Summary</b> .....   | 8  |
| <b>Article 1: Discrimination</b> .....   | 10 |
| Recommendations to the Slovak Government and Other State Bodies .....  | 13 |
| <b>Article 2: Legislative and Political Measures</b> .....   | 13 |
| Recommendations to the Slovak Government and Other State Bodies .....  | 14 |
| <b>Articles 5, 10: Gender Stereotypes</b> .....  | 14 |
| 1. Institutional Education .....   | 14 |
| 2. Textbook Policy in the Slovak Republic.....   | 15 |
| 3. Curricula .....   | 16 |
| Recommendations to the Slovak Government and Other State Authorities .....   | 17 |
| <b>Preamble, Articles 1, 2 and 5, General Recommendation No. 19: Violence against Women</b> .....  | 18 |
| 1. Legislation.....  | 18 |
| 2. Protective Mechanisms and Interdisciplinary Approach.....   | 20 |
| 3. Non-Governmental Organizations.....   | 21 |
| 4. Prevention.....   | 21 |
| 5. Research and Data Collection .....  | 22 |
| Recommendations to the Slovak Government and Other State Bodies .....  | 22 |
| <b>Article 6: Trafficking in Women</b> .....   | 23 |
| 1. Overview of the Current Situation .....   | 23 |
| 2. Funding of Measures for Support and Protection of THB Victims .....   | 24 |
| 3. THB Victim Support and Protection Program .....   | 24 |
| 4. Human Rights .....  | 26 |
| Recommendations to the Slovak Government and Other State Authorities .....   | 26 |
| <b>Article 7: Political and Public Life</b> .....  | 27 |
| Recommendations to the Slovak Government and Other State Bodies .....  | 29 |
| <b>Articles 10, 12 and 16: Sexual and Reproductive Health</b> .....  | 29 |
| 1. Efforts to Restrict the Permissive Abortion Law.....  | 29 |
| 2. Barriers in the Effective Access to Sexual and Reproductive Health Services .....   | 31 |
| 2.1. Conscientious Objection .....   | 31 |
| 2.2. Economic Barriers in the Access to Reproductive Health Services .....   | 33 |
| 2.3. Consent/Notification of the Legal Guardian with Abortion .....  | 34 |
| 3. Sexuality Education.....  | 35 |
| 4. Sexual and Reproductive Health Program in the Slovak Republic.....  | 35 |
| 5. Access to Assisted Reproduction.....  | 36 |
| 6. Institutional Safeguarding .....  | 36 |
| Recommendations to the Slovak Government and Other State Bodies .....  | 36 |
| <b>Romani Women</b> .....  | 38 |
| <b>A. Discrimination of Romani Women in Some Areas of Social Life</b> .....  | 38 |
| 1. Gender stereotypes (Article 5).....   | 38 |
| 2. Trafficking in Women (Article 6).....   | 39 |
| 3. Discrimination in Education (Article 10).....   | 40 |
| 4. Discrimination in Employment (Article 11).....  | 41 |
| 5. Reproductive and Sexual Health (Article 12).....  | 42 |
| 6. Violence against Women.....   | 43 |
| 7. Law Enforcement .....   | 43 |
| Recommendations to the Slovak Government and Other State Bodies: .....   | 44 |
| <b>B. The Issue of Forced and Coerced Sterilizations of Romani Women in the Slovak Republic and Discrimination in the Access to Health Care (Articles 10, 12 and 16)</b> ..... | 45 |
| 1. Forced and Coerced Sterilizations of Romani Women .....   | 45 |
| 1.1. General Introduction to the Issue .....   | 45 |
| 1.2. Criminal Investigation .....  | 46 |
| 1.3. Civil Proceedings.....  | 48 |
| 1.4. Current Practice after the Adoption of the New Legislation .....  | 48 |
| 2. Discrimination in Access to Health Care and Social Security.....  | 49 |

|   |    |
|---|----|
| Recommendations to the Slovak Government and Other State Bodies ..... | 51 |
| <b>C. The Housing Rights of Romani Women in Slovakia</b> .....        | 51 |
| Recommendations to the Slovak Government and Other State Bodies ..... | 54 |
| <b>Article 16: Marital and Family Relations</b> .....                 | 54 |
| Recommendations to the Slovak Government and Other State Bodies ..... | 55 |

## Submitting Organizations

**Alliance of Women in Slovakia** (1994) developed the previous CEDAW shadow reports on the situation in the Slovak Republic. The organization is engaged in women's human rights advocacy, lecturing, publishing and headlining especially the issue of violence in families and trafficking in human beings. Further information about Alliance of Women in Slovakia is available at: <http://www.alianciazien.sk>.

*CEDAW contact:*

Katarína Farkašová, alianciazien@alianciazien.sk

**The Centre on Housing Rights and Evictions** (COHRE) is an independent, non-governmental, non-profit human rights organization campaigning for the protection of housing rights and the prevention of forced evictions around the world. COHRE's overall objective is to promote and protect the housing rights of everyone everywhere. To achieve this, COHRE has developed varied work programmes, guided by international human rights law and designed for maximum effectiveness. COHRE work involves housing rights training and education; research and publications; monitoring, documenting and preventing forced evictions; undertaking fact-finding missions; participation and advocacy within the United Nations and regional human rights bodies; and providing legal advocacy and advice to communities and organisations involved in housing rights campaigns. Further information about COHRE is available at: <http://cohre.org>. Information on COHRE's women's rights programming is available at: <http://www.cohre.org/women>.

*CEDAW contacts:*

Claude Cahn, claudecahn@cohre.org

Mayra Gomez, mayra@cohre.org

**Center for Civil and Human Rights** (hereinafter "Poradňa") is a non-governmental and non-profit organization registered as a civic association based in Košice, the Slovak Republic. As it is clear from the name of the organization, Poradňa focuses its activities on protection of human rights in Slovakia with a special emphasis on minority rights and protection against racial discrimination. For these purposes Poradňa, besides other things, proposes motions for harmonizing the national legal provisions with ratified conventions on human rights and fundamental freedoms; it draws attention to possible manifestations of discrimination against minorities and proposes systemic solutions and tries to raise the legal awareness of citizens and, in the fields where it is needed, develops legal aid programs with a view to contributing to a higher level of law enforcement in the Slovak Republic. Poradňa has recently carried out projects related to the protection of reproductive rights of Romani women and protection against racial discrimination. For more detailed information on Poradňa's activities go to: <http://www.poradna-prava.sk>.

*CEDAW contact:*

Vanda Durbáková, vanda.durbakova@poradna-prava.sk

**Cultural Association of Roma in Slovakia** is a civic association operating in Slovakia since 1994. It started to tackle the issue of gender equality and status of Romani women in 2001. In the context of this issue, we focus on carrying out training programs, counseling, advocacy and empowerment through cross-section co-operation in relation to promoting gender equality from the local to the international level. The association is a member of the Slovak Women's Lobby and Roma Women's Initiative, which unites Roma organizations and activists in Central and Eastern Europe. Further information about Cultural Association of Roma in Slovakia is available at: <http://www.kzrsr.sk>.

*CEDAW contact:*

Helena Jonášová, kzrsr@stonline.sk

Civic association **EsFem** is an independent feminist non-governmental organization. From its beginning (1999), it develops activities focusing on support of women's and children's human rights, elimination of all forms of discrimination against women and improvement of equality of opportunities for women and men. In our work, we draw upon realization that gender stereotypes, as an

unconscious mechanism, create barriers in achieving equality between women and men, girls and boys. We believe that awareness of gender stereotypes and their consequences is the key precondition for any work in the field of women's human rights and gender equality in general. From this statement comes also our motto – the main motive of our work: „... when gender stereotypes become visible, they lose their power ...“. We engage in gender research, elimination of gender stereotypes (according to CEDAW), gender analysis and monitoring of text books and pedagogical materials, analysis of legislation from the gender equality perspective, and gender sensitive education. EsFem is a member and cofounder organization of One – In - Five Women, Pro Choice Slovakia and Slovak Women's Lobby. Further information about EsFem is available at: <http://www.esfem.sk>.

*CEDAW contact:*

Monika Bosá, [monika@esfem.sk](mailto:monika@esfem.sk)

**Fenestra** is a non-governmental women's organization operating in the field of couple violence against women since 1999. The organization operates in three basic areas: providing specific services to women and children – survivors of violence, conducting trainings for various professionals and carrying out activities in the field of raising awareness of both general and professional public on couple violence against women. Further information about Fenestra is available at: <http://www.fenestra.sk>.

*CEDAW contact:*

Sylvia Králová, [fenestra@fenestra.sk](mailto:fenestra@fenestra.sk)

**Milan Šimečka Foundation** is a human-rights non-governmental organization. The Foundation deals with the issue of the relation between minorities and majority society. Its activities are currently focused on human rights education and intercultural education; Roma public policy, defending Roma housing rights and community development; and research and education on Holocaust. Further information about the Foundation is available at: <http://www.nadaciamilanashimecku.sk>.

*CEDAW contact:*

Laco Oravec, [laco@nadaciams.sk](mailto:laco@nadaciams.sk)

The civic association **Pro Choice Slovakia** was founded in May 2001 as a platform for the cooperation of several human rights and women's non-governmental organizations in Slovakia. Its main goal is to promote and protect sexual and reproductive health and rights, gender equality, as well as other human rights of women and children. Further information about Pro Choice Slovakia is available at: <http://www.prochoice.sk>.

*CEDAW contacts:*

Adriana Lamačková, [lamačkova@yahoo.com](mailto:lamačkova@yahoo.com)

Adriana Mesochoritsová, [greko@esfem.sk](mailto:greko@esfem.sk)

Zuzana Magurová, [zuzana.magurova@chello.sk](mailto:zuzana.magurova@chello.sk)

Oľga Pietruchová, [olga@moznostvolby.sk](mailto:olga@moznostvolby.sk)

## Executive Summary

Non-governmental organizations – Alliance of Women in Slovakia, Center for Civil and Human Rights, Centre on Housing Rights and Evictions, Cultural Association of Roma in Slovakia, EsFem, Fenestra, Milan Šimečka Foundation and Pro Choice Slovakia – submit a joint shadow report to the Second, Third and Fourth Periodic Report of the Slovak Republic to the Convention on the Elimination of All Forms of Discrimination of Women (for the period of 1998 – 2006). This shadow report is not a comprehensive one; it focuses on selected areas, which the above non-governmental organizations specialize in, regulated by the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The report refers to current issues related to the legal and institutional framework of protection against discrimination, elimination of gender stereotypes, violence against women, protection of sexual and reproductive health and specific issues Romani women in Slovakia face in areas such as health care, employment and housing. The report briefly deals also with political representation of women in the political and decision-making processes, with trafficking in women and shortcomings of the Family Act.

In the field of **legal protection against discrimination**, some progress has been made in terms of the amendment to the Antidiscrimination Act of February 2008, which has amended the definition of sexual harassment and has eliminated other shortcomings objected to by the European Commission. Nevertheless, the amendment did not succeed in enforcing the adoption of the temporary special measures that would define the grounds of sex/gender, racial or ethnic origin and nationality and ethnic group as one of the legitimate reasons for adopting such measures, which then impedes effective elimination of the disadvantaged status of women in general, and Romani women in particular. Other shortcomings in effective protection against discrimination consist mainly in the limited implementation of the Antidiscrimination Act in practice. This is primarily due to high court fees, which discourage a lot of women, discriminated against from legal action as the high court fee often represents a real barrier for them in terms of protection of their right to equality and protection against discrimination.

**The institutional framework of gender equality** is inadequate in Slovakia. The issue of gender equality is generally assigned to the Ministry of Labor, Social Affairs and Family, where a single division is dealing with this issue and whose powers were constantly weakened in the past and it operated in the field of family and gender policy until 2005. As such, the division joined two policies which cannot be dealt with at the same time, using the same approach and which need separate and specific approach. Relating gender policy to family policy has resulted in a more traditional perception of a woman's role. After the 2006 elections, the original Department of Gender Equality and Equal Opportunities was transformed, but its capacities in terms of experts on gender equality were not built up, which hinders meeting its tasks of an inter-agency and cross-section body based on enforcement of gender aspects. The national strategy on gender equality, as well as the legislative aim of the gender equality law has not been developed to date. Even though there are other divisions at several other ministries having gender equality on their agenda, the overall approach to this issue is not being dealt with at both the program and system levels sufficiently.

The key reference documents governing the formal education in Slovakia do not explicitly mention the need for gender sensitive approach, **elimination of stereotypical conceptions of women and men from education and schooling** and inclusion of the equal opportunities principle in education and schooling. As for the text book policy, the text book evaluation criteria are relatively new and have not been tested in practice. One of the positives is that in the process of setting the criteria, there was room for examining the quality of curriculum transformation from the human rights perspective. The area evaluating "Social correctness" is, however, not sufficiently elaborated from gender equality perspective. The ideas of masculinity and femininity in the textbooks of sexuality education (officially called "Education towards Marriage and Parenting") reflect gender stereotyped structure supporting inequality of power between women and men in the society and its reinforcement. The Curriculum Reform Project supervised by the State Pedagogical Institute of the Slovak Republic leaves out gender equality as one of the most important aspects of the reform.

Even though several positive changes have occurred in the field of **violence against women** in Slovakia, particularly in the field of legislation, it still remains one of the most critical areas of women's human rights violation. The effective prevention and elimination of violence is prevented mostly by problems in the implementation of existing legislation in practice, the absence of systematic training of the individual professionals on the issue of violence against women, the insufficient number of women's refuges and counseling centers for women, the absence of specialized social services reflecting the needs of survivors of violence, as well as inadequate funding of non-governmental organizations operating in this field on the part of the State. The situation in the area of elimination of violence against women through work with the media is alarming. Not only is there a lack of specific strategies towards achieving changes in the media environment, but any efforts to introduce preventive measures in this area on the part of state institutions have also failed.

Access to **sexual and reproductive health** services is considerably limited in Slovakia due to health care practitioners' refusal to perform them on the basis of the conscientious objection. The current legal framework of the conscientious objection to health interventions does not guarantee timely and effective access to these services, which negatively affects mainly women from rural areas and socially disadvantaged groups. The high price of the individual services, predominantly covered by the patient herself, is yet another obstacle in the access to sexual and reproductive health care. One of the consequences of the significantly high price of contraception is that especially adolescent girls, young women and women from socially disadvantaged groups cannot afford to freely choose the method most suitable to them. In Slovakia, there is no systematic and thorough sexuality education at schools. Adolescents are not normally provided relevant information on protection against unwanted pregnancy and sexually transmitted infections, including HIV/AIDS, on sexuality issues or on the rights related to sexual and reproductive health. The State does not deal with the sexual and reproductive health issue in a systematic and comprehensive way. A sexual and reproductive health strategy clearly identifying its aspects, including the human rights aspect, has not been adopted to date.

**Forced and coerced sterilizations of Romani women** in Slovakia, which have not been effectively investigated yet despite the Constitutional Court of the Slovak Republic decision of December 2006, are another serious issue in the area of sexual and reproductive health. The Slovak government has not taken necessary steps to take measures towards a thorough and transparent investigation of this unlawful practice, including apologizing to the victims and their compensation. Despite the adoption of the new legal framework related to the performance of sterilizations, the so called informed consent and review of medical record, the Ministry of Health of the Slovak Republic has not issued any implementary regulation or internal guideline to these provisions that would unify the procedure of the health care practitioners. Therefore the statement of the Slovak Government to the notification on systemic violation of Article 12 of the CEDAW Convention, submitted to the Committee on the Elimination of Discrimination against Women (CEDAW Committee) under the Optional Protocol to the CEDAW Convention in 2004, can be considered unsatisfactory.

**Romani women** in Slovakia face multiple discrimination also in other areas such as the access to social security, employment and housing. Although Slovakia has had access to extraordinary resources in recent years to address the issue of the appalling living conditions of the Roma – in particular, resources made available from the European Union as well as from other donor agencies – the Slovak authorities have failed to use them effectively for this purpose. Romani women are a particularly vulnerable group frequently living in extreme -- and predominantly rural -- circumstances. The housing situation of a marginalized segment of the Romani community in Slovakia has a number of particular gendered effects, including heightening vulnerability to violence, including domestic violence and other forms of inhuman and degrading treatment. The Slovak Society has continued, to this date, to create segregated Roma settlements through forced evictions, segregation measures and discrimination in the provision of social security. Romani women and girls from marginalized Romani communities are one of the most vulnerable groups to trafficking in human beings due to multiple disadvantages they face.

## Article 1: Discrimination

*Zuzana Magurová, Pro Choice Slovakia*

1. The National Council of the Slovak Republic adopted the **Antidiscrimination Act**<sup>1</sup>, which transposed three Council of the European Union (hereinafter „the Council“)<sup>2</sup> directives related to equal treatment of women and men, the European Parliament (EP) and the Council Directive 2002/73/EC and amending the Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards the access to employment, vocational training and promotion, and working conditions. Based on the implemented directives, the Antidiscrimination Act was supposed to define the term discrimination in a way enabling it to include all forms of discrimination recognized by the EU legislation. Nevertheless, it did not happen since the law did not specify **sexual harassment** as a separate form of discrimination. It also did not allow for setting up the agency for „securing analysis, monitoring and support of equal treatment of all persons without discrimination on the grounds of sex“ (the gender equality body) and it did not implement the individual provisions of the European directives in a comprehensive and appropriate way. This was all due to political agreements of political parties at that time. Despite resistance on the part of some MPs, as well as some members of the Government, the Parliament eventually passed the amendment, which introduced the provision on positive action into the Antidiscrimination Act, even though this provision applied only for preventing disadvantages related to the racial or ethnic origin. However, only two months since the law had come to effect, the Slovak Government represented by the Minister of Justice (a member of the Christian Democratic Movement party), filed a motion with the Constitutional Court initiating proceeding in the matter of examining the compliance of the Antidiscrimination Act with the Constitution of the Slovak Republic.

2. The Slovak Government reasoned this motion by stating that the provision in question violates the principle of legal security, it enables granting advantages in the access to basic rights on the grounds of race and ethnic origin and, therefore, violates the Constitution. Due to the fact that the provision on positive action did not set a framework of the subject matter, the contents and the criteria on implementing positive action and it also did not state the provisionality of positive action measures, the Constitutional Court issued a decision on 18th October 2005 declaring the provision anti-constitutional and abolishing it<sup>3</sup>. It means that the anti-constitutional nature of this provision resulted from inappropriate and incomplete definition of positive action measures.

3. The European Commission, in three formal communications, gradually warned the Slovak Republic against violating Article 226 of the Treaty on European Union and it particularly emphasized the incomplete or inappropriate transposition of the Race Directive, the Framework Directive and the Employment Directive in the Antidiscrimination Act. As a result of the formal notices, two amendments to the antidiscrimination law were passed with a view to eliminating the imperfections objected to.

4. The first amendment, the Act no. 326/2007 Coll. of Laws<sup>4</sup> changing and amending the Anti-discrimination Act, was passed due to 2 formal notices sent by the European Commission in 2006. In the first proceeding<sup>5</sup>, the Slovak Republic was criticized for incomplete or inappropriate transposition of the Council Directive 2000/43/EC of 29th June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (the Race Directive). In the second proceeding<sup>6</sup>, the European Commission objected to the incomplete or inappropriate transposition of the Council Directive 2000/78/EC of 27th November 2000 establishing the general framework for equal treatment

---

<sup>1</sup> Act no. 365/2004 Coll. of Laws on equal treatment in some areas and protection from discrimination changing and amending other laws (Anti-discrimination Act) of 20th May 2004 effective of 1st July 2004.

<sup>2</sup> Council Directive 2000/43 EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Council Directive 2000/78 EC establishing the general framework for equal treatment in employment and occupation, Council Directive 96/97 EC amending the Council Directive 86/378 EEC implementing the principle of equal treatment between men and women in the employment social security systems.

<sup>3</sup> Constitutional Court of the Slovak Republic Decision no. 539/2005 Coll. of Laws.

<sup>4</sup> Act no. 326/2007 Coll. of Laws changing and amending Act no. 365/2004 Coll. of Laws on equal treatment in some areas and protection from discrimination changing and amending other laws (Anti-discrimination Act) as amended by the Constitutional Court of the Slovak Republic Decision no. 539/2005 Coll. of Laws adopted on 20th June 2007 and in effect of 1st September 2007.

<sup>5</sup> Proceeding no. 2006/2260 of 28th June 2006.

<sup>6</sup> Proceeding no. 2006/2447 of 20th December 2006.

in employment and occupation (the Framework Directive). The comments of the Commission on the inappropriate or incomplete transposition of the above directives were primarily related to the fact that inaccurate terms or expressions were incorporated into the antidiscrimination law, which the directives do not recognize or which limit the possibility to implement the equal treatment principle. The aim of the adopted amendment to the Antidiscrimination Act was to speedily eliminate the imperfections the Slovak Republic was criticized for in the two aforementioned formal communications, and thus finish the complete transposition of both directives in accordance with the European Commission comments.

5. The main objective of the second major amendment to the antidiscrimination law included in the Act no. 85/2008 Coll. of Laws<sup>7</sup> is the transposition of the Council Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services. The adopted amendment also included propositions and comments resulting from a collective public comment of March 2007 to the previous amendment to the antidiscrimination law, including the request for transposition of the European Parliament and Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (the Employment Directive). This request also resulted from the third formal notice sent by the European Commission.

6. The amendment broadens the scope of reasons prohibiting violation of the equal treatment principle, as well as the scope of areas in which the equal treatment principle has to be respected. It also increases the protection of persons from harassment via introducing a complete prohibition of **sexual harassment**, which did not exist in our legislation before.

7. Apart from that, **the amendment re-introduced the positive action for disadvantaged groups**. The original proposition contained the following wording: „Adopting the temporary positive action by the state administration authorities aimed at elimination of disadvantages resulting from racial or ethnic origin, nationality or ethnic group , **sex**, age or handicap and intended to secure equal opportunities in practice shall not constitute discrimination.“ An amendment proposed by the Chairman of the Slovak Parliament Constitutional and Legal Committee and a member of Smer – SD abolished equal treatment on the grounds of ethnic or racial origin, nationality or ethnic group and sex and replaced these reasons by social and economic disadvantage. It also reflected the objections of one of the KDH (Christian Democratic Movement), who reasoned that applying the equal treatment principle on the grounds of ethnic origin violated the Constitution (the same MP initiated the afore mentioned Constitutional Court proceeding in 2005). Even though this MP only objected to the grounds of ethnic origin, the MPs also abolished the grounds of sex without any justification for doing so. They did not accept the opinion of Chairman of the Parliamentary Committee for Human Rights who reasoned that by accepting the above mentioned notion the functionality of law was interfered with. The final wording on positive action is the following:

„Adopting the temporary positive action by the state administration authorities aimed at elimination of disadvantages resulting from social and economic status, as well as from age and physical or mental handicap and intended to secure equal opportunities in practice shall not constitute discrimination.“

This provision ignores the fact that women, as well as the Roma have faced long-term and systematic discrimination resulting in disadvantaged status of women and the Roma. The current provision on positive action cannot remedy this situation effectively as it does not reflect that these persons were and still are disadvantaged on the grounds of sex and, in case of the Roma, on the grounds of ethnic origin or nationality.

8. This second amendment also amended the Act no 308/1993 Coll. of Laws on establishing the Slovak National Centre for Human Rights. The authority of this Centre was expanded by the power to carry out independent survey related to discrimination and to prepare reports and recommendations

---

<sup>7</sup> Act no. 85/2008 Coll. of Laws changing and amending Act no. 365/2004 Coll. of Laws on equal treatment in some areas and protection from discrimination changing and amending other laws (Anti-discrimination Act) as amended by the Constitutional Court of the Slovak Republic Decision no. 539/2005 Coll. of Laws and Act no. 326/2007 Coll. of Laws adopted on 4th February 2008 and in effect of 1st April 2008.

on the issue of discrimination, which means the Centre should undertake the tasks of a gender equality body. In reality, the capacities of the Centre, particularly in the area number of experts on gender equality and its budget have not been increased, which means that the Directive was implemented only formally.

9. The application of Antidiscrimination Act in practice so far has shown that the enforcement of **court protection** in the proceedings in cases related to violation of equal treatment principle is very limited. It particularly applies for cases where it is not possible to demand that the defendant refrains from the discriminatory conduct or to demand remedy to the unlawful situation and the aggrieved party can only claim adequate financial compensation or non-pecuniary damage financial compensation.<sup>8</sup> In many cases, in which women are discriminated against, only the claim to adequate redress is possible. If the sanction in the form of redress is to be effective, proportionate and dissuasive<sup>9</sup>, the amount of money claimed needs to reflect that. Nevertheless, this amount of money determines what the court fee will be.

10. As the Scale of Court Fees (appendix to the law on court fees)<sup>10</sup> does not determine a separate fee for court proceedings in cases of equal treatment principle violation, the general fees are applied to them at the moment. The fees for filing a motion on initiating court proceedings in cases related to the equal treatment principle violation are 3.000 SKK at the present time if the complainant does not claim financial compensation of non-pecuniary damages or 6% of the claimed amount of financial compensation of non-pecuniary damages. Such court fees do not allow for effective and efficient protection in cases of discrimination or other violation of the equal treatment principle. A lot of women discriminated against are therefore discouraged from filing a complaint with the court, as the high court fees often constitute a real barrier in protection of their right to equal treatment and protection from discrimination.

11. Several NGOs have proposed an amendment to the Act on Court Fees One of the alternatives was to abolish court rates similarly to the cases tried by the Constitutional Court. The second alternative would be reducing the court fees to 3%.

12. A further shortcoming of the Antidiscrimination Act is the fact that it does not directly amend the Code of Civil Proceedings.<sup>11</sup> The possibility to shift the burden of proof on to the defendant is only stipulated in the Antidiscrimination Act<sup>12</sup> which has the same legal authority as the Code of Civil Proceedings. The courts can, therefore, „only“ follow the procedural regulation and avoid applying the provision embodied in the antidiscrimination law. Failing to implement the principle of shifting the burden of proof on the part of some courts is most frequently justified by the fact that this procedural principle is not defined in the Code of Civil Proceedings unlike, for example, in the Czech Republic. As a result, it is often the case that women who are discriminated against often do not succeed in court proceedings due to lack of evidence.

---

<sup>8</sup> Section 9 paragraph 2 of Act no. 365/2004 Coll. of Laws on equal treatment and protection from discrimination in some areas changing and amending other laws (Anti-discrimination Act) as amended by the Constitutional Court decision no. 539/2005 Coll. of Laws, Act no. 326/2007 Coll. of Laws and Act no. 85/2008 Coll. of Laws states: "It is possible to demand before the court that the person violating the equal treatment principle refrains from such conduct and, if possible, remedies the unlawful situation or provided adequate redress."

<sup>9</sup> In accordance with Article 27 of the Council Directive no. 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services and Article 22 of the European Parliament and the Council Directive no. 2000/73/EC amending the Council Directive 76/207/EC implementing the principle of equal treatment in the access to employment.

<sup>10</sup> Act no. 71/1992 Coll. of Laws on court fees and the fee for excerpt from criminal record as amended.

<sup>11</sup> Act no. 99/1963 Coll. of Laws as amended that changes and amends Act no. 365/2004 Coll. of Laws on equal treatment in some areas and protection from discrimination changing and amending other laws (Anti-discrimination Act) as amended by the Constitutional Court of the Slovak Republic Decision no. 539/2005 Coll. of Laws and Act no. 326/2007 Coll. of Laws adopted on 4th February 2008 and in effect of 1st April 2008.

<sup>12</sup> Section 11 paragraph 2 of Act no. 365/2004 Coll. of Laws on equal treatment and protection from discrimination in some areas changing and amending other laws (Anti-discrimination Act) as amended by the Constitutional Court decision no. 539/2005 Coll. of Laws, Act no. 326/2007 Coll. of Laws and Act no. 85/2008 Coll. of Laws.

## **Recommendations to the Slovak Government and Other State Bodies**

13. Based on the above mentioned facts we hope that the CEDAW Committee incorporates the following recommendations to the Slovak Government into its concluding observations:

- To exempt the proceedings in cases related to violation of the equal treatment principle from court fees.
- To embed in the law the possibility of the state administration agencies to adopt temporary positive action measures aimed at elimination of disadvantages on the grounds of sex, ethnic or racial origin and nationality or ethnic group.

## **Article 2: Legislative and Political Measures**

*Zuzana Magurová, Pro Choice Slovakia*

14. The institutional background of gender equality is insufficient in Slovakia. There was no inter-agency body that would deal with this issue until the end of 2007. The issue of gender equality is generally assigned to the Ministry of Labor, Social Affairs and Family, but this power of the ministry is not stipulated by the law specifying the tasks and agenda of the individual Slovak ministries. There is a single division at the Ministry of Labor, Social Affairs and Family dealing with the gender issue, whose powers were constantly weakened in the past and it operated in the field of family and gender policy until 2005. As such, the division joined two policies which cannot be dealt with at the same time, using the same approach and which need separate and specific approach. Relating gender policy to family policy has resulted in a more traditional perception of a woman's role, while a clear gender strategy is still lacking. After the 2006 elections, the division was transformed to the Department of Gender Equality and Equal Opportunities and it was shifted under the authority of the Minister of Labor, Social Affairs and Family, however, its capacities have not been built up in terms of hiring experts on gender equality. Therefore, it cannot meet its tasks of an inter-agency and cross-section body as the implementation of gender perspective would require it to do. The national strategy on gender equality, as well as the legislative aim of the gender equality law has not been developed to date.

15. Even though there are other divisions at several other ministries having gender equality on their agenda, the overall approach to this issue is not being dealt with at both the program and system levels sufficiently. The Deputy Prime Minister for European Affairs, Human Rights and Minorities (at the present time, the Deputy Prime Minister for Knowledge-Based Society, European Affairs, Human Rights and Minorities) deals with discrimination in general. He was one of the proposers of the Anti-discrimination Act, which, until this year, did not even include one of the basic European directives related to equal treatment between men and women. Also, the ombudsman deals with human rights protection in general with minimum emphasis on gender issues.

16. As early as in 2004, the Commission for Equal Opportunities and Status of women in Society (hereinafter „the Commission“) ceased to exist. The Commission was only formal as its powers and its decisions only had the nature of recommendations. In practice, this meant that it was up to the Chairman of the Commission and his ability to persuade how the stance of the Commission was presented to the committee that should have embraced it.

17. Due to the missing mechanism that would cover the issue of gender equality in a comprehensive and strategic way in Slovakia, setting up an inter-agency body having the power to bind the individual ministries and, at the same time, having the position of an advisory body of the Government was considered. Its sufficient funding was supposed to be a necessary condition for setting it up. Another possibility considered was setting up the ombudsman for women's affairs dealing with the issue of gender equality. Such body would, however, need to have sufficient authority in order to have its decisions implemented.

18. The only positive remaining is the fact that the Slovak Government passed the decision to set up *the Government Council for Gender Equality* (hereinafter “the Council”) as of January 2008. The Council is a co-ordination, advisory and initiative body of the Government for implementation of gender equality principle in accordance with laws and generally binding legal regulations whose task is to propose measures and co-ordinate activities supporting gender equality with a view to preventing discrimination on the ground of sex. The Council has its Chairperson, two Vice Chairpersons, a secretary, sixteen members representing state institutions at the level of Secretaries of State, twenty representatives of other organizations and institutions and three NGOs. The Council has the following bodies: the Executive Committee and the Consulting Committee. The Executive Committee consists of experts on gender issue from the individual ministries and state authorities. Its task is to draft documents for the Council sessions, process expert opinions and provide counseling. The Consulting Committee consists of NGO representatives working in the area of gender equality, human rights protection and representatives of academic and specialized institutions. It is a forum for exchange of ideas in the field of gender equality and has the power to propose relevant topics for the Council sessions. In March, members of the Government Council for Gender Equality, the Executive Committee and the Consulting Committee were appointed. At the first joint session of both committees, on 3rd April 2008, the committees adopted the rules of procedure and plan of activities. For the time being, the Department of Gender Equality and Equal Opportunities fills in the task of the Council secretariat. Non-governmental organizations managed to enforce that NGOs operating in the field of gender equality, representatives of self-administration and representatives of academic and specialized institutions will participate in the Council’s activities at all levels.

### **Recommendations to the Slovak Government and Other State Bodies**

19. Based on the above mentioned facts we hope that the CEDAW Committee incorporates the following recommendations to the Slovak Government into its concluding observations:

- To adopt a law on gender equality.
- To adopt a national strategy on gender equality.
- To allocate an adequate amount of funds, within the individual state budget chapters, for activities of the Slovak National Centre for Human Rights as the gender equality body, the Government Council for Gender Equality, the Executive Committee of the Government Council for Gender Equality and the Consulting Committee of the Government Council for Gender Equality.

## **Articles 5, 10: Gender Stereotypes**

*EsFem*<sup>13</sup>

### **1. Institutional Education**

20. The “Millennium” conception on education and schooling development in the Slovak Republic for the upcoming 15 – 20 years (December 2001) is among the main reference documents governing formal education in Slovakia. Together with the National Education and Schooling Programme, which resulted from a public discourse on the Millennium project, it deals with the visions and it outlines the priorities of the Slovak education system in the upcoming years.

21. In its introduction, the Millennium conception mentions the 1998 Government Statement, in which the crucial role of the state in securing equal access to education and versatile personal development and fulfilment of each citizen is stated, among other things. According to the Millennium, the need to change the content of education (curriculum transformation) through reducing „the number of unnecessary, impractical information and replacing them with the content and information necessary

---

<sup>13</sup> Data on the textbooks evaluation project are taken from the diploma thesis of J. Kisonova, which she substantiated under the title *Gender Stereotypes in Textbooks* at the Ethical and Civic Education Department of the Faculty of Arts of the Comenius University in Bratislava in 2005.

for life, with key competences; as well as developing new curricula, new text books, new instructional material with vital, up-to-date content “is among the basic premise of education and schooling transformation.”<sup>14</sup> The authors state here that “the system of education and schooling of children and youth should respect the goals of education as formulated in Article 29 of the Convention on the Rights of the Child”, which deals with “educating children towards living responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all people, ethnic, national and religious groups and persons of indigenous origin.”<sup>15</sup> The Millennium identifies several main educational goals: “to create an environment of unrestricted offer of education opportunities safeguarding the right to free choice of the course of education”; “to create equal opportunities for children regardless of their race, religion and language” (sex is not mentioned) and “to carry out *the content (curriculum) transformation*, which is concerned with innovation of the curriculum and study plans, improvement of text books and introduction of curriculum necessary for a high-quality and creative life”.<sup>16</sup> Based on these goals, revitalisation of education system should be achieved. The National Education and Schooling Programme were developed on the basis of public discourse on the Proposal of Education and Schooling Conception of the Millennium project.

**22. None of the above documents explicitly mentions the need for gender sensitive approach, nor do they mention the need to eliminate stereotypical conceptions of women and men resulting from education and schooling or to include the equal opportunities principle in education and schooling in compliance with obligations the Slovak Republic has undertaken. The authors do not mention the need to ensure universal education without gender disparities or to design gender sensitive text books.** Nevertheless, both the Millennium and the National Programme could be good points of reference for the purposes of putting democratic principles and education towards respect for human rights, particularly women’s human rights, in force. Using these principles, it is possible (with a deeper understanding of the issue) to lay the foundations of gender sensitive approach to education and schooling and to start the process of deliberate efforts to eradicate gender stereotyped content in institutional education. Unfortunately, this is not being done and there are no signs of possible positive changes in future. This conclusion is reinforced also by the current project of curriculum reform supervised by the State Pedagogical Institute.

## 2. Textbook Policy in the Slovak Republic

23. In 2001, the State Pedagogical Institute began to address the issue of a better textbook policy. In cooperation with the Open Society Institute in Budapest and external collaborators from Czech Republic, Great Britain and Romania “Textbook Policy in the Slovak Republic” project was developed. Its primary task was to carry out analysis of the current state of textbooks development in Slovakia. In 2004, new criteria for textbooks quality evaluation at all stages of their development were designed based on analysis and discussion at seminars.

24. A total of 26 criteria clustered in three groups are used for a textbook’s quality evaluation in the process of its creation and later its use. Quality evaluation criteria for amendment of the curriculum consist of 6 areas and 18 criteria. The criteria are divided into the following areas: 1) compliance with the fundamental pedagogical documents, 2) personality development, 3) contents, 4) didactical processing, 5) graphic design and 6) social correctness. Reflecting upon the focus of my work, I will pay attention to the following areas: “Personality development” and “Social correctness”.

25. The following three criteria are used to evaluate the “Personality development” area: 1. development of a pupil’s basic competences, 2. a pupil’s integration into broader society and 3. utilizability of the curriculum in everyday life. There are requirements set for each criterion, which are then, based on the criteria satisfaction rate, given points with a help of indicators. Some of the requirements are:

– amendment of the curriculum helps develop skills and abilities of critical thinking, supports intellectual development via presenting a variety of issues;

---

<sup>14</sup> The *National Education and Schooling Programme*, which is a follow-up to the Government Statement of November 1998, quoted in the introduction of the *Millennium* project, a document adopted by the Government of the Slovak Republic in December 2001, p. 16.

<sup>15</sup> *Ibid.* p. 17.

<sup>16</sup> *Ibid.* p. 16.

- amendment of the curriculum supports development of students' value system;
- curriculum should be amended with a view to motivating students as a means that enriches their lives; it should include real life examples and, enable a pupil, through the text, to adequately solve problems that he/she encounters in their everyday life, or use them in further education.

26. For the "Social correctness" area, one criterion has been set – "Respecting social correctness". This criterion is evaluated upon "the extent to which a textbook is amended in such way that its content has words, statements, examples and illustrations that do not discriminate against members of the society and is correct, as to its sensitiveness and equality, to different groups of citizens and different living conditions."<sup>17</sup>

27. The above mentioned textbook quality evaluation criteria are relatively new and have not been tested in practise. One of the positives is that in the process of setting the criteria, there was room for examining the quality of curriculum transformation from the human rights perspective. **The area evaluating "Social correctness" is, however, not sufficiently elaborated from gender equality perspective. The requirement to objective amendment of "information on differences among races, nations, minorities and religions" does not include gender sensitive information. In the project, there is no reference to the requirement to eradicate "prejudices and customary and all other practices which are based on stereotyped roles for men and women" as it should be practised in the process of textbook development in accordance with Article 5 of the Convention.**

28. Since the textbooks used at Slovak schools are subject to approval procedure on the part of the state, while taking into consideration their educational function, they present the „ideal" model of social structures. Therefore, the images of masculinity and femininity, which children are confronted with in the textbooks, are, to certain extent, of codification nature. In 2002 – 2004, civil association EsFem carried out monitoring of sexual education textbooks while only explicit expressions of gender stereotypes in the texts were monitored (Sexual Education, in Slovakia called "Education towards Marriage and Parenting"). The ideas of masculinity and femininity in the textbooks reflect gender stereotyped structure supporting inequality of power between women and men in the society and its reinforcement:

"In a civilised society, every man and every woman is expected to behave adequately to their sex. A girl behaving like a boy is not an ideal, as is not a feminine man. [...]  
A woman should be, in the first place, a woman; maintain her "femininity", only then can she be a man's equal partner. When she is trying to be like a man, she is losing the most precious part of herself while being unable to become his equal that way".<sup>18</sup>

### 3. Curricula

29. As for the overall framework of formal education at primary and secondary schools, curricula are of crucial importance. In Slovakia, their systematic and complex research has not been carried out from the perspective of permeating stereotypical conceptions of masculinity and femininity. Nevertheless, civil association EsFem continues monitoring curricula of some subjects for its internal use. The subjects concerned, especially „educational subjects", are: Education towards Marriage and Parenting, Ethical Education, Civics, etc. The educational goals of all the above subjects declare interest in educating children towards democratic values, pro-social behaviour, positive self-image, human rights, etc. **However, Education towards Marriage and Parenting Curricula<sup>19</sup> educational goals unambiguously state "an effort to guide children towards embracing the role of their sex".** In our opinion, such wording constitutes violation of Article 5 of the CEDAW Convention.

30. The so called "Vocational Schools for Girls" deserve special attention. Vocational Schools for Girls offer vocational education similar to economics secondary schools or business secondary schools.

<sup>17</sup> The State Pedagogical Institute of the Slovak Republic, "Criteria for Textbooks Quality Evaluation – the Textbook Policy", SPU, Bratislava 2004, material for internal use.

<sup>18</sup> Rozinajová, H., *The Essentials of Family Education*, SPN Bratislava 1992, pp. 38, 54.

<sup>19</sup> Education towards Marriage and Parenting is framed as a compulsory subject in Slovakia and is taught in accordance with the approved curriculum as a part of other educational subjects depending on their thematic focus (especially Biology, Natural History, Natural Science, Civics, Religious Education, Ethical Education, etc.).

The difference is that the former offers “additional“ subjects “preparing girls for marriage“ with marriage and related duties being perceived in a very stereotypical way. Girls learn basics of the housekeeping, upbringing of children and childcare, demeanour, developing harmonious relationships in the family, dining and cooking, looking after sick or elderly members of the family, etc. Apart from the official curricula, the process of education is influenced by the hidden curricula of the school. As far as I am informed, hidden curricula have not been examined from the gender perspective in Slovakia.

31. Since 2005, the Slovak Curriculum Reform Project supervised by the State Pedagogical Institute has been in progress. Feminist women’s NGOs offered co-operation with a view to ensuring that the reform is carried out in gender sensitive way in all defined areas. Despite the offer of NGOs, the project co-ordinator did not include gender equality in the project justifying the decision by saying that it was a marginal issue only important from the perspective of feminist activists. The co-operation was eventually limited to consultations with the author of one of the areas. This proves that securing women’s human rights and preventing their violation in Slovakia depends on willingness of particular people whose attitudes are motivated by their personal belief rather than by international human rights documents.

### **Recommendations to the Slovak Government and Other State Authorities**

32. Based on the above mentioned facts, we hope that the CEDAW Committee incorporates the following recommendations to the Slovak Government into its concluding observations:

- To ensure consistent performance of obligations under Articles 5 and 10 of the CEDAW Convention.
- To include information on the CEDAW Convention in human rights education at all levels and types of schools.
- To carry out research focussing on curriculum analysis that will be the base of a reform that will not support and reinforce stereotypes, but will be gender sensitive.
- To include gender sensitiveness criterion in textbooks evaluation criteria.
- To develop gender sensitive methodological approach for working with the available textbooks that are not sufficiently gender sensitive and to create new textbooks so that they no longer support and reinforce gender stereotypes.
- To incorporate contribution of women to the development of science, arts and culture throughout the history of human kind into the curriculum.
- To include gender sensitive pedagogy and feminist pedagogy in pre-gradual and post-gradual teachers training.
- To support and develop gender sensitive pedagogical research.
- To re-examine the existence and/or focus of so called Vocational Schools for Girls.
- To initiate and to subsequently support establishment and operation of Gender Equality Department with the Ministry of Education of the Slovak Republic having adequate authority to enforce gender equality in education.
- To support co-operation between the State and NGOs in the area of gender sensitive pedagogy, feminist pedagogy and gender sensitive pedagogical research including funding of projects with similar focus. To consider setting up a special grants programme for projects focussing on enhancing gender equality in institutional education.
- To provide for further training of educators in the area of gender equality, focussing particularly on gender sensitive education and gender sensitive pedagogy.

## **Preamble, Articles 1, 2 and 5, General Recommendation No. 19: Violence against Women**

*Sylvia Kráľová, Jana Oleárníková, Fenestra*

*Zuzana Magurová, Adriana Mesochoritsová, Pro Choice Slovakia*

33. Even though several positive changes have occurred in the field of violence against women in Slovakia (due to pressure and activities on the part of women's NGOs), particularly in the field of legislation, it still remains one of the most critical areas of women's human rights violation. The Slovak government's approach to its international human rights obligations regarding violence against women can be, with utter seriousness, described as vague and clearly occurring at formal level. **Given the current state, it cannot be said that there is a consistent government policy on violence against women. The current structure of mechanisms designed for prevention and elimination of violence against women in Slovakia is actually a mere „concept“ of required support institutions and it is nowhere near the desired status defined in the international conventions and ratified documents.** The government report on the CEDAW Convention<sup>20</sup> (hereinafter "the government report") states in the paragraph 151 the results of the first and, until very recently the only, representative research on violence against women<sup>21</sup>, it, however, does not say that the research was funded exclusively by donors from abroad at the initiative of NGOs, without any participation on the part of the state.

34. The analysis of research data has shown that the issue of violence against women in Slovakia definitely cannot be seen as insignificant or negligible. The research has proved the existence of a number of forms of violent behavior against women – all its usual forms have occurred: physical and sexual violence, psychological and social violence, as well as economic violence. Several types of data acquired are alarming: the research shows that almost 40% of women aged 15-65 have experienced sexual violence and 19.1% have experienced physical violence outside intimate relationship. Women experiencing violence from their intimate partner or former intimate partner are a particularly vulnerable group: out of all adult women in Slovakia aged 15-65 who have had an intimate partner 29.3% have experienced violence from at least one of their partners, which is one in three women. At the time of the research, 25.2% of women lived in a violent relationship, which is one in four adult women who had a partner at the time the research was carried out.

### **1. Legislation**

35. In the course of the year 2002, several legislative changes aimed at elimination of violence against women were adopted.<sup>22</sup> One of them brought about the „restraining order“ ordering the violent person to stay at least 5 meters from the injured party and preventing the violent person from staying in the vicinity of the injured party's dwelling within adequate restrictions defined in the Penal Code<sup>23</sup> (see the government report, paragraph 134) that the court could order as a part of sentence or in the case of conditional discharge. Yet, it is clear from practice that this provision was hardly ever applied. The restraining order's shortcoming was that the injured party could not file for it herself as it was a part of the sentence, or conditional discharge. This provision was intended as a more efficient protection of women experiencing violence – particularly with respect to women being blamed for their partner's violent behavior and to the tendency to trivialize violence. It, unfortunately, did not meet the above expectations. **There is still a strong tendency to see only brutal physical assault as violence and to trivialize other forms of violence. Other than physical violence, is often not even considered violence.** After the criminal law amendment that resulted in adopting the new Penal Code (Act No.300/2005 Coll.of Laws) and the Code of Criminal Procedure (Act No. 301/2005 Coll.of Laws) taking effect on 1st January 2006, the „restraining order ordering the perpetrator to stay at least 5 meters

<sup>20</sup> Resolution of the Government of the Slovak Republic No. 870/2006, "Second and Third Periodic Report of the Slovak Republic to the Convention on the Elimination of All Forms of Discrimination against Women", 18 October 2006.

<sup>21</sup> Bodnárová, B. - Filadelfiová, J., Domestic violence and Violence against Women in the Slovak Republic, Summary Report from the Representative Research, Bratislava: SŠPR, 2003.

<sup>22</sup> Out of the originally proposed amendments to seven laws, the amendment of the Police Forces Act has not been achieved (Act No. 171/1993 Coll. of Laws). The Penal Code (Act No.140/1960 Coll. of Laws), the Code of Criminal procedure (Act No. 141/1961 Coll. of Laws), Act on Misdemeanor (Act No. 372/1990 Coll. of Laws), the Civil Code (Act No. 40/1964 Coll. of Laws) the Code of Civil Procedure (Act No. 99/1963 Coll. of Laws) and Act on Violent Crime Victims Compensation (Act No. 255/1998 Coll. of Laws) have been amended.

<sup>23</sup> Section 89 para. 23 (c) of Act No.140/1960 Coll. of Laws.

from the injured party“ was left out. Although the primary goal of women’s NGOs working in the area of elimination of violence against women has been the amendment to the Police Forces Act, this act has not been amended until now despite new efforts to achieve this in January 2007. The proposed amendment was intended to enforce the barring order and expulsion of the violent person from the shared house (apartment).

36. Expert witnesses in the field of psychology play a significant role in the course of criminal proceeding. Actions of the perpetrator can be judged as a criminal offence under Section 208 of the Penal Code (Abuse of a close and dependent person) if they cause physical or psychological suffering of the victim. It is an indelible part of the above criminal offence merits<sup>24</sup>. The fact if the victim has suffered physically or psychologically due to the perpetrator’s actions is assessed by an expert opinion in the field of psychology. A law enforcement body can appoint any court expert registered with the court experts register to provide the expert opinion. The law enforcement body does not examine (and there are no criteria for doing so) if the particular court expert centers his/her work around psychological symptoms of violence, if he/she specializes in the area of violence against women of if he/she does update their expertise. **It is practically impossible to object, in the course of criminal proceeding, that the court expert assigned to examine if the above circumstances have occurred is not competent as he/she does not specialize in the field of violence against women and does not pursue it in his/her work.** In many cases, the findings of the expertise conclude that the injured party does not show symptoms of a victim of psychological abuse. If this happens, the criminal proceeding is terminated without further evidence.

37. The amended Civil Code, in effect of 1st January 2003, has introduced a provision enabling to restrict the right of use of one of the spouses to a jointly owned apartment/house if, due to physical or psychological violence or threat of such violence against one of the spouses or a close person, the joint tenancy of a house or apartment becomes intolerable (see the government report, paragraph 138).<sup>25</sup> The new amendment, at the same time, expressly establishes that in the case of physical or psychological violence, it is not necessary to provide any housing compensation for the divorced spouse who perpetrated violence after a court ruling on abolishing the joint tenancy of spouses. **However, the reality shows that the above mentioned provision of the Civil Code is usually applied only when issuing a court protection order restricting the right of use of one of the spouses to the jointly owned apartment or house.**<sup>26</sup>

38. Another shortcoming of the courts’ practice is the fact that even though the above mentioned provision of the Civil Code does not state that its enforcement requires sentencing the perpetrator in the criminal proceeding against him/her, courts often terminate the civil proceeding in the matter of restricting the perpetrator’s right of use justifying such decision by stating that the court ruling in the criminal proceeding against the perpetrator is necessary first. If the perpetrator is exonerated from the accusation in the criminal proceeding against him/her, the court in the civil proceeding often dismisses the motion of depriving the violent spouse of his/her right of use to a jointly owned apartment/house as unsubstantiated.

---

<sup>24</sup> “(1) A person who commits the crime of abuse of a close person or a dependent person thus causing them physical or psychological suffering especially by:

- a) beating, kicking, punching, causing injuries and burns of various kind, humiliation and disdain, ongoing stalking, threatening, inducing fear or stress, violent isolation, emotional blackmail or other forms of behavior threatening their physical or psychological health, or their safety,
- b) unjustified deprivation of food, rest, or sleep, deprivation of essential personal care, clothing, hygiene, health care, shelter or education,
- c) forcing beggary or activities demanding excessive physical or psychological strain with regards to their age or health, or an activity causing damage to their health,
- d) exposure to substances causing harm to their health, or
- e) unjustified restriction of access to the possessions they are entitled to use, shall be sentenced to imprisonment for three to eight years or punished by injunction against his/her activities.

The perpetrator shall be sentenced to imprisonment for seven to fifteen years, if he/she commits the crime in paragraph 1 and

- a) causes a grievous harm to a person’s health or their death,
- b) out of a separate motive,
- c) more dangerous way of conduct.

(2) The perpetrator shall be sentenced to imprisonment for fifteen to twenty-five years or life sentence if he/she commits the crime in paragraph 1, and thus causes grievous harm to the health of several persons or causes death of several persons.”

<sup>25</sup> Section 146, Section 705a, Section 112 Act No. 40/1964 Coll.of Laws.

<sup>26</sup> Section 76 (g) of Act No. 99/1963 Coll., introduced by the amended Code of Civil Procedure.

39. General provisions on damages compensation of the Civil Code<sup>27</sup> can be used for claiming pecuniary or non-pecuniary damages compensation. The existing provisions of the Civil Code are usually applied especially in cases when the violation of the right for protection of individuality causes damage to a person's dignity or reputation in the eyes of the public. It will therefore be necessary to adjust the non-pecuniary injury compensation to the specific needs of the injured party in cases of violence against women.

## 2. Protective Mechanisms and Interdisciplinary Approach

40. In 2004, the Slovak government passed the *National Strategy on Prevention and Elimination of Violence against Women and in Families*<sup>28</sup> (hereinafter "the Strategy") addressed in the government report in paragraphs 142, 143 and 145. After presenting the Strategy, the Slovak government faced immense criticism on the part of NGOs whose requirements had not been taken into account in the Strategy. As it is clear from the title of the Strategy itself, **the Strategy is not a specific document focusing on elimination of violence against women, but it rather integrates the issue into the issue of violence in families**, which means that it deals with violence against women, children, elderly people, disabled people, etc. Integrating such diverse issues into „one package“ means that (the Strategy) does not enable to develop really effective measures aimed specifically at elimination of violence against women. Moreover, integrating violence against women into the issue of violence in families suggests that dysfunction of a family or a member of a family is the cause of violence against women.

41. **The Strategy does not at all reflect the fact that violence against women is, as gender based violence, so specific in its nature that its prevention and elimination necessarily requires separate approaches and measures.** The General Recommendation no. 19 to Article 1 of the CEDAW Convention, which defines discrimination of women, proves the above facts. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. The Strategy, on the contrary, fails to recognize that gender based violence is related to female identity and to unequal division of power between women and men in the society. Recognizing and acknowledging the connection between violence against women and patriarchal structure of the society must form the basis of every document aimed at prevention and elimination of this phenomenon. **The principle of gender sensitive approach as the basis of elimination of violence is mentioned in the Strategy only formally without being in any way reflected in its particular measures, which then prevents developing measures in accordance with the above mentioned human rights base.**

42. One year after passing the Strategy, the Slovak government passed the *National Action Plan on Prevention and Elimination of Violence against Women for years 2005-2008*<sup>29</sup> (hereinafter "the NAP") addressed in the government report in paragraphs 144-146. Although the NAP, unlike the Strategy, focuses specially on the issue of violence against women, it fails to define the expected financial and personnel costs for its effective implementation, which is one of its most significant shortcomings. **In reality, the government has not allocated any funds for implementation of the NAP** – it left the implementation of its measures and their funding to the individual ministries which are implementing the tasks assigned to them only formally.

43. The Ministry of Labor, Social Affairs and Family in co-operation with the Government Council on Crime Prevention Expert Group on Prevention of Violence Against Women and in Families (hereinafter „the Expert Group“) is responsible for implementation and meeting the goals of the NAP. Despite the fact that the Expert Group was formed in 2005, it has only had three sessions so far. To date, the evaluation report on its activities is not available and no funds have been allocated for its work. Representatives of ministries, self-governing regions, scientific institutions and NGOs are members of the Expert Group. Most of these people have no practical experience with the issue of violence against women and **any critical comments on the part of NGO members of the Expert Group are belittled and not taken into consideration.** The Government report, paragraph 36, claims that the

<sup>27</sup> .Section 11, Section 13, Section 420 of Act No. 40/1964 Coll.of Laws.

<sup>28</sup> Resolution of the Government of the Slovak Republic No. 1092/2004.

<sup>29</sup> Resolution of the Government of the Slovak Republic No. 635/2005.

Expert Group „... supports creation of other working groups and teams, co-ordinates the creation of intervention teams having a relevant mix of professions and monitors progress, and designs the indicators ... in conformity with the common European system for measuring progress in combating violence against women.“ This is clearly misleading information - the Expert Group has not worked on defining indicators and it definitely does not co-ordinate setting up intervention teams. It gathers only formally and completely ignores critical comments of its NGO members.

44. Intervention teams of professionals coordinating the work of relevant professions within self-governing regions and Offices of Labor, Social Affairs and Family (UPSVaR) should be set up within the NAP implementation. Since the curricula of most educational institutions training the future experts in the relevant professions do not specifically deal with the issue of violence against women and there is not a compulsory systematic training for experts in the individual relevant professions, it is not possible to set up such teams at the moment and build the institutional framework of coordinated support for women – survivors of couple violence, which is one of the NAP objectives. Such situation conflicts with the General Recommendation No. 19 to Articles 16 and 5 of the CEDAW Convention according to which “[g]ender-sensitive training of judicial and law enforcement officers and other public officials is essential for the effective implementation of the Convention.”<sup>30</sup>

45. The NAP should promptly respond to the necessity to increase the number of women’s refuges and it should provide for setting up specialized services within the social services network that would reflect the needs of women – survivors of violence, which is directly embedded in the General Recommendation No. 19 to Articles 16 and 5 of the CEDAW Convention („Appropriate protective and support services should be provided for victims.”).

46. Nonetheless, no funds have been allocated for the above purposes, nor have the standards for such service provision been defined. At the present time, there are two women’s refuges providing services specifically to women – survivors of couple violence and their children - offering approx. 38 places and 5 counseling centers providing services specifically to the above target group in Slovakia.<sup>31</sup> **None of the women’s refuges meets one the basic standards recommended by the EU – free of charge services.**

### 3. Non-Governmental Organizations

47. Even though developing a system for women’s NGOs funding is one the NAP tasks, NGOs operating in the field of violence against women are still funded insufficiently by means of the individual ministries subsidies scheme and the committees allocating the money to NGOs do not have sufficient expertise in the field of violence against women. **A framework of funding services provided to women – survivors of couple violence – by NGOs is non-existent despite the fact they often substitute the role of state and local self-governments as bodies responsible for social services provision.**

48. **Cooperation of the state/public authorities with NGOs in the field of drafting and implementing documents and plans on violence against women is unsystematic and inconsistent.** Most of the times, the co-operation means separate activities especially at the local and regional levels mostly initiated by the NGOs.

### 4. Prevention

49. The situation in the area of elimination of violence against women through work with the media is, unlike in other areas where at least partial changes have occurred, alarming. Not only is there a lack of specific strategies towards achieving changes in the media environment, but any efforts to introduce preventive measures in this area on the part of state institutions have also failed.

---

<sup>30</sup> UN, Committee on the Elimination of Discrimination against Women, „General Recommendation No. 19: Violence against women“, 11th Sess. 1992, para. 24b.

<sup>31</sup> Monitoring Report for the Stop Violence against Women National Monitor Program, Fenestra, Košice, 2006.

50. In the Slovak Republic, there have been no analysis of violence against women monitoring and the ways violence and gender issues are presented in the media. Only partial monitoring has been carried out and its outcomes clearly prove that there are only a few media outputs presented in gender sensitive way. There is a complete absence of government media campaigns sensitizing both the general and professional public on the issue of violence against women. In Slovakia, we do not have monitoring and analysis centers that would provide information needed for steering the strategic activities for the media; legislative and self-regulatory mechanisms lack even the basic principles of gender equality; training activities are only partial and do not meet the requirements for systematic training necessary for changing the current situation in the field of media.

51. Measures on working with the media are among the individual measures included in the NAP. While it is a positive that these aspects have been at all included in the NAP, the reality is that the measures specifically aimed at **supporting gender equality and gender sensitiveness, which should be the key elements in prevention of violence against women, have not been reflected at all. The NAP only offers measures in relation to violence; that is not in its social context.** It consequently results in non-compliance with the General Recommendation No. 19 (para. 24(f)): „...Effective measures should be taken to overcome these attitudes and practices. States should introduce education and public information programs to help eliminate prejudices that hinder women's equality”.

52. The current situation in the area of institutional education is similar. The fact that education endorsing gender stereotypes repeatedly creates and encourages inequality of power in the society, and thus contributes to occurrence and tolerance of violence against women, has not become a basis of effective strategic action on the part of the Slovak government. It can be said again that relevant research focusing on prevalence of stereotypical perceptions of roles of women and men in the institutional education system does not exist. In this sense, a purposeful data collection through research or analysis that could be the basis for initiating constructive changes is necessary.

## **5. Research and Data Collection**

53. In Slovakia, only one representative research in the field of violence against women was carried out in 2003, which was funded by private and foundation resources. There is not a more recent research (either qualitative or quantitative) or statistical findings and the Slovak government has not initiated either their implementation or funding. At the time of finalizing this report, data collecting and analysis of the 2<sup>nd</sup> representative research on violence against women in the Slovak Republic was in progress. However, the results were not officially available (summary report). The research was carried out by the Institute for Labor and Family Research and the data collecting was funded by UNIFEM. None of the relevant professions collects data specifically related to violence against women in intimate relationships, which then hinders development of coordinated support and strategic planning framework for dealing with this issue. Non-existence of genetic data bank of perpetrators of violence against women that could make the work of law enforcement authorities easier is yet another significant problem.

## **Recommendations to the Slovak Government and Other State Bodies**

54. Based on the above mentioned facts, we hope that the CEDAW Committee incorporates the following recommendations to the Slovak Government into its concluding observations:

- To develop effective mechanism for the purposes of monitoring of the current legislation enforcement by the law enforcement authorities and to regularly evaluate the monitoring and make the outcomes of the evaluation available to the public.
- To develop a mechanism of regular testing of court experts in the field of psychology with regards to symptoms of trauma in the victims of violence against women in intimate relationship and to ensure specific training on this issue for these professionals.

- To develop a separate strategy on elimination of violence against women and to take into account the basic reference point for elimination and prevention of violence – gender inequality – in all its measures.
- To provide for sufficient funds allocated to the NAP and the Expert Group activities; to ensure regular evaluation of the Expert Group activities and progress made in meeting the NAP objectives and to make the outcomes of the evaluation available to the public.
- To develop clear and detailed directives for methods of work with victims of couple violence against women for all relevant professionals and to incorporate the issue of violence against women into the system of pre-gradual and post-gradual education of all relevant professions.
- To actively invite feminist and women's NGOs to co-operation in the field of developing strategic documents and plans on elimination of violence against women; to respect their expertise in this field and to allocate sufficient funds for capacity building and institutional support of NGOs working in the area of primary, secondary and tertiary prevention of violence against women and service provision.
- To promptly initiate and financially secure activities that would motivate the media to participation in development of zero tolerance of violence and gender equality principles, as well as to their participation in media information campaigns in this field.
- To initiate and carry out training in the field of gender equality and gender based violence for professionals on media and marketing communication; to amend the education standards by gender sensitive approach in media work at universities which provide pre-gradual training of professionals working in the field of media and marketing communication.
- To eliminate gender insensitive approach and promotion of gender stereotypes in the area of institutionalized education at all types and levels of schools, from kindergartens to universities; to analyze and monitor educational methods at all types of schools with regards to prevalence of gender insensitive approaches and promotion of gender stereotypes.
- To improve and elaborate on the record of prevalence and consequences of violence against women in co-operation with experts from NGOs and to develop a system of total statistical data processing. To provide for regular publishing of statistical data on violence against women.
- To incorporate the violence against women related indicators into more broadly framed national research (people's health research, general social survey, victimization research, crime research, latency research, demographic research and population climate research, etc.).

## **Article 6: Trafficking in Women**

*Katarína Farkašová, Alliance of Women in Slovakia*

### **1. Overview of the Current Situation**

55. The situation in the field of THB in the Slovak Republic began to change significantly in 2005 when the U.S. Foreign Office published its report. On the four point scale, Slovakia ended up in the report (2004) in the second group, among countries which „do not meet the minimum standards, but have taken some steps towards improving their combat of trafficking in human beings, but do not pay enough attention to this issue“. Such a result was unacceptable for the international image of Slovakia due to the fact that in 2003 the United Nations Office for Drugs and Crime (UNODC) and the Ministry of Interior project was approved, which should have launched the THB Victims Support Program.

56. As a result of the U.S. report evaluation, Eduard Kukan, the Minister of Foreign Affairs at that time, initiated activities designed to immediately change the situation. In 2005, *the Expert Group on*

*Prevention and Assistance to Victims of THB* established by the Government Council for Crime Prevention was set up, starting its operation in June 2005. The following institutions are represented in the Expert Group: Ministry of Interior, Ministry of Justice, General Prosecutor's Office, Ministry of Foreign Affairs, Ministry of Labor, Social Affairs and Family, Ministry of Finance, the Office of the Government (Office for Combating Organized Crime, the Office of the Plenipotentiary of the SR Government for the Roma Communities and IOM. **Apart from the Expert Group Deputy Coordinator, who is, at the same time, the executive Director of a civic association, no NGOs were represented in the Expert Group.**

57. The role of the Expert Group was to map the situation in Slovakia and to design a strategy and *the National Action Plan for Combating Illegal Trafficking in Human Beings for Years 2006-2007* (hereinafter "NAP 2006 - 2007"). The objectives of NAP were supposed to center around the following areas: the organization and co-ordination, data collecting and research, prevention, information and education, legislation, victim support and co-operation. Nevertheless, the document adopted in January 2006 did not meet the international criteria for an Action Plan as it did not introduce specific activities, specifically assigned responsibilities, division of tasks with deadlines and, most of all, the budget including sources of funding. Therefore, it is more a strategy than an Action Plan.

58. Although the Expert Group has not been formally dissolved and although its members have stopped meeting, it still shows some signs of activity such as an Information Campaign aimed at the leaders of six municipalities in Eastern Slovakia and focusing on the Impact of the Schengen Agreement on Slovak citizens and the risks of trafficking in human beings; training for the municipal police carried out in co-operation with the IOM and a series of trainings for crime prevention police officers in co-operation with the Alliance of Women in Slovakia.

59. Another (parallel) expert group – *the Anti-trafficking Expert Group* – was set up on 15th December 2006, which has undertaken the tasks resulting from the NAP and should deal with all aspects of combating THB. This Expert Group meets once a year. In addition to the experts working with the first Expert Group, there are new experts of the Ministry of Foreign Affairs, the Migration Office, the Frontier and Aliens Police Unit, representatives of the individual units of the Ministry of Interior and the Police Headquarters. NGOs are also represented. Several changes have occurred in both Expert Groups – competences have been changed, as well as responsibilities and the coordinators, mostly due to the political changes in the country. The two Expert Groups do not communicate and do not co-operate.

60. While *the Expert Group on Prevention and Assistance to Victims of THB* has been dealing exclusively with prevention, *the Anti-trafficking Expert Group* is focusing on the strategy. However, issues such as identification of victims, their referral to the NGOs and human rights protection are not covered. Such division of tasks means that there is practically nobody dealing with the THB victims at the expert level.

## **2. Funding of Measures for Support and Protection of THB Victims**

61. No long-term and systematic funding provisions have been adopted for services for the victims. Although 1.9 million SKK was originally allocated in the 2006 state budget (in the Ministry of Interior's budget line earmarked for NGOs for the purposes of THB victim support and protection) for activities envisaged in the Action Plan, this amount was reduced to 500,000 SKK as part of budget adjustments adopted in the course of the year. As of December 31 2006, 480,000 SKK of this budget had been spent on the purchase of software.<sup>32</sup> In 2007, 2 million SKK was allocated for carrying out the tasks of the ministry responsible for the issue of combating THB, mainly for financing of NGOs (1.5 mil.SKK), promotion materials (150.000 SKK) and for training (350.000 SKK).<sup>33</sup>

## **3. THB Victim Support and Protection Program**

---

<sup>32</sup> Šnajdrová, J., "UNODC – THB Victims Support and Protection Program in Slovakia", Bratislava, 2007.

<sup>33</sup> *Ibid.*

62. *The THB Victim Support and Protection Program* (hereinafter “the Program”), was started as early as in 2003 and was supposed to bring about a significant shift in dealing with the issue. Since then the program had undergone numerous changes and was finally launched in 2007. Even though it was designed in compliance with the international standards for all THB victims, including foreigners, it was, in its initial pilot stage, limited only to Slovak victims trafficked to foreign countries. **In the end, only 3 victims were suggested for the program in 2007. Nevertheless, only two women took part in the program eventually.**

63. Based on a tender conducted by the Ministry of Interior, three NGOs – Prima (Bratislava), Storm (Nitra) and Dotyk (Beckov), whose activities are nebulous not only in terms of its actual work, contacts and funding, but also by the fact that the organization has its own security services, – were chosen to do the field social work. The first two organizations were granted 150.000 SKK each for 2007. Their task was to do outreach work, identify and inform the victims about the Program. The organization “Dotyk” was granted 1.200.000 SKK and has undertaken long-term support to THB victims, which continues even if a victim is no longer in the Program, or if he/she has never entered the Program. **No NGOs in the Eastern Slovakia were invited to participate in the Program despite the fact that most THB victims come from that region, especially from segregated Romani communities.** Before the launch of the Program, the above NGOs did not receive any training or information on how to communicate with the potential victims and how to motivate them to enter the Program.

64. A THB victim could stay in the Program only for 40 days, but the time for deciding whether the victim will or will not enter the Program was also set for 40 days. Therefore, the time for deciding was practically not allowed for because, in the case when the victim decided to co-operate with the police after the 40 day-period, the time for his/her stay in the Program had already expired. There is a concern that victims are not given information about legal protection in case they decide to testify against traffickers. It is not clear who, if anyone gives a competent explanation to victims that they can ask for their personal data in the files to be kept confidential. Participation of a victim in the Program was conditioned by the victim’s co-operation with the police.

65. Funding of the Program is based on calls for proposals, which NGOs need to always submit by the end of January. The Expert group decides which projects will be funded. It can be assumed that funds are granted only to the organizations having an agreement on co-operation in the Program with the Ministry of Interior. As the organizations are chosen via interviews at the Ministry of Interior, it is questionable if it is possible for an organization, which brings a new, interesting stimulus to the issue of THB, to receive funding even if it is not a part of the Ministry of Interior Program.

66. Data (information, statistics) on THB are not uniformly archived. A file passing from one state department to another is given a different reference number according to the particular department’s system, which makes it difficult to track the file or the course of a particular case. Each department (the Ministry of Interior, the Prosecutor’s Office, and the Ministry of Justice) develops its own statistical system using different software and examining different aspects, which means that the individual statistics are mutually incomparable and incompatible. Moreover, the data is stored in archives of various institutions. As a result, it is not possible to, for instance, monitor how many THB cases, in which charges were brought against a person/persons after 2004, have resulted in a court conviction and so on. The issue of incoherent statistics is not perceived by the representatives of these institutions as a serious one and there are no plans to remedy this situation. It is often the case that incoherent and contradictory figures relating to the number of resolved cases of THB or the number of persons sentenced for THB or related criminal offences are presented to the media and the public. Moreover, there are no data on some phenomena related to THB (e.g. illegal street sex business in Slovak towns and the THB cases related to it, in which Slovakia is the target country).

67. Since 1st July 2007, the amended Act on Aliens Residence<sup>34</sup> enabling the victims of THB to apply for the “leave to remain” status has been in force. Nonetheless, a foreigner can be granted a permanent residence only if it is in “the interest of the Slovak Republic” and upon the National Coordinator’s decision. “The interest of the Slovak Republic” is not defined or explained in any of the relevant documents or regulations, which means that leave to remain status for THB victims is essentially only hypothetical.

---

<sup>34</sup> Act no.48/2002 Coll. of Laws on Aliens Residence and Act no. 693/2006 Coll. of Laws.

#### 4. Human Rights

68. The fact that Slovakia is lacking a social program for THB victims based on human rights principles that could help the victims break off their contact with „the underworld“ is the most significant problem of providing assistance to THB victims. It shows that trafficked persons are usually not aware of their human rights and the fact they were violated. The views on THB are generally, including the views of state administration, marked by criminalization of victims. The human rights wording of the state documents do not come from Slovakia; they come from abroad as formal wording and are thus not felt as owned and authentic. Because of their language, the proposed solutions seem alien or only a lip service.

69. Even in *the National Program on Combating Trafficking in Human Beings* (hereinafter „the NPC“) and *the National Action Plan on Combating Trafficking in Human Beings for 2008 – 2010* (hereinafter „the NAP“)<sup>35</sup> the rights of victims are mentioned only by means of literal and mechanical transcription of international documents wording regardless of the given context. The above documents do not mention and do not list which human rights of victims are violated most frequently, violation of which human rights the law enforcement agencies should be aware of or rehabilitation of which human rights the victim support programs should attempt. In these documents, human rights are only a slogan whose meaning is not defined anywhere, and a term to which no particular objectives and activities are connected. Moreover, the wording also used in the NAP for 2006 – 2007, **“unlawful trafficking in human beings“ is used in these documents suggesting there is a different kind of trafficking in compliance with the law. The government documents thus verbally question honest and human attitude to the victims and, due to the nature of this issue, also cast doubt upon the possibility to deal with it successfully.**

70. NPC for 2008 – 2010 was adopted on 23rd April 2008; therefore it can be only said in this report that its ambition is to factor in the drawbacks of the previous NAP. Even though the new NPC is signaling the effort of the State to make combating THB more efficient, there are also signals that cast doubt on this attempt. The news in the national print media saying the National Coordinator is suspected of domestic violence against his wife while this allegation has not been plausibly confirmed or disproved is one of such signals.<sup>36</sup> The public may be confused if there is news saying that one of the chief officials in combating THB has allegedly acted in a way that contradicts his professional ethics. Denying access of the members of a team preparing a report on the issue of THB in Slovakia for UNODC for the purposes of the international conference “Trafficking in Human Beings in Central Europe“ organized by the Ministry of Interior on 31st March – 1st April 2008 is yet another signal. Therefore, the question arises as to whether the new NPC and NAP will really bring about a qualitative change and progress in combating THB.

71. Practical experience in the contact with the members of the Police Force of the Slovak Republic, prosecutors and judges who encounter the issue of THB shows that if there are people among them who are trying to respect the rights of THB victims, they are doing so on their own initiative and due to their human qualities. The Ministry of Interior has not carried out any training on, for instance, vulnerable victims interrogation techniques for the police officers.

72. Furthermore, the above mentioned formal attitude to the rights of victims results in communication towards the media and the public supporting prejudice rooted in the society, or not disproving it. The state bodies do not take any visible action in the field of prevention and informing the public about the issue of THB. Also, inadequate attention is paid to other forms of prevention and activities in vulnerable communities and socially vulnerable locations. The society, therefore, perceives the victims exclusively as “prostitutes“ willingly involved in immoral and unlawful activities. In this context, THB does not seem to be an issue to which the government attaches adequate importance.

#### Recommendations to the Slovak Government and Other State Authorities

73. Based on the above mentioned facts, we hope that the CEDAW Committee incorporates the following recommendations to the Slovak Government in its concluding observations:

---

<sup>35</sup> Resolution of the Government of the Slovak Republic No. 251/2008.

<sup>36</sup> Plus 7 days, 13th April 2008.

- To design the THB Victims Protection and Support Program for years 2008-2010 in a way that ensures that the protection of THB victims human rights is its primary and main objective. The Program should provide for sufficient time for the victims to decide if they will or will not enter the Program, effective assistance and a chance to enter the Program regardless of the fact if the victims wish to co-operate with the law enforcement agencies or not.
- Identification of victims should be carried out without complications and hesitation immediately during the first contact and should be carried out as soon as possible based on instructions which should be a part of training (identification guidelines) for all parties co-operating in the Program. The aim is to achieve better identification and support of victims in accordance with their human rights. Common identification criteria should be designed, as well as a common list of signs upon which a THB victim can be identified. This should then be the subject of training of all professionals working in the field of THB. If all stakeholders in the area of THB victims support do not have comprehensive information also on the structure of investigation and criminal proceedings, they will not be able to help a victim enter the Program.
- To secure provision of information on the possibility to ask for a legal representative (free of charge) and on the institute of concealing the witness' identity in an adequate form.
- To introduce standards for providing support to victims, their monitoring and supervision and to provide for direct funding of support instead of funding NGOs projects. To develop a legal framework for providing social, health care and legal services to the victims while maintaining their anonymity.
- To invite human rights NGOs to cooperation particularly in the field of training, education and prevention. To build up proper and equal relationships with NGOs, including feedback to NGOs on the course of actions in the case of their client,
- To increase the number of employees of the THB, Sexual Exploitation and Victim Support Unit at the Office for Combating Organized Crime, to appoint a health care specialist for victims outside the common health care system.
- To introduce systematic training on THB for state administration employees in co-operation with human rights NGOs providing licensed trainings. This also applies to practical skills of the law enforcement agencies representatives in the field of communication and work with THB victims.
- To develop a system of stabilized, systematic and sustainable funding of field social work programs and to fund projects on THB also of the organizations not contracted in the Ministry of Interior Program.
- To define the conditions for granting both the permanent residence and leave to remain status more clearly and to make the process of granting it more transparent.

## **Article 7: Political and Public Life**<sup>37</sup>

*Zuzana Magurová, Pro Choice Slovakia*

74. Ongoing low participation of women in political and decision-making processes is a characteristic feature of the Slovak Republic. Immediately after the 2006 elections, women took up only a few more seats in the parliament than in the previous elections, that is 16% compared to 14.7% in 2002. That means we need twice as many female MPs as there are now in order to have one third of women represented, which is generally considered the minimum number for having a real ability to influence

---

<sup>37</sup> Information in this chapter is taken from a publication currently in progress: Filadelfiová, J.: „She and He in Slovakia II“ (EQUAL Project Plus for women 45+), Institute for Public Issues, Bratislava.

decision making. After some male MPs took up positions at high levels of executive power, women eventually got 20% of seats in the Slovak Parliament (it was 19.3% in 2002 and 12.7% in 1998).

75. The gender structure of parliament is already indicated by representation of women on political parties' lists of candidates. In the 2002 elections, 23.1% women applied for a seat in the Parliament and four years later, it was 22.7%. In 2002, out of the total of 2.618 candidates, 604 were women and in 2006, there were only 532 women out of the total of 2.340 candidates. That shows that the gender structure of the political parties' lists of candidates were a little less favorable than four years before. The number and the representation of women was far from reaching one third of all nominations, as well as far from proportionality in representation, although several political parties claimed before the elections they would increase representation of women on their tickets. This situation also results from the fact that no laws have been passed to date that would increase political representation of women.

76. Introducing quota to the political parties' lists of candidates, which has been discussed in the Parliament three times – in 2001, 2002 and 2004 – was met with derisory response, even on the part of female MPs. The female MPs pointed out that via introduction of quota women would get to the Parliament only because they were women, not because of their abilities. The political representation at that time did not respect the fact that most of the Slovak public were convinced about disadvantaged position of women in politics and was; therefore, open to practical measures for increasing the representation of women in politics. 58% of citizens thought the representation of women in the Parliament was insufficient and 59% of citizens thought the representation of women in the Government was low.<sup>38</sup>

77. Representation of women at the highest positions of the executive power is even more underdeveloped than their representation in the Slovak Parliament. Even though it has been changing in the last 15 years, it has never reached more than one fifth of representation. A low level of gender awareness of political parties was evident in the process of forming the last two governments. Immediately after the 2002 elections, there was no woman appointed to a higher executive position in the government of Mikuláš Dzurinda. Only at the end of its term, there were two women appointed to the position of a minister – the Minister of Labor, Social Affairs and Family and the Minister of Justice.<sup>39</sup> In the current government of Robert Fico, only one ministerial position was entrusted to a woman after the elections – the Ministry of Labor, Social Affairs and Family.<sup>40</sup> At the beginning of 2008, another woman was appointed to the position of the Minister of Agriculture.<sup>41</sup> Despite the fact that the winner of the last elections and the main member of the governmental coalition at the moment is the political party Smer – SD, claiming social and democratic principles, the gender point of view was probably waived in the process of forming the government coalition consisting of Smer – SD, SNS and ĽS – HZDS.

78. For the first time in the Slovak history, a woman was appointed to the position of the Chairperson of the Constitutional Court of the Slovak Republic in 2007. However, there are no women in the administration of other important institutions or bodies. It can be said that the higher the position the lower is the representation of women in Slovakia.

79. None of the Slovak governments has seriously dealt with the need of increasing the number of women represented in political and other decision making processes. Moreover, adopting any regulations for these purposes is not supported by the law and order of the Slovak Republic. Nevertheless, as early as in 2001, the Slovak government at that time adopted the Conception of Equal Opportunities between Men and Women developed by the Equal Opportunities Department of the Ministry of Labor, Social Affairs and Family. In this conception the government also undertook to „support modification of the law on political parties and elections with a view to securing representation of women in politics and in political parties, for example by means of introducing quota and other short term temporary measures“. Seven years later, it can be said that none of it has been done to date.

---

<sup>38</sup> International Center for Family Studies, "Women and Men in Politics", 9/2003, Bratislava.

<sup>39</sup> In October 2005, Iveta Radičová became the Minister of Labor, Social Affairs and Family and in February 2006, Lucia Žitňanská became the Minister of Justice, both nominees of SDKÚ.

<sup>40</sup> Viera Tomanová, the nominee of Smer – SD, is the current Minister of Labor, Social Affairs and Family.

<sup>41</sup> Zdenka Kramplová, the nominee of ĽS – HZDS, is the current Minister of Economy.

## Recommendations to the Slovak Government and Other State Bodies

80. Based on the above mentioned facts we hope that the CEDAW Committee incorporates the following recommendations to the Slovak Government into its concluding observations:

- To introduce temporary positive action measures (e.g. quotas and other) with a view to increase participation of women in politics including Romani women and women from other minority groups.

## Articles 10, 12 and 16: Sexual and Reproductive Health

*Adriana Lamačková, Oľga Pietruchová, Pro Choice Slovakia*

81. In the last few years, sexual and reproductive health has become a political issue in Slovakia, often polarizing the society. The right of women to privacy and protection of personal liberty guaranteed to all persons by the Constitution of the Slovak Republic has become the target of attacks on the part of conservative and religious groups whose aim is to prevent access to sexual and reproductive health services. This chapter will outline some of the most current issues related to this area as for the Law on Artificial Interruption of Pregnancy (hereinafter “Abortion Law”), barriers in the access to reproductive health services (conscientious objection, affordability), the proposed National Program on Protection of Sexual and Reproductive Health in Slovakia, sexuality education and institutional safeguarding of the sexual and reproductive health area.

### 1. Efforts to Restrict the Permissive Abortion Law

82. The legal regulation of the access to artificial termination of pregnancy (abortion)<sup>42</sup> has been provoking an intense social discussion for several years. This discussion was triggered by the effort of a group of MPs of the Christian Democratic Movement to change Article 15 of the Constitution of the Slovak Republic, which guarantees the right to life. These MPs tried, along Polish lines, to achieve the constitutional embedding of the right to life from the moment of conception, which would, in fact, lead to unconstitutionality of the current Abortion Law.<sup>43</sup>

83. The currently effective Abortion Law allows for performance of abortion on a woman's request without the need to specify the reasons up to 12<sup>th</sup> week of pregnancy.<sup>44</sup> Apart from that, it is possible to terminate pregnancy up to 12th week on the grounds of the woman's health and up to 24th week of pregnancy on the genetic grounds.<sup>45</sup> Regardless of the duration of pregnancy, it will be terminated if the woman's life is endangered or if the fetus is not viable or is badly damaged.<sup>46</sup>

84. In 2001, after the unsuccessful effort to change the legal provision on the right to life in the Constitution, a group of MPs of the National Council of the Slovak Republic turned to the Constitutional Court of the Slovak Republic with a motion objecting to the constitutionality of the Abortion Law.<sup>47</sup> According to the petitioners, the law violated Article 15 of the Constitution, which guarantees the right to life to everyone and, at the same time, states that human life is worth

---

<sup>42</sup> Act no. 73/1986 Coll. of Laws on Artificial Interruption of Pregnancy as amended by Act no. 41/1991 Coll. of Laws [hereinafter “Abortion Law”] and the Ordinance of the Ministry of Health of the Slovak Republic SSR no. 74/1986 Coll. of Laws, which exercises Act no. 73/1986 Coll. of Laws on Artificial Interruption of Pregnancy as amended by Act no. 98/1995 Coll. of Laws [hereinafter „Ordinance no. 74/1986 Coll. of Laws”]. This chapter uses the terms artificial interruption or termination of pregnancy and abortion alternatively as having identical content.

<sup>43</sup> *Ibid.*

<sup>44</sup> Section 4 of Abortion Law, *ibid.*, reads: “A pregnancy shall be artificially interrupted if the woman makes a written request to this effect, the pregnancy has not passed the twelfth week, and there are no contraindications due to health reasons of the woman.”

<sup>45</sup> Section 2 paragraphs 1 and 3 of the Ordinance no. 74/1986 Coll. of Laws, *op. cit.*, reads: “(1) A pregnancy can be interrupted on the health grounds if it has not passed 12th week. [...]”

(3) A pregnancy can be interrupted on genetic grounds if it has not passed 24th week. “

<sup>46</sup> Section 2 paragraph 2 of the Ordinance no. 74/1986 Coll. of Laws, *ibid.*, reads: “Regardless of the duration of pregnancy it can be interrupted if the life of woman is endangered or if it is found out that the fetus is not viable or it is badly damaged.”

<sup>47</sup> Motion in accordance with Article 125 (a), (b) of the Constitution of the Slovak Republic, 3rd May 2001, Rvp 278/01.

protection even before birth.<sup>48</sup> The petitioners' aim was to restrict the access to abortions by asking the Constitutional Court to pronounce abortions performed up to 12th week of pregnancy without the need to specify the reasons unconstitutional. The petitioners drew upon a thesis that the legal regulation did not provide a fetus any protection up to 12th week of pregnancy and therefore violated Article 15 paragraph 1 of the Constitution, which should, according to their interpretation, protect human life from the time of conception.

85. The interpretation of the MPs that Article 15 paragraph 1 of the Constitution provides the fetus the „right to life“ is not supported by the international human rights treaties and the relevant jurisprudence and it is not in compliance with the legal provisions on abortion in prevailing majority of the European countries.<sup>49</sup> In December 2007, the Constitutional Court passed a decision<sup>50</sup> confirming the constitutionality of the Abortion Law, thus confirming the constitutionality of abortions performed on a woman's request up to 12th week of pregnancy without the need to specify the reasons. According to the Court, the period of 12 weeks for abortions on a woman's request is not stipulated arbitrarily, but „...depends on the creation of the fetus's sensibility and it is in compliance with the prevailing European practice of relevant legislation in states enabling interruption of pregnancy on request (or, as the case may be, on the ground of social indication) that usually ranges from the 10<sup>th</sup> to 15<sup>th</sup> week of pregnancy.“<sup>51</sup> Referring to the European Court of Human Rights jurisprudence, the Constitutional Court emphasized the inner connection between the life of fetus and the life of pregnant woman and the fundamental right of the woman to privacy related to it<sup>52</sup> and the value of unborn human life protected by the Constitution.<sup>53</sup> In relation to this, the Constitutional Court stated that the legislator should observe that its course of actions is not arbitrary and enables „a *real* decision by the woman on artificial interruption of her pregnancy and for respecting the constitutional value of the unborn human life“ when establishing the procedure and period for artificial termination of pregnancy.<sup>54</sup>

86. Apart from unconstitutionality of the Abortion Law, the petitioners objected the constitutionality of the legally stipulated period for performance of abortion on genetic grounds set forth in the Ordinance of the Ministry of Health of the Slovak Republic that exercises the Abortion Law.<sup>55</sup> According to the MPs, the Ordinance, particularly its Section 2 paragraph 3, allegedly conflicts with Section 4 of the Abortion Law enabling the termination of pregnancy without specification of reasons up to 12th week of pregnancy by stipulating a longer period for abortion on the genetic grounds, which is up to 24th week of pregnancy. The Constitutional Court clearly stated that Section 2 paragraph 3 did not conflict with Section 4 of the aforementioned law as Section 2 paragraph 3 deals with abortions on the genetic grounds while Section 4 of the same law deals with a different kind of abortion -- abortion on request without the need to specify the reasons.<sup>56</sup> Termination of pregnancy on the genetic grounds falls under abortions on the health grounds regulated by Section 5 of the Abortion Law. The provision of Section 5 enables termination of a woman's pregnancy if „her life or life of the fetus are endangered or if fetal development manifests genetic anomalies“, but it does not stipulate any periods for performance of such abortions. These periods are stipulated by the respective Ordinance.

87. Even though the Constitutional Court did not find discrepancy between Section 2 paragraph 3 of the Ordinance and Section 4 of the Abortion Law, it considered it important to examine if the Ordinance, by stipulating the period for performance of an abortion on the genetic grounds, did not

---

<sup>48</sup> Article 15 paragraph 1 of the Constitution of the Slovak Republic, Act no. 460/1992 Coll. of Laws as amended, reads: „Everyone has the right to life. Human life is worth protection even before birth.“

<sup>49</sup> See „Written Comments to the Constitutional Court of the Slovak Republic, PL ÚS/12.01 conformity of Act No. 73/1986 Coll. on artificial interruption of pregnancy as amended by the Act No. 419/1991 Coll. with the Constitution“, prepared by the Center for Reproductive Rights, International Women's Human Rights Law Clinic at City University of New York School of Law in co-operation with Pro Choice Slovakia and Slovak Family Planning Association, April 2007, available at <http://www.reproductiverights.org>. These comments were submitted to the Slovak Constitutional Court in April 2007.

<sup>50</sup> Finding of the Constitutional Court of the Slovak Republic, PL. ÚS 12/01-297, 4th December 2007, [Finding PL.ÚS 12/01-297].

<sup>51</sup> *Ibid.*, part II.B para. 4.

<sup>52</sup> The right to privacy is protected by Article 16 para. 1 and Article 19 para. 2 of the Constitution of the Slovak Republic. Article 16 para. 1 reads: „The inviolability of a person and his/her privacy shall be guaranteed. This right may be restricted only in cases specifically provided by a law.“ Article 19 para.2 reads: „Everyone shall have the right to be free from unjustified interference in his or her private and family life.“

<sup>53</sup> Finding PL.ÚS 12/01-297, *op. cit.*, part II.A.2. para. 2.3, 2.4.

<sup>54</sup> Emphasis added by the authors. *Ibid.* para. 2.4.

<sup>55</sup> Ordinance no. 74/1986 Coll. of Laws, *op. cit.*

<sup>56</sup> Finding PL.ÚS 12/01-297, *op. cit.*, part III para. 3.

violate the limitations of the law. In other words, the Court examined if it was possible to stipulate the period for performance of artificial termination of pregnancy in a regulation having a lesser legal power than a law. The Constitutional Court concluded that an important legal issue such as the period for performance of abortion must be stipulated only by a law and it, therefore, ruled that the relevant provision of the Ordinance had violated the limitations of law.<sup>57</sup> The Court, at the same time, emphasized that it did not question the genetic grounds as one of the legitimate reasons for termination of pregnancy.<sup>58</sup> In April 2008, the Ministry of Health prepared a bill amending the Abortion Law, in which it proposes amending the law by the 24-week period for abortions on the genetic grounds. At the time of finalizing this chapter, the ministerial bill had not been submitted for the Slovak Government session. The legal provision on periods for performance of abortions on the genetic grounds was the subject of a parliamentary bill amending the Abortion Law as early as in 2003. Nevertheless, this bill was not approved due to pressure of the church.

88. The bill amending the Abortion Law submitted by two Christian Democratic Movement (KDH) MPs and one MP of the People's Party - Movement for a Democratic Slovakia (ĽS - HZDS) in January 2008 was yet another effort to restrict the access to safe and legal abortion services.<sup>59</sup> One of the restrictions they proposed was the provision on the 3-day mandatory waiting period for abortions on request without the need to specify the reasons, or shifting the age for the consent of a legal guardian with an abortion from 16 years of age to the age of achieving maturity. All these requirements would restrict the access of women to abortion and thus their right to decide freely if they want to have children and when. This bill was dismissed by the Slovak Parliament in May 2008. However, it cannot be ruled out that the MPs will try to enforce these requirements again during the session on the aforementioned bill amending the Abortion Law prepared by the Ministry of Health.

## 2. Barriers in the Effective Access to Sexual and Reproductive Health Services

### 2.1. Conscientious Objection

89. The access to sexual and reproductive health services in Slovakia is considerably restricted by exercising the conscientious objections to such services. The conscientious objections is exercised not only by the health care staff, but it is also often abused by the top management of hospitals, who frequently ban performance of some interventions (usually abortions or sterilizations) regardless of the opinion of the health care staff. These hospitals thus violate the very essence of the conscientious objection, which can be exercised only by a natural person. In the capital city Bratislava, for instance, out of five public hospitals only one performs abortions. In big regional capitals Trnava and Nitra there is no hospital performing abortions. Apart from that, cases when a gynecologist, primarily for religious reasons, refuses to provide counseling in the field of family planning or prescribe contraception and pharmacies refusing to sell contraception including emergency contraception are occurring more frequently.

90. The possibility to invoke the conscientious objection to any health intervention is provided to the health practitioners<sup>60</sup> by the Ethical Code of a Health Practitioner (hereinafter "the Ethical Code"), which is an annex to the Act on Health Care Providers, Health Practitioners, Professional Health Care Organizations and on Amendment to Some Laws.<sup>61</sup> According to the Ethical Code, „a health practitioner cannot be requested to perform or participate in an intervention that contradicts his conscience except for cases of immediate threat to life or health of persons.“<sup>62</sup> The Ethical Code obliges those who exercise the conscientious objection to inform their employer on this fact. Also, the

---

<sup>57</sup> *Ibid.* part III para. 6, 7.

<sup>58</sup> *Ibid.* para. 7.

<sup>59</sup> Draft law amending the Slovak National Council Act no. 73/1986 Coll. of Laws on Artificial Interruption of Pregnancy as amended by Act no. 419/1991 Coll. of Laws, no. of parliamentary print 539, 11th January 2008, submitted by MPs Pavol Hrušovský (KDH), Daniel Lipšic (KDH) and Ľudmila Mušková (ĽS-HZDS), available at <http://www.nrsr.sk/default.aspx?sid=zakony/prehľad> (last visit: May 2008).

<sup>60</sup> According to Section 27 of Act no. 578/2004 Coll. of Laws on Health Care Providers, Health Practitioners, Professional Health Care Organizations and on Amendment of Some Laws as amended, the following categories are considered health practitioner: a physician, a dentist, a pharmacist, a nurse, a midwife, a laboratory technician, an assistant, a technician, other health practitioners.

<sup>61</sup> Act no. 578/2004 Coll. of Laws, *ibid.*

<sup>62</sup> Ethical Code of a Health Practitioner, Annex no. 4 to Act no. 578/2004 Coll. of Laws as amended, *ibid.*, part "Health Practitioner and Performance of His/Her Occupation", para. 3.

health practitioner is then obliged to inform his/her patients that he/she is exercising the conscientious objection when providing health care.<sup>63</sup>

91. Although the Ethical Code stipulates some of the obligations of health practitioners exercising the conscientious objection, other important obligations should be added in order to secure effective access to health care services. It is particularly the obligation of a health practitioner to, without delay, refer the patient to a health practitioner who provides the service. A health practitioner exercising the conscientious objection to a sexual and reproductive health service should be also obliged to inform the patient about her health status and provide objective information on all sexual and reproductive health services.

92. Apart from setting the obligations of health practitioner, the health care services provider (i.e. a hospital or other health care facilities or a natural person, if he/she is health care provider) should be obliged to provide for performance of the whole range of legal sexual and reproductive health services including those a health practitioner refuses to perform on the grounds of conscientious objection. The State should, therefore, secure that each health care facility employs a sufficient number of health care staff not exercising the conscientious objection in order to provide for effective access to the relevant health care services. Health care facilities founded by the church or a religious association can be exempt from this obligation, but should also perform termination of pregnancy in case of immediate threat to the pregnant woman's life without delay. Apart from that, the church health care facilities should be obliged to inform the woman about the nearest facility that will perform the abortion if the woman wishes to have her pregnancy terminated and there is no immediate threat to her life.

93. Besides the Ethical Code, the Basic Treaty between the Slovak Republic and the Holy See<sup>64</sup> (hereinafter the „Basic Treaty“) of 2000 also addresses the conscientious objection. This Treaty, in its Article 7, recognized the right to exercise the conscientious objection upon the teaching and moral principles of the Catholic Church.<sup>65</sup> This provision further stipulates that the scope and the conditions of exercising the conscientious objection will be regulated by a separate international treaty concluded between the Slovak Republic and the Holy See. In practice, there are cases when the “unlimited“ conscientious objection, particularly in relation to the termination of pregnancy, is exercised not only by some health practitioners, but also by the entire state funded hospitals referring to Article 7 of the Basic Treaty.

94. In 2004, the Ministry of Justice, upon Article 7 of the Basic Treaty, prepared the draft of the partial Treaty between the Slovak Republic and the Holy See on the Right to Exercise the Objections of Conscience.<sup>66</sup> According to this draft, the possibility to exercise the objection of conscience would be exclusively governed by the Catholic teaching. If this draft treaty was approved, it would have the status of an international human rights treaty and would, thus, take priority over the laws of the Slovak Republic. Priority of this treaty over the Slovak laws would lead to granting unjustified preferential treatment to the believers of the Roman Catholic Church as the treaty would grant the right to conscientious objection to persons whose conscience is governed by the Roman Catholic teaching.

95. The treaty would enable unlimited exercise of the conscientious objection in a wide range of social life areas including health care, education and provision of legal services. Within these areas, it would be possible to refuse any performance or activity conflicting with conscience of a particular person. In the context of health care, persons whose conscience is governed by the Catholic teaching could refuse to perform or participate in any intervention including reproductive health services. Apart from the obligation to perform an intervention if a patient's life or health is endangered, the draft treaty does

---

<sup>63</sup> *Ibid.*

<sup>64</sup> Treaty no. 326/2001 Coll. of Laws, *Basic Treaty between the Slovak Republic and the Holy See*.

<sup>65</sup> Article 7 of the Basic Treaty, *ibid.*, sets: „The Slovak Republic grants everyone the right to exercise the objection of conscience in accordance with the principles of teaching and morale of the Catholic Church. The scope and the conditions of exercising this right will be stipulated in a separate international treaty concluded between the contracting parties.“

<sup>66</sup> The Draft Treaty between the Slovak Republic and the Holy See on the Right to Exercise the Objection of Conscience of November 2004. This draft was adapted in the first half of 2005 mainly due to comments of the Legislative Council of the Government of the Slovak Republic. Nevertheless, it still contains most of the substantial shortcomings objected to in the legal analysis, upon which this part of the chapter dealing with the draft treaty was based. This analysis was published under the title “End of Women's Reproductive Health Freedoms in Slovakia: The Draft Treaty between the Slovak Republic and the Holy See on the Right to Exercise the Objection of Conscience“, prepared for the civic association Pro Choice Slovakia by Jarmila Lajčáková, January 2005, available at <http://www.moznostvolby.sk>.

not address other obligations of the health practitioners exercising the conscientious objection that would secure effective access to reproductive health services.

96. About 70% of population in Slovakia is of Roman Catholic religion.<sup>67</sup> Approving the draft treaty would practically lead to the situation when the state would provide only health care services in conformity with the Catholic teaching. If 70% of gynecologists in Slovakia refused to prescribe contraception, perform sterilization, abortion or assisted reproduction, the services would become practically unavailable.<sup>68</sup> A similar situation would occur in case of sexuality education, teaching of which a teacher, whose conscience is governed by the Catholic teaching, could refuse. The access to sexual and reproductive health services including information on modern contraceptive methods and ways of protecting oneself against sexually transmitted infections, including HIV/AIDS, would thus be considerably restricted.

97. The draft treaty became a subject of a discussion at the European Union level in 2005. Subsequently, in October 2005, independent legal experts of the European Union (*Network of Independent Experts on Fundamental Rights*) issued a legal expert opinion on the issue of the draft treaty and conscientious objection.<sup>69</sup> According to this legal expert opinion, a right to religious conscientious objection can be considered a part of the freedom of thought, conscience and religion.<sup>70</sup> Where exercising the right to conscientious objection conflicts with other rights and freedoms, it is necessary to restrict performance of the conscientious objection by means of creating adequate balance between the conflicting rights and freedoms.<sup>71</sup> As for the termination of pregnancy, the legal expert opinion emphasizes the need for adoption of regulatory mechanisms/guarantees providing for effective access to the legal abortion services on one hand and the possibility to exercise the right to conscientious objection on the other.<sup>72</sup>

98. The draft treaty has not been discussed either by the Slovak Government or the Parliament yet. In January 2006, the then Prime Minister of the Slovak Republic refused to have the draft treaty discussed in the Government session. As a result, the initiator and the supporter of the draft treaty – the Christian Democratic Movement – left the governmental coalition, which resulted in the coalition's break-up and early parliamentary elections. There is still pressure imposed especially by the Christian Democratic Movement and its supporters to have the treaty approved. In March 2008, a group of citizens submitted a petition to the Slovak Parliament for signing and ratifying the draft treaty, which the Parliament took into consideration in May.<sup>73</sup>

99. A significant majority of reproductive health services is used by women. The legal regulation of the possibility to exercise the conscientious objection without adopting sufficient guarantees in form of regulatory mechanisms focusing on securing effective access to those services constitutes an inadequate burden for women and girls and thus discriminates against them in the access to health care (Article 12 of the CEDAW Convention) and violates their right „to decide freely and responsibly on the number and spacing of their children“ (Article 16 para. 1 (e) of the CEDAW Convention).

## 2.2. Economic Barriers in the Access to Reproductive Health Services

100. As stated in paragraph 257 of the government report on the CEDAW Convention<sup>74</sup> „[b]ased on statistical data, the use of modern contraceptive methods by women at fertile age (15 – 49 years of age) has risen from 2% in 1998 to 18.5% in 2002“ and to almost 25.4% in 2004<sup>75</sup>, a fact that has also influenced the decrease in the number of abortions. Since 1990, the number of artificial terminations

<sup>67</sup> See data of the Slovak Statistical Office on the public census in 2001, available at <http://www.statistics.sk/webdata/slov/scitanie/tab/tab4a.htm>.

<sup>68</sup> Lajčáková, J., „End of Women's Reproductive Health Freedoms in Slovakia: The Draft Treaty between the Slovak Republic and the Holy See on the Right to Exercise the Objection of Conscience“, *op. cit.*, para. 18.

<sup>69</sup> European Union Network of Independent Experts on Fundamental Rights, *Opinion No. 4-2005: The Right to Conscientious Objection and The Conclusion by EU Member States of Concordats with the Holy See*, 14 December 2005, CFR-CDF. Opinion 4-2005.doc.

<sup>70</sup> *Ibid.* p. 15.

<sup>71</sup> *Ibid.* p. 16.

<sup>72</sup> *Ibid.* p. 20.

<sup>73</sup> Resolution of the National Council of the Slovak Republic No. 864/2008, 21 May 2008.

<sup>74</sup> Resolution of the Government of the Slovak Republic No. 870/2006, *op. cit.*

<sup>75</sup> Institute of Health Care Information and Statistics, „Health Care Yearbook of the SR 2004“, Bratislava, 2005.

of pregnancy has decreased from 47,901 to 12,161 in 2005.<sup>76</sup> Despite such a decrease, the proportion of the number of abortions in adolescent girls on 1,000 children born alive remains almost unchanged.<sup>77</sup> The primary reason for this is limited access of young people to modern contraceptive methods and low quality of sexuality education at elementary and secondary schools.

101. In accordance with the current practice, contraception is fully covered by the patient. The cheapest hormonal contraception (the so called pill) costs approx. one tenth of the monthly income paid in the form of the so called activation allowance or 3% of the parental allowance that a parent on parental leave is granted. The consequence of this rather high price of contraception is that especially adolescent girls, young women and women from socially disadvantaged groups cannot freely choose the most adequate contraceptive method as their choice is limited by the price. In such way, contraception becomes unaffordable for many women particularly from the above mentioned groups.

102. Similarly, other reproductive health services such as abortion and sterilization are at the price level of the minimum wage (apx. 7,500 SKK = apx. 383 USD). If the performance of an abortion or sterilization is not conditioned by health reasons, these services are fully covered by the patient. High fees for these medical interventions make the access to these health care services particularly difficult for young women and women from socially disadvantaged groups.

103. The Ministry of Health of the Slovak Republic, in its draft of the *National Program on Protection of Sexual and Reproductive Health in the Slovak Republic*, aims to secure affordability of all contraceptive methods, as well as affordability of abortions to women from socially disadvantaged groups.<sup>78</sup> However, it is not clear from the draft itself how the Ministry is planning to meet this objective.

104. The Committee on Economic, Social and Cultural Rights, in its General Comment 14, clearly stated that Article 12 of the International Covenant on Economic, Social and Cultural Rights (the right to the highest attainable standard of health) includes the obligation of the State to secure that health care services, including reproductive health services, are affordable for all persons. Fees for these services, including reproductive health services, have to be based on the principle of equity, which requires that disadvantaged persons are not inadequately burdened by expenses for health care services when compared to persons in a more favorable economic position.<sup>79</sup> Similarly, the CEDAW Committee underlined that the State Parties should eliminate barriers preventing women from timely and affordable access to reproductive health services including fees for such services.<sup>80</sup> As the Slovak Republic has not, to date, taken measures that would, in long-term, provide for affordability of modern contraceptive methods and other sexual and reproductive health services for all women, it violates Articles 12 and 16 para. 1(e) of the CEDAW Convention and Article 12 of the International Covenant on Economic, Social and Cultural Rights.

### **2.3. Consent/Notification of the Legal Guardian with Abortion**

105. According to the current Abortion Law, an adolescent girl under 16 needs the consent of the parent or other legal guardian for performance of abortion. In the case of a girl between 16 and 18 years of age, the physician is obliged to notify the legal guardian on terminating the pregnancy. This provision does not reflect the fact that some girls do not want, for various reasons, their parents to learn about the pregnancy or its termination. The requirement for the parental consent or notification on the termination of pregnancy can result in violation of the patient's right to privacy and confidentiality.

---

<sup>76</sup> National Center of Health Care Information, "Abortions in the Slovak Republic in 2005", vol. 2006, ZŠ 7-2006, Bratislava, table 1.

<sup>77</sup> Ministry of Health of the Slovak Republic, "Draft National Program on Protection of Sexual and Reproductive Health in the Slovak Republic", draft submitted for the Slovak Government session of 26th March 2008, part 6.

<sup>78</sup> *Ibid.* parts 8.1, 8.2.

<sup>79</sup> UN, Committee on Economic, Social and Cultural Rights, "General Comment 14: *The Right to the Highest Attainable Standard of Health Art. 12*", (22nd Sess. 2000), in *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies U.N. Doc. HRI/GEN/1/Rev 5 (2001)*, para. 12.

<sup>80</sup> UN, Committee on the Elimination of Discrimination against Women, "General Recommendation No. 24: *Women and Health (Article 12)*", (20th Sess. 1999) in *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies U.N. Doc. HRI/GEN/1/Rev.7 (2004)*, para. 21.

106. At the present time, the increasing emphasis on *the evolving capacities of the child* and its right to adequate attention paid to its interests should be reflected also in the provisions on the artificial termination of pregnancy. Therefore, if an adolescent girl under 16 has sufficiently developed cognitive and volition capacities to make an informed decision on termination of her pregnancy or its continuation, the consent or notification of her legal guardian should not be requested. In the case of girls between 16 and 18 years of age, the parental notification should not be requested as the parent is notified after the termination of pregnancy, so it is expected that the girl is capable of granting the so called informed consent. Moreover, such a request can have the same impact on the girl as the parental consent if the girl does not want her parents to know about the pregnancy and abortion.<sup>81</sup> The Committee on the Rights of the Child supervising compliance with the Convention on the Rights of the Child has pointed out that „...if the adolescent is of sufficient maturity, informed consent shall be obtained from the adolescent her/himself, while informing the parents if that is in the “best interest of the child” (Article 3 of the Convention).”<sup>82</sup>

### 3. Sexuality Education

107. In Slovakia, sexuality education is not a separate subject, but is a part of other school subjects, particularly the ethics, religious education and biology (see the government report paragraphs 113 – 116). Ten years after the Ministry of Education approved a new curricula for sexuality education at the basic and primary schools, the level and quality of the education is still very low. It is common practice that adolescents do not receive relevant information on prevention of STIs including HIV/AIDS and unwanted pregnancy, let alone issues like sexual orientation and sexual and reproductive health rights. As stated in this shadow report, in its part on gender stereotypes, textbooks on sexuality education, officially called “Education towards Marriage and Parenting”, reflect the structure of gender stereotypes. The way and the scope of sexuality education in fact depend on the particular teacher and the nature of the school subject.

108. Team of sexuality education experts, teachers and human rights advocates in co-operation with the Slovak Family Planning Association (SFPA) drafted a new material – a handbook of methodology on how to teach sexuality education. The material has been complemented with working sheets to be used by pupils. During 2007 SFPA started with its distribution and trainings of teachers. At the same time it asked the Ministry of Education for an accreditation of these materials. The Conference of Bishops of Slovakia (CBS) immediately started a massive campaign against the materials. According to CBS “it is not a case of integral education towards sexual life, but a technical handbook. It was developed by an association not in favor of the culture of life. On the contrary, it is a well known fact about this association that it promotes ideas and values of the culture of death.”<sup>83</sup> They have sent an open letter<sup>84</sup> to the Minister of Education asking him to reject the material as inappropriate. After this intervention of the CBS, the Ministry of Education refused to give an accreditation to the SFPA methodology.

### 4. Sexual and Reproductive Health Program in the Slovak Republic

109. A comprehensive strategy related to the sexual and reproductive health is still lacking in Slovakia. In December 2007, the Ministry of Health of the Slovak Republic introduced the draft *National Program on Protection of Sexual and Reproductive Health in the Slovak Republic* (see the government report paragraph 259), which the Government has not adopted yet mainly due to protests of religious groups and representatives of the Catholic Church. The proposed program draws mainly upon the World Health Organization’s principles and the Program of Action of the UN International Conference on Population and Development (Cairo, 1994).

---

<sup>81</sup> For more details see e.g. Center for Reproductive Rights, “Adolescents Need Safe and Legal Abortion”, briefing paper, September 2005, available at <http://www.reproductiverights.org>.

<sup>82</sup> UN, Committee on the Rights of the Child, “General Comment No. 4 (2003): *Adolescent health and development in the context of the Convention on the Rights of the Child*”, CRC/GC/2003/4, 33. sess., 1 July 2003, para. 32.

<sup>83</sup> “Bishops: The Sexuality Education Handbook Is a Technical Manual”, TASR, 28th August 2007.

<sup>84</sup> “Open Letter of the CBS Chairman to the Minister of Education of the Slovak Republic”, of 31st August 2007, available at <http://www.tkkbs.sk/view.php?cisloclanku=20070831016> (last visit: 15th May 2008).

110. Despite these important points of reference, the draft program has several substantial shortcomings. It is, in particular, its insufficient emphasis on the human rights aspect and principles of sexual and reproductive health via identifying the connection between sexual and reproductive health on the one hand and human rights and freedoms guaranteed by the Constitution of the Slovak Republic and the relevant international human rights treaties on the other hand (the CEDAW Convention is, for instance, mentioned only in one sentence despite its importance to this area). Also, the amount of funds allocated to the implementation of goals and tasks of the program for its earliest period is not clear in the proposal, nor is it clear what resources the funds will be taken from, which then jeopardizes the implementation of the program itself. Apart from that, it is necessary for the amount of funds to be adequate in terms of securing systematic and effective implementation of the individual tasks and objectives.

## **5. Access to Assisted Reproduction**

111. As stated in the draft National Program on Protection of Sexual and Reproductive Health in Slovakia, there is still a low number of assisted reproduction interventions performed. In 2004, only 0.3%<sup>85</sup> of children were born after the performance of some of the assisted reproduction techniques. A couple that undergoes *in vitro* fertilization has to pay the amount equaling twice the amount of the minimum wage for one cycle if the possibility to cover the payment by means of the public health insurance does not apply to them, which then limits the availability of this service to many couples. The public health insurance can cover three cycles of assisted reproduction for women up to 39 years of age for certain health reasons.<sup>86</sup> Performing the assisted reproduction intervention is conditioned by intimate physical relationship between a man and a woman.<sup>87</sup> This provision discriminates against single women who would like to get pregnant by means of assisted reproduction, as well as against women in homosexual relationships.

## **6. Institutional Safeguarding**

112. At the level of institutional safeguarding, the sexual and reproductive health area is in the competence of the Ministry of Health of the Slovak Republic. It has created the so called ethical commission responsible, among other things, also for discussing documents of both legislative and non-legislative nature related to the issue of sexual and reproductive health. Apart from doctors and biologists, there are also two representatives of the church in the commission while women's organizations have no representation in it even though the commission mainly deals with issues of sexual and reproductive health concerning predominantly, if not exclusively, women and girls. Moreover, there is only one female member of the commission out of the total of its 13 members.

## **Recommendations to the Slovak Government and Other State Bodies**

113. Based on the above mentioned facts, we hope that the CEDAW Committee incorporates the following recommendations to the Slovak Government into its concluding observations:

- To explicitly embed the right of every person to the access to sexual and reproductive health care services in the Act on Health Care.
- To take measures to provide for timely and non-discriminatory access to safe, legal, affordable and acceptable reproductive and sexual health services (e.g. to secure a sufficient number of health care facilities providing sexual and reproductive health services in such way that they are in adequate distance from the home/work of a person; to subsidize fees for

---

<sup>85</sup> Ministry of Health of the Slovak Republic, "Draft National Program on Protection of Sexual and Reproductive Health in the Slovak Republic", *op. cit.*, part 8.8.

<sup>86</sup> Act no. 577/2004 Coll. of Laws on the Scope of Health Care Covered by the Public Health Insurance and on Payment for Services Related to Health Care Provision as amended; the Decree of the Government of the Slovak Republic no. 777/2004 Coll. of Laws, issuing the List of Diseases, in case of which the health interventions are partially covered or not covered based on the public health insurance, annex no. 2, Scope of Payment for Medical Interventions in Case of Diseases Listed in the Disease Registry in Compliance with Section 1 para. 1 of the Decree.

<sup>87</sup> Binding Order of the Ministry of Health of the SSR no. Z 8600/1983-D-2 on the Conditions for Artificial Fertilization, 28 November 1983. See also the Decree of the Government of the Slovak Republic no. 20/2007 Coll. of Laws.

sexual and reproductive health services from the public health insurance; to take into consideration the needs and interests of the patient when providing such services and to respect her human rights and fundamental freedoms).

■ To amend legal regulation of exercising of the conscientious objection by health practitioners so that it does not restrict effective and timely access to reproductive and sexual health services. This amendment should particularly bind the health practitioners exercising the conscientious objection to the following duties:

- a) the duty to refer the patient to another physician who does not refuse to perform the requested intervention without delay;
- b) the duty to perform the medical intervention without delay in case the health and life of the patient is endangered;
- c) the duty to provide objective information on all sexual and reproductive health services without delay, including the service they exercise the conscientious objection to;
- d) the duty to send a written notification to their employer and their patients informing them that he/she exercises the conscientious objection and to specify which medical interventions the conscientious objection applies to.

■ To ensure that only individuals can exercise the conscientious objection, not institutions, and to ensure that each health care facility, except a facility established by the church or a religious association, employs a sufficient number of health care staff who do not intend to exercise the conscientious objection. To set down the obligation to perform termination of pregnancy in case of immediate threat to the woman's life and to inform the woman about the nearest health care facility that would perform abortion, if the woman wish her pregnancy to be terminated and her life is not in immediate danger, to the health care facilities operated by the church or a religious association.

■ To set forth a legal procedure in case of violation of legal conditions for exercising the conscientious objection, including the entitlement to file a complaint with the relevant body which should, without delay, make a decision with a view to securing effective access to the particular service.

■ To secure the access to all modern contraceptive methods for women of all social and age groups in such way that they are fully covered by the public health insurance or subsidized by the state via a separate additional allowance for at least young women and socially disadvantaged groups of women.

■ To secure the access to objective and comprehensive sexuality education, including information on the human sexuality, all contraceptive methods, sexually transmitted infections, including HIV/AIDS, and sexual and reproductive health rights for all adolescent and young people. To adopt the so called sexuality education minimum that would include the above mentioned information and would be provided to all pupils of 5th – 9th year of elementary school. To ensure that such education also reflects the specific needs of Romani women and girls.

■ To provide for the access of all women to the assisted reproduction methods regardless of their family status, sexual orientation, social and economic background and other reasons.

■ To adopt the proposed *National Program on Protection of Sexual and Reproductive Health in the Slovak Republic* amended by the human rights aspect of sexual and reproductive health via identification of human rights and fundamental freedoms guaranteed by the legal order of the Slovak Republic related to sexual and reproductive health and to annually allocate adequate funds necessary for the program's systematic and effective implementation.

■ To actively bring women's and human rights organizations dealing with sexual and reproductive health and rights in the process of development and implementation of programs and policies on sexual and reproductive health and to support these organizations' activities.

To secure that women's NGOs are represented in the ethical commission at the Ministry of Health of the Slovak Republic.

## **Romani Women**

114. Roma comprise 350,000-500,000 persons, or up to 10 percent of Slovakia's population. Following the fall of the Iron Curtain in 1989, anti-Romani sentiments suppressed under Communism broke out with great intensity, resulting in violent attacks against Roma, killings by vigilante racists and deaths of Roma in police custody. Slovak doctors allegedly have coercively sterilized Romani women as recently as 2003. However, the most visible and evident impact of post-1989 anti-Romani actions in Slovakia has been the rigid enforcement of racial segregation in the housing sector. The Slovak society has continued, to this date, to create segregated slums through forced evictions, segregation measures and discrimination in the provision of social security. This pattern of persistent discrimination and denial of housing and related rights of Roma has endured despite the fact that Slovakia joined the European Union in 2004.

115. The disadvantaged position of Romani women in Slovakia results not only from discrimination on the grounds of sex, but also from discrimination on the grounds of ethnic origin and social exclusion of destitute Romani communities (so called marginalized Romani communities). Due to racial and ethnic discrimination, Romani women are not only exposed to the same violation of rights as non-Romani women, but also to other, qualitatively different violations of their rights. This shadow report, therefore, deals with the issue of Romani women status in a separate chapter consisting of three parts. The first part, written by the Cultural Association of Roma in Slovakia, outlines several issues Romani women face in Slovakia in areas such as education and employment. Apart from that, it complements other chapters of this shadow report. In the field of sexual and reproductive health of Romani communities, this part provides findings of a project related to attitudes of Romani communities to the issue of sexual health. The second part of this chapter, written by the Center for Civil and Human Rights, deals with the issue of access of Romani women to health care services. The last part of this chapter, written by the Center on Housing Rights and Evictions and Milan Šimečka Foundation, addresses the issue of access of Romani communities to housing and its impact on Romani women.

### **A. Discrimination of Romani Women in Some Areas of Social Life**

#### *Cultural Association of Roma in Slovakia*

##### **1. Gender stereotypes (Article 5)**

116. Projects and programs aimed at sensitizing various target groups on gender issues carried out by NGOs have significantly contributed to the progress made in the field of gender stereotypes elimination. Apart from trainings, surveys were carried out on assessment of affect gender stereotypes and prejudice has on the status of Romani women in communities and research on the barriers Romani women face when entering the labor market. It is necessary to say that due to direct participation of Romani women and girls in such projects, a lot of them heard the terms "gender stereotype" or "gender equality" for the first time. Members of Romani communities, in which the traditional perception of division of roles between men and women seems to be stronger than in the majority population, are brought up in the atmosphere of cultural and gender stereotypes from early age. In order to change their opinions and eliminate conditions for further reiteration of gender stereotypes and prejudice, it is important to increase support for education and promotion programs in this field for children, youth and adults. Meeting this objective requires a more active involvement of state institutions by means of implementing the existing government programs focusing on marginalized Romani communities. The insufficient level of attention paid to this issue is also reflected in the Decade of Roma Inclusion 2005-2015 Program. Even though the issue of gender is a cross-cutting issue of this governmental program, the annual financial allocations of the individual ministries for implementation of the program's objectives remains a problem, responsibility for meeting the objectives/tasks defined in the program has not been determined and the indicators set do not reflect a measurable result with regards to gender equality.

## 2. Trafficking in Women (Article 6)

117. Trafficking in human beings, in relation to marginalized Romani communities, primarily affects women and children. Cases presented in the media, as well as outcomes of field research or monitoring activities carried out by the Slovak National Centre for Human Rights and the International Organization for Migration (IOM) point to this alarming phenomenon and emphasize the necessity to deal with it. The Slovak National Centre for Human Rights' final report states that one of the ways of exploiting especially Romani girls under 18 is prostitution in economically better performing parts of Slovakia.<sup>88</sup> IOM draws a similar conclusion in its research on trafficking in human beings focusing on the youth from reformatories, children's homes and diagnostic centers who, due to high concentration of Romani children, is vulnerable to trafficking in women. These projects should contribute to more effective identification of locations vulnerable to trafficking in human beings and more detailed description of the process of trafficking for the purpose of forced prostitution.<sup>89</sup> It is necessary to understand the issue of forced prostitution in relation to yet another problem occurring in marginalized Romani communities – usury.

118. Usury is, in practice, used as paying off or settling debts to the creditors – money lenders. It is not rare that begging, which has been „promoted“ to organized activity in some parts of Slovakia, is one of the ways of „working off“ the debt. According to the magazine Czech and Slovak World (August 2006), two thirds of beggars in Vienna come from Slovakia and a lot of them are Roma. The beggars come to Vienna out of necessity, but also because they are forced to by “the gangs’ bosses”. One of the current phenomenons of organized begging is a more frequent occurrence of women and small children among beggars.<sup>90</sup>

119. Romani women and girls from marginalized Romani communities are one of the most vulnerable groups to trafficking in human beings due to multiple disadvantages they face. It is, therefore, important that the governmental and local programs focusing on combating trafficking in human beings reflect this fact and propose measures specifically focusing on combating trafficking in Romani women from marginalized Romani communities. Such measures should, among other things, include information campaigns or activities with a view to raising awareness of Romani communities to trafficking in women. It is also necessary to secure coordination of institutions and social services providers, assistance and counseling to potential and actual victims of trafficking, as well as to provide for a sufficient number of organizations/institutions specifically dealing with this issue as their number is currently low.

120. Unlike in cases of women and girls from majority population, who are trafficked when seeking to find a job abroad, Romani women and girls are being searched for directly in their communities or locations with high concentration of Roma. This fact indicates a conscious abuse of all factors occurring in the marginalized Romani communities such as poverty, social exclusion, ethnic discrimination, low levels of education, lack of legal awareness, financial obligations to the money lenders or distrust in organizations providing institutionalized assistance.

121. Trafficking in women from Romani communities stems from correlative issues, which amplifies the need to incorporate this issue into strategic developmental programs in terms of concretely defined measures with verifiable indicators, setting mechanisms of monitoring and checking the progress in meeting political obligations and adequate funding. Effective combating of trafficking in women requires active participation of and cooperation between representatives of Romani non-governmental organizations and NGOs working with Romani communities. Without it, the significance and relevance of impact of the individual measures will be decreased due to inadequate knowledge of the Romani

---

<sup>88</sup> Slovak National Centre for Human Rights, “Project Final Report: Field Survey on Respecting Children Rights and Children from Roma Communities Taking into Consideration Discrimination against Them and Specific Problems”, available at <http://www.snisp.sk> (last visit: 30th March 2007).

<sup>89</sup> International Organization for Migration, “OAM – 175 – 46/2004 Project Final Report on Securing Monitoring of Roma localities in Slovakia in Relation to Existing or Potential Migration on the Territory of the Czech Republic at the Time of Accession to the EU and Submitting the Summary Report on the State of Those Locations Taking into Consideration the Existing Integration Practice”, May – December 2004.

<sup>90</sup> “Two Thirds of Beggars in Vienna are Slovak People”, Czech and Slovak World, 28th August 2006, available at <http://www.czsk.net/svet/clanky/svet/zobracislovaci.html> (last visit: 3rd July 2007).

communities' needs. At the beginning of 2008, multidisciplinary working groups were created at the level of the National Coordinator of Combating Trafficking in Human Beings of the Ministry of Interior of the Slovak Republic. The Chairwoman of the Cultural Association of Roma in Slovakia was nominated into one of these working groups. It is essential that the government continues creating conditions for active participation of the non-governmental sector in projects and programs focusing on combating trafficking in human beings.

122. Since 2004, capacities of social workers have been built up within the Support of Community Social Work in Municipalities Program funded by the Social Development Fund,<sup>91</sup> through which community social workers and their assistants work with socially excluded communities in their natural environment. This social work is carried out primarily by members of the Roma minority. It is crucial, in combating trafficking in women, to develop coordination of social workers in this field particularly by means of systematic training on the issue. The framework of their job responsibilities, which includes prevention of and dealing with social and pathological phenomena in families, determines the development of their position of communicators and mediators of information at both the local and regional levels. As for development of community social work, it is important to say that even though the Support of Community Social Work in Municipalities Program has been a key program, since April 2008 its system of funding is supposed to be changed to the level of demand-oriented programs, which could weaken its further implementation and extension. Many municipalities are likely not to show interest in applying for financial support for next term because they lack experience in preparing projects in the European Social Fund structure. Furthermore, they can perceive it as a great risk in terms of continuous sustainability of the program.

### 3. Discrimination in Education (Article 10)

123. Due to low education levels of marginalized Romani communities' members, education has become one of the key issues formally reflected in strategic documents of the government related to Romani communities for a significant time period. The data shown below illustrate a considerable disproportion between levels of completed education of Romani men and Romani women. In this context, it is important to see the existence of other factors determining or influencing the results in the table below such as systematic discrimination against members of the Roma minority, cultural traditions, due to which men are preferred to women in terms of their earlier success in labor market, and prevailing traditional perceptions of women and girls as mothers. Social and geographic isolation of marginalized Romani communities, which deepens their poverty and social exclusion, is yet another factor.

**Structure of Romani population with completed education according to the level of education completed and sex (in %)<sup>92</sup>**

| Education level                    | Men   | Women | Total |
|------------------------------------|-------|-------|-------|
| Not completed elementary education | 32,2  | 37,7  | 35,0  |
| Completed elementary education     | 33,8  | 39,3  | 36,6  |
| Not completed secondary education  | 10,4  | 7,5   | 8,9   |
| Completed secondary education      | 19,2  | 11,4  | 15,2  |
| Higher education                   | 0,3   | 0,1   | 0,2   |
| Special schools                    | 4,1   | 3,8   | 3,9   |
| Do not know                        | 0,1   | 0,3   | 0,2   |
| Total                              | 100,0 | 100,0 | 100,0 |

124. Classifying and reclassifying Romani children into the so called special elementary schools for mentally handicapped children is a long-term problem in the field of discrimination against Romani

<sup>91</sup> Social Development Fund is a state budget organization founded by the Ministry of Labor, Social Affairs and Family of the Slovak Republic, its activities are funded from the state budget and the European Social Fund, available at <http://www.fsr.sk> (last visit: 30th March 2007).

<sup>92</sup> United Nations Development Programme, "Report on Living Conditions of Roma Households in Slovakia", 2006, p. 61.

children in education.<sup>93</sup> According to the United Nations Development Programme (UNDP) report, research and surveys carried out show that confusing insufficient knowledge of or not mastering Slovak language with lacking precondition for education; interest in filling the special schools or discussing the absence of hygiene habits in Romani children are the most likely reasons for placing them into the so called special schools.<sup>94</sup> Another factor observed is the parents who decide to have their children placed in special schools for various reasons. The effort to maintain a sufficient number of children in special schools can be seen as another influence. The current setting of the direction for one pupil and the trend of closing down schools due to low attendance (particularly in small villages) make the special schools (or elementary schools with special classes) try hard to maintain the number of pupils, which makes the process of reintegration of Romani children more difficult. Paradoxically, Romani pupils are becoming „a rescue net“ for schools as they constitute a continuous source of income for the municipalities. Romani children used to be placed in the so called special schools upon psychological testing adjusted to the needs of children from majority population. This seemingly neutral testing had negative impact on Romani children whose only „handicap“ was their unsatisfactory knowledge of Slovak language. Despite adopting new diagnostic and psychological methodologies, individual or group reintegration of pupils with special educational needs is not implemented in practice or is implemented inadequately.

125. The segregation of Romani children, which does not only occur at so called special schools, but also at elementary schools, further contributes to discrimination against Roma. Such segregation can be called „segregation by foot“ and it is caused by non-Romani parents placing their children in more distant town schools that are better equipped from the point of view of infrastructure and have less Romani children.

126. Segregation of Romani children and their being placed and re-placed to the so called special schools, frequently due to social, language and cultural barriers, results in further disadvantaging of Romani children in terms of limited possibilities of further education and their success in the labor market. The current education system enables the special school leavers to study at special secondary schools, practical schools or vocational schools where they acquire education for performing simple tasks, especially as unskilled workers. Since the qualifications they acquire often demands guidance and supervision of another person, the chances for their social fulfillment are very low.

127. Although discrimination against children from marginalized Romani communities in the access to education concerns both girls and boys, it is important to emphasize this issue in this report as it negatively affects the status of Romani women, particularly with regards to their further personal development and success in the labor market. Apart from this, the Slovak government, in cooperation with non-governmental organizations, should examine to what extent gender stereotypes and patriarchal traditions prevailing in some communities influence the rate of Romani girls dropping out of school.

#### **4. Discrimination in Employment (Article 11)**

128. One of the cases of unequal treatment in employment documented by the Slovak National Centre for Human Rights (hereinafter „SNCHR“)<sup>95</sup> illustrates a violation of equal treatment principle in employment on the part of the employer towards a former employee of Roma origin. The employee was disadvantaged, compared to other employees performing the same or similar work, since she was the only one whose employment contract concluded for a definite period of time was not prolonged by the employer. Apart from that, the woman was, during her employment, exposed to various impertinent and offensive comments and threats on the part of her foremen and colleagues; she performed the work in unfavorable and even hostile atmosphere, which resulted in psychological strain

---

<sup>93</sup> For more details on the research on segregation of Romani children in education see the European Roma Rights Centre, „Stigmata: Segregated Schooling of Roma in Central and Eastern Europe, a survey of patterns of segregated education of Roma in Bulgaria, the Czech Republic, Hungary, Romania, and Slovakia“, available at <http://www.errc.org>.

<sup>94</sup> UNDP, „Report on Living Conditions of Roma Households in Slovakia“, *op. cit.*, p. 63.

<sup>95</sup> Slovak National Centre for Human Rights, available at <http://www.snslp.sk> (last visit: 15th July 2007).

and her overall impaired health. The woman filed a complaint with the court claiming compensation for non-pecuniary damages caused in relation to the violation of equal treatment principle.<sup>96</sup>

129. Discrimination in employment is difficult to prove as it is often of latent form. Under cover of lawful reasons, some employers, for instance, refuse to hire Roma people for work. In practice, the employer is willing to discuss the possibility of hiring the person, e.g. on the phone, as long as they do not see the applicant is a Roma. As soon as the potential employer finds out the applicant is a Romani woman, they do not offer the vacant position to her anymore reasoning it has already been taken even though it is not always true. It is in the direct contact when the applicants are recognized as being Roma upon exterior features such as color of skin or surname, which then results in their not being taken on. Experience of a number of Romani women who had it confirmed on the phone, for instance, that there still was a vacancy and were then, in personal contact, told on the opposite, confirm the existence of discrimination on the grounds of ethnic origin. One of these cases initiated by Romani women who were denied a job, in cooperation with non-governmental organization Centre for Civil and Human Rights, is currently pending at the District Court Košice II. When the women called the job agency to ask if their ethnic origin was the reason why they had not been hired, one of the agency's employee told them that her employer did not hire Romani women.

130. As for the rate of Romani women employment in Slovakia, the UNDP, in its study "Report on Living Conditions of Roma Households", concludes that the differences between the majority population women in productive age and Romani women are much more significant than in case of men. The employment rate of Romani women is only 4.6% in Slovakia compared to 41.2% employment rate of women in majority population. In case of Romani men, the employment rate is 10.5% while it is 51.7% in case of men in majority population.<sup>97</sup> These figures show that the employment rate of Romani women is incomparably lower in contrast with the employment rate of both women and men in majority population and is also more than 50% lower when compared to the employment rate of Romani men.

131. The Slovak Government has taken various measures to deal with high unemployment rate of Romani population. However, the measures were taken primarily in form of activation work focusing only on the development and maintenance of their working habits and did not deal with unemployment of Romani men and women in long-term perspective. According to the aforementioned UNDP study, Romani women participated in the activation work at the rate of 22.3%.<sup>98</sup> The activation work is a form of small community service such as cleaning the public grounds, buildings, roads, etc. Although the activation work program has reached a significant participation of Romani men and women compared to other measures taken in the field of increasing the employment rate such as retraining or training for the labor market, according to 59% of Romani respondents, activation work has not increased their chances to get a job.<sup>99</sup>

## 5. Reproductive and Sexual Health (Article 12)

132. In 2005, the Cultural Association of Roma in Slovakia carried out a project called „Research on Sexual and Reproductive Behavior in Romani communities in Slovakia“. The project, which was a part of the international comparative research, was carried out in 12 selected locations in Slovakia which were chosen upon their regional geographical location, characteristics of settlement (i.e. urban, scattered/integrated, separated settlement), including the representation of different groups of Roma living in Slovakia. The data collection was conducted by means of a standardized questionnaire with three groups of Romani respondents – 160 boys, 160 girls and 172 parents. Apart from the objective to acquire an extensive knowledge database related to, for instance, their self assessment at the level of the amount of information on sexual health they have, their level of self-confidence, their attitudes in connection to virginity and pre-marital sex or their ideas about parenthood and intimate relationships; it was intended to verify assumptions or assertions related to persisting taboo or significant restraint in Romani families in the field of sexual and reproductive health. In the area of communication between children and parents about the issue of sex, 70.5% of boys out of the total of 160 asked said that they

<sup>96</sup> *Ibid.* „Racial Discrimination – Case of Racial Discrimination.“

<sup>97</sup> UNDP, "Report on Living Conditions of Roma Households in Slovakia", *op. cit.*, p. 73.

<sup>98</sup> *Ibid.* p. 73, the indicator shows the status in the last month of the monitored year.

<sup>99</sup> *Ibid.* p. 78.

had never discussed the issue with their parents. Out of 160 girls addressed, 51.1% gave the same answer. The results of research show that having a discussion about sexual conduct is very rare or almost non-existent. Almost 50% of girls and 70% of boys has no information on the issue of sex and sexual health. The most frequently mentioned reason the parents gave for not discussing these issues with their children was shyness. The questionnaire also included questions related to equality of men and women in Romani communities. 58.7% of Romani women and 41.3% of girls agreed that unequal status of women and men still persists in Romani communities. Compared to women, less male respondents shared the view on inequality of men and women in Romani communities and more of them were in favor of the traditional division of male and female roles.

133. In the context of reproductive rights services we consider it important to mention that the current system of health care has abolished the on-site visitation service of the so called women's nurses. This service had a key role particularly in Romani communities and other disadvantaged groups since it enabled a better knowledge of the community, direct contact with parents and especially women, individual and more intense promotion of information on the care and prevention in the field of health of a woman – a mother – and the child.

## **6. Violence against Women**

134. A separate chapter deals with violence against women in more detail, hence is this part dedicated only to specific issues concerning Romani women in this area in addition to other, more general problems they face. As the separate chapter on violence against women states, this issue concerning the whole society is not given enough emphasis on the part of the state agencies. The inadequate treatment of this issue is then even more apparent in relation to Romani communities. The generally known obstacles such as geographical segregation, racial stereotypes and prejudice on the part of majority population, as well as lack of legal awareness and information on the part of Romani women and men, contribute to the fact that the strategies adopted by the Government do not deal with violence against women in Romani communities adequately. It is, for instance, apparent from the *National Action Plan on Prevention and Elimination of Violence against Women for years 2005-2008*<sup>100</sup>. Even though the measures it contains concerning women from socially disadvantaged environment, ethnic minorities and migrant women state that these are groups generally vulnerable to violence, the individual activities have a very general wording and it is, therefore, questionable what impact these activities will have on effective approach to violence against women in socially disadvantaged groups.

135. In addition to insufficient number of women's refuges, there are discriminating practices against Romani women even in this area. It can be observed when a woman experiencing violence seeks help and wants to go to one of the anonymous refuges; she is not accepted due to her ethnic origin or number of children. In this context, non-governmental organizations considerably fill in the role of services provided by the state. Co-operation between non-Romani and Romani women's organizations helps and supports raising awareness of possibilities and forms of getting help in cases of violence against women in Romani communities. The State should actively support co-operation between Romani and non-Romani non-governmental organizations dealing with this issue via allocating funds for their activities, systematic elimination of prejudice towards the Roma minority and persisting discriminatory practices, setting up more women's refuges, as well as via training on equality between men and women focusing on Romani communities.

## **7. Law Enforcement**

136. Despite a gradually increasing number of complaints related to discrimination against the Roma minority, the number of complaints filed in relation to discrimination against Romani women remains marginal. Negative life experience of many Romani women and girls resulting from prohibition to enter social premises and restaurants, separate office hours for the Romani and non-Romani patients at the doctor's, segregated rooms and other common facilities for the Romani patients at gynecological and obstetric departments in some hospitals are not dealt with. The low rate of solved cases in this area is affected by various factors, such as lack of legal awareness of Romani women, lack of information or

---

<sup>100</sup> Resolution of the Government of the Slovak Republic No. 635/2005, 24th August 2005.

more difficult access to the information due to social exclusion of marginalized Romani communities, distrust of Romani women in the institutional help, indifference of the state institutions to effectively eliminate discrimination against Romani communities including discrimination against Romani women and girls, as well as gender stereotypes and ethnic discrimination persisting in the majority society.

#### **Recommendations to the Slovak Government and Other State Bodies:**

137. Based on the above mentioned facts, we hope that the CEDAW Committee incorporates the following recommendations to the Slovak Government into its concluding observations:

- To provide for effective sanctioning of discrimination against Romani women and girls in all areas of social life.
- To take measures in order to improve the access of Romani women to employment and to implement positive examples from employment practice and employability of Romani women for these purposes with a view to supporting equal opportunities in the labor market.
- To include propositions on cultural differences and specifics of Romani communities, as well as gender equality into training programs for institutional help providers.
- To support carrying out research activities (representative research) in the field of sexual and reproductive health for the purpose of a higher quality and more effective setting of programs so that they contribute to improving the quality of Romani women and men's health; to increase the amount of information in the field of family planning and provide health care including sexual and reproductive health services without discrimination.
- To secure data collecting within the individual problematic areas including violence against Romani women and girls and trafficking in Romani women and girls as it is impossible to set mechanisms targeted at the needs of Romani women and girls due to non-existence of such data and to monitor and verify the impact of the measures taken on this target group.
- To update *the National Action Plan on Prevention and Elimination of Violence against Women (2005 – 2008)* as its activities in relation to Romani women are insufficient, they are limited to prevention and the indicators are set inadequately.
- To increase a level of social intervention via active support of non-governmental organizations providing services to victims of trafficking in women.
- To allocate funds from the state budget regularly for:
  - a) support of programs focusing on eliminating the problems in the field of combating trafficking in women;
  - b) the purposes of continuous sustainability of providers of services to the individual target groups;
  - c) support of providers of legal, social and other assistance to victims of trafficking in women.
- To bring representatives of Romani non-governmental organizations in working and expert groups in the field of gender equality including violence against women, trafficking in human beings and sexual and reproductive health.

## **B. The Issue of Forced and Coerced Sterilizations of Romani Women in the Slovak Republic and Discrimination in the Access to Health Care (Articles 10, 12 and 16)**

*Vanda Durbáková, Center for Civil and Human Rights*

138. This chapter is dedicated to the issue of forced and coerced sterilizations of Romani women and discrimination of Romani women in the field of access to health care related to pregnancy and motherhood and has the following structure:

- General introduction to the issue
- Criminal investigation
- Civil proceedings
- Current practice after the adoption of the new legislation
- Discrimination in access to health care and social security
- Recommendations to the Slovak Government

### **1. Forced and Coerced Sterilizations of Romani Women**

#### **1.1. General Introduction to the Issue**

139. The current practice of forced and coerced sterilizations of Romani women in Slovakia has its roots in the former regime in Czechoslovakia. General fear of a growing number of the Romani population influenced an adoption of state measures to stop such growth. As the result, performing of forced and coerced sterilization of the Roma was a part of the Czechoslovak governmental policies prior to 1991. In the last years of the communist regime Romani women in particular became a special target group of the government program granting a financial reward to all citizens who had undergone sterilization. In 1988, there was adopted a law that guaranteed one-time financial benefit for women who underwent the surgery "for the benefit of improving the health of the population".

140. The amount of this benefit could have reached up to 25 000 KCS (equivalent in USD 1315) and was paid either in cash or as a contribution in kind (e.g. in a form of vouchers, for example for the purchase of furniture). This amount was a considerable amount of money for that time, approximately equaling the amount of annual income. Although the law itself did not state that its aim was to regulate the birth rate of Romani women, its implementation resulted in violation of the Romani women reproductive rights as they were coerced to undergo the sterilization. These illegal practices have never been investigated and post-communist governments of both the Czech and the Slovak Republics have never publicly condemned such policy or the practice of coercion related to it. Several sources document the fact that such practices did not stop after the law had been abolished after the fall of communism<sup>101</sup>.

141. In January 2003, Center for Civil and Human Rights (Poradňa pre občianske a ľudské práva hereinafter „Poradňa“) together with the Center for Reproductive Rights in New York published the report *Body and Soul, Coercive Sterilizations and Other Assault on the Roma Reproductive Freedom in Slovakia*, which documents cases of forced and coerced sterilizations in the Eastern Slovakia after the fall of communism, as well as cases of discrimination of Romani women in access to health care. The findings of the Poradňa clearly show that sterilizations of Romani women violated the legislation valid at the time when they were performed, as well as the international conventions the Slovak Republic has undertaken, including the CEDAW Convention. As shown in the *Body and Soul* report, sterilizations were performed on a lot of Romani women during delivery performed via cesarean section without their prior informed consent. Many Romani women gave their written consent with sterilization at the time when the delivery was in progress and they had regular contractions. Apart from that, some of the Romani women were not of full age at the time when sterilizations was performed on them, which means they could not have given their legal consent. According to the valid legislation, consent of their legal guardian was necessary for performance of the intervention. Many of the women did not remember giving their consent with the intervention and even did not know

---

<sup>101</sup> Pellar, R. and Andršt, Z., "Statistical Evaluation of the Cases of Sexual Sterilisation of Romani Women in Eastern Slovakia", Appendix to the Report on the Examination in the Problematic Sexual Sterilisation of Romanies in Czechoslovakia, 1990; Human Rights Watch 1992 Report, p. 22.

sterilization was performed on them. Only after reviewing their medical record, a lot of them found out that the reason for their sterility had been sterilization performed on them in the past.

142. This unlawful practice is illustrated on following cases:

*The case of Ms. X sterilized in 2000 at the age of 16*

Ms. X was sterilized in January 2000 during delivery performed via cesarean section of her second child in hospital in Krompachy. The sterilization was performed after Ms. X had come to the hospital in labor pains at 05:30 p.m., and she gave birth at 07:00 p.m. Ms. X does not remember giving her consent to sterilization. The health care staff did not inform her about the nature of this intervention or its consequences before it had been performed, nor did they inform her about alternative contraception. Since Ms. X was a minor at the time of sterilization, consent of her legal guardian with the intervention was requested. However, they did not grant their consent and had never been informed about the sterilization intervention by the staff. Ms. X found out that sterilization had been performed on her three years later, in 2003, when she and her lawyer went to look into her medical record in the hospital.

*The case of Ms. Y sterilized in 2002 without having given her informed consent*

Ms. Y was sterilized in 2002 during delivery performed via cesarean section of her fourth and fifth child – twins – at the age of 30 in hospital in Krompachy. It was her first delivery performed via cesarean section. The sterilization was performed after she had been received to the hospital in labor pains at night, after 10:00 p.m. The twins were born in the early hours of the next day. Ms. Y was not informed about the nature of sterilization before it had been performed, its consequences or alternative contraception methods. Ms. Y remembers the physician giving her a document to sign only seven days later, when she was being released from the hospital. The physician informed her then that sterilization had been performed on her. Ms. Y had not given her prior informed consent with the intervention.

*The case of Ms. Z sterilized in 2000 without her prior informed consent*

Ms. Z was sterilized in hospital in Prešov during the delivery of her second child performed via cesarean section. Ms. Z does not clearly remember the circumstances of the delivery as she was already in labor pains when she arrived at the hospital. Her medical record shows that she was received in the hospital at about 08:00 a.m. About one hour before the delivery, when Ms. Z was in labor pains and was lying in hospital bed, the staff told her she had to sign a request for sterilization since she or her baby would die if she got pregnant again in future. Being frightened, Ms. Z signed it with a shaking hand directly in her medical record, which is apparent from the signature itself, which is tremulous, and because she was already in great pain, she said to the nurse to „do whatever they pleased with her“. The delivery was concluded with a cesarean section at 10:35 a.m. The staff did not inform Ms. Z about the nature of the intervention before it had been performed or its consequences. Sterilization was presented to her as the only possible alternative contraception.

Performing sterilizations without informed consent and under the above circumstances constitute, among other things, also a violation of the Slovak Republic's obligation under the CEDAW Convention in particular its Articles 2 and 12.

## **1.2. Criminal Investigation**

143. The criminal proceeding in the case of unlawful sterilizations of Romani women in Slovakia was initiated on 30<sup>th</sup> January 2003 by the Section for Human Rights and Minorities of the Office of the Government of the Slovak Republic. On 31<sup>st</sup> January 2003, the Regional Judicial and Criminal Police Office in Košice initiated criminal prosecution for the criminal offence of genocide. Romani women who had been subjected to unlawful sterilizations joined in the criminal prosecution having the aggrieved party standing. On 23<sup>th</sup> October 2003, the police investigator issued a decision on discontinuance of the criminal prosecution on the grounds that the act, for which the prosecution was held, had not occurred. As the aggrieved party did not agree with the criminal investigation conclusions, they filed a complaint against this decision within the statutory period on 31<sup>st</sup> October 2003.

144. In its decision of 9<sup>th</sup> March 2004, the Regional Prosecutor's Office in Košice dismissed the Romani women's complaint by reason that they, in spite of having the status of aggrieved parties in the criminal proceeding, were not entitled to file a complaint against a resolution on discontinuation of criminal prosecution. This decision was subsequently dismissed by the decision of the Constitutional

Court No. III.ÚS 86/05-45 of 1st June 2005, which the Romani women filed a constitutional complaint with. The Constitutional Court of the Slovak Republic held that the Regional Prosecutor's Office in Košice did not act appropriately if it had dismissed the aggrieved Romani women's complaint against a resolution on discontinuation of the criminal prosecution, and therefore ordered it to act in the case again. The Regional Prosecutor's Office speedily issued its decision on the matter on 28th September 2005 dismissing the complaint of the applicants as groundless.

145. The complainants then filed another complaint with the Constitutional Court. In its decision no. III.ÚS 194/06-46 of 13th December 2006, the Constitutional Court held that the actions of the law enforcement agency, the Regional Prosecutor's Office in Košice, constituted a violation of the Romani women's rights guaranteed to them by the Constitution of the Slovak Republic and international conventions, among others the procedural aspect of Articles 8 and 3 of the European Convention on Protection of Fundamental Rights and Freedoms. At the same time, the Constitutional Court cancelled the decision of the Regional Prosecutor's Office in Košice of 28th September 2005 and ordered it to act in the case again. The Constitutional Court awarded the three complainants adequate financial satisfaction, 50.000 SKK each (approx. 1.350 EUR), for procedural violation of their rights. In its ruling, the Constitutional Court of the Slovak Republic especially held that

„in the investigation preceding the contested decision of the Regional Prosecutor's Office of 28 September 2005 not all options were exhausted for the most possible extended ascertainment of the facts in the extent necessary for the decision and the Office of Judicial Police investigator's resolution of 24 October 2003 on discontinuance of criminal prosecution is not founded on constitutionally conformable (sufficient and viewable) reasons. The Regional Prosecutor's Office, in the proceeding dealing with the complaint against the decision of the Office of Judicial Police investigator of 24 October 2003, not only failed to remedy the deficiencies, but also confirmed them in its valid decision.

The Complainants had an arguable claim that in connection with them it could come to unlawful performance of sterilization, hence to inhuman or degrading treatment interfering with their privacy and family life. Regional Prosecutor's Office, however, confirmed the Office of Judicial Police investigator's decision on the criminal prosecution discontinuance without securing elimination of the investigation deficiencies in the interest of examining all relevant circumstances of the case and a proper consideration of the case."

146. Based on the Constitutional Court decision of 9th February 2007, the Regional Prosecutor's Office prosecutor cancelled the resolution of the Judicial and Criminal Police Office in Žilina investigator on discontinuance of the criminal prosecution, and ordered her to act in the case again. Thus the law enforcement agencies continued the criminal proceeding in the course of 2007; they interrogated the Romani women and conducted a face to face confrontation between them and the health care staff who had performed the sterilizations on them. After about 10 months since the criminal prosecution renewal, the investigator again discontinued the criminal prosecution by her resolution of 28th December 2007. The investigator reasoned the discontinuance of criminal prosecution giving the same reasons as in 2003. The aggrieved Romani women then filed a complaint against this resolution objecting especially to the fact that, in their opinion, the investigation had been carried out only formally, the aggrieved women had been interrogated again on the facts the investigator was already familiar with and which they had been interrogated on in 2003. Moreover, the investigation only targeted the three Romani women who had been the complainants in the Constitutional Court proceeding despite the fact that much more Romani women joined in the criminal prosecution as the aggrieved parties. The Regional Prosecutor's Office, whose decisions in this criminal investigation have been already dismissed twice by the Constitutional Court, in its decision of 20 March 2008 dismissed the complaint of the Romani women again. After five years since the beginning of the criminal proceeding, the further law enforcement agencies investigation has failed to remedy the deficiencies objected to by the aggrieved party since 2003 and also by the Constitutional Court. Romani women thus had to submit the constitutional complaint with the Constitutional Court of the Slovak republic for the third time.

147. The Constitutional Court decisions, as well as other failures of the law enforcement agencies in the criminal investigation clearly disprove the claims of the Slovak Government that it has conducted an efficient investigation in the matter of unlawful sterilizations, either via the criminal investigations in

2003 and 2007 or via the inspection carried out by a committee established for this purpose by the Ministry of Health Care of the Slovak Republic in 2003.

### 1.3. Civil Proceedings

148. The Poradňa also provides free-of-charge legal representation before courts to Romani women on whom sterilization has been performed without their informed consent. Some of the Romani women have not joined, as the aggrieved party, in the criminal prosecution conducted by the law enforcement agencies, but they filed civil lawsuits with the relevant courts against the hospitals whose employees performed the illegal sterilizations on them claiming damages to their health or non-pecuniary damages for unlawful interference with their personality. So far, there has not been a single court decision issued in favor of the Romani women. In most cases, the court proceedings are still pending and evidence is being performed. **In most cases, the courts dismiss the complaints of Romani women reasoning their decision that performing the sterilization was necessary from the medical point of view.** Nonetheless, the courts do not take into consideration the assertions of Romani women drawing on the expert opinions of international medical organizations such as FIGO and WHO, which state that, from the medical point of view, sterilization is seen as one of the possible forms of contraception and in case there is a risk to health of the woman of the fetus in case of a future pregnancy (particularly in cases of repeated cesarean sections), the risk can be averted also by other means than performing a sterilization on a woman as its percentage of averting such a risk is very low. Only one of the court decisions dismissing the complaint in the civil proceeding is effective and the case is currently pending at the Constitutional Court of the Slovak Republic. Other proceedings are still pending, either before the first instance courts or appeal courts.

149. It is necessary to point out the fact that hospitals often try to prevent women from initiating a civil lawsuit by creating unnecessary obstructions when a woman wants to review her medical record kept by the individual gynecological and obstetric departments in hospitals. This is occurring despite the fact that under the Act no. 576/2004 Coll. of Laws on Health Care, Services Related to Health Care Provision amending and changing other laws (hereinafter „the Health Care Act“), which took effect on 1st January 2005, patients have the right to review their medical record by means of consulting it, making notes, as well as photocopying the documents in the medical record. In practice, however, this right is often violated. The health care staff is often not aware that such legislation has been adopted and that the patients have a right to review their medical record, as well as the right to authorize a third party to exercise this right. In reality, there are often excuses saying the hospitals are not technically equipped for enabling this right to be exercised (they do not have a Xerox or a valid price list for photocopying). Poradňa has even encountered cases, in which medical records of two patients got lost, which, in their case, means they are unable to initiate a possible civil proceeding due to lack of evidence. In case of legal proceedings, the burden of proof is on the complainant who has to provide evidence for the court to prove that the unlawful conduct on the part of a hospital's employees has occurred. Many times, the medical record with a detailed documentation of the course of delivery and performance of sterilization is the evidence.

### 1.4. Current Practice after the Adoption of the New Legislation

150. As its response to the issue of illegal sterilizations of Romani women, the Slovak Government has adopted a new legislation in this field, including the above mentioned Health Care Act, as it also stated in its periodical report submitted to the Committee. Poradňa participated in the new legislation within the commenting period. Poradňa welcomes the new legislation, but, at the same time, we point out that it is necessary for the Government or the respective ministries and other relevant state bodies to ensure its consistent implementation. Even though the new legislation explicitly introduces the institute of the so called informed consent to medical interventions, the Ministry of Health of the Slovak Republic has not issued any implementary regulation or internal guideline to the provisions related to performance of sterilization, informed consent and review of medical record that would unify the procedure of the health care staff when executing their legal obligations and would give them detailed information on the current legislation.

151. Such internal guidelines should, for example, unify the way of granting the informed consent to sterilization. Each hospital has developed its own sterilization request forms and has incorporated the

informed consent into them. However, it is necessary that the health care staff understands the essence of informed consent, that is to understand it is not a mere signature on a form containing lengthy wordings, but, most of all, interactive communication between the physician and the patient reflecting the individual circumstances of each case. The health care staff has to take into consideration also the cognitive and language abilities of a particular patient and to adequately explain the nature of the medical intervention to them. Also, the statutory period of 30 days stipulated by law from filing the request for sterilization to its actual performance should be met.

152. As for the performance of sterilizations itself, Poradňa has often found out that the health care staff are not informed about the new legislation and deny women who have voluntarily decided to undergo sterilization access to this method of contraception. They usually refer to limitations stipulated by the previous (not valid anymore) legislation, such as the age of the patient, number of children, etc.

153. It is clear from the interviews Romani women from 7 segregated Romani communities in Košice and Prešov regions granted to Poradňa that one of the major obstacles for these Romani women living at the poverty line is that the contraception is unaffordable for them, for example an intrauterine contraceptive device (IUD) costs 1,500, - SKK (apx. 80 USD), sterilization costs about 7,500, - SKK (apx. 383 USD) and contraceptive pills cost 250,-SKK (apx. 15 USD) for a month. These considerably high prices of contraception in contrast with the income of Romani women then becomes a serious obstacle preventing Romani women in material need from freely choosing a quality contraception reflecting their needs. During the interviews, the Romani women stated that they were interested in having sterilization performed on them or wanted an intrauterine contraceptive device, but these forms of contraception were not affordable for them. Some of the Romani women showed interest in paying for this type of contraception in installments, but the health care providers and the health insurance companies did not allow this<sup>102</sup>. Due to their unfavorable status, Romani women in material need do not have equal access to means enabling them to freely and responsibly decide on the number and spacing of their children. Similar situation can, of course, affect also non-Romani women in material need, but in case of Romani women, there are other obstacles limiting their access to a wide range of quality contraception methods, including the ongoing paternalism on the part of the health care staff, negative stereotypes and prejudice against the Romani community, as well as ethnic discrimination on the grounds of their Roma ethnicity.

154. Such actions constitute violation of Article 16(e) of the CEDAW Convention, under which the State Parties are obliged to ensure the same rights to decide freely and responsibly on the number and spacing of children.

## **2. Discrimination in Access to Health Care and Social Security**

155. Discrimination of Romani women in some health care facilities is not a rare occurrence. It is common that some hospitals in the regions of Eastern Slovakia, mostly their gynecological and obstetric departments, have the so called „rooms for gypsies“. These are rooms where only patients of Roma ethnicity are placed. They are often of a lower standard than rooms for patients from the majority population (e.g. it happens that if these rooms are full, there are two patients lying in the same bed). In some hospitals, patients of Romani ethnicity only have access to separate toilets, they are not allowed in the common areas such as dining room, etc.

156. The vast majority of health care staff – especially in the Eastern Slovakia – displays a high level of bias against the Roma and their contact with the Roma is influenced by a number of negative stereotypes and prejudice. As a result, a relationship based on trust is not being developed between the Romani communities, and Romani women in particular, and the health care staff. Inadequate approach of many health care providers in the field of reproductive health to Romani women from marginalized communities makes the women avoid going to a gynecologist, even in case they suffer from some health problems. The above reasons considerably contribute to the low participation of Romani women from marginalized communities in preventive and pre-natal medical examinations.

---

<sup>102</sup> For more details see Center for Civil and Human Rights, “Report on the Survey Outcomes”, Košice, 2007, available at <http://www.poradna-prava.sk>.

157. The Slovak Republic has been criticized for such practices for a long time, yet it has not taken any measures towards their elimination to date. It, therefore, violates its obligations under the Convention, particularly Article 12 of the Convention, under which the State Parties are obliged to take all appropriate measures to eliminate discrimination against women in the field of health care.

158. Romani women in Slovakia experience discrimination also in other areas, among others, also in the area of access to social security. On 1st November 2005, Act no. 471/2005 Coll. of Laws changing the Act No. 235/1998 Coll. of Laws on Maternity Allowance, a benefit for parents to whom three or more children were born at the same time or to whom twins were born repeatedly in the course of two successive years, and which is an amendment to other laws as amended. This act has tightened up the criteria for granting a social benefit – the maternity allowance. According to the amended law, this stricter policy means that a legitimate claimant to the benefit is denied if she leaves the child in the health care facility without the permission of the physician. The aforementioned amendment has, in such wording, a negative affect predominantly on women – Romani mothers from socially disadvantaged groups, and is, in itself, discriminatory.<sup>103</sup> The Slovak public is more than familiar with the fact that Romani women in particular are those to „escape“ from the hospital after the delivery and come back to collect their babies at the time when they can be, in accordance with the Slovak medical practice, released home. The information provided by the individual hospitals to Poradňa clearly show that, according to their records, it is mostly, if not exclusively, patients of Roma ethnicity who leave the gynecological and obstetric departments prematurely.<sup>104</sup> The wording of conditions for granting the maternity allowance leads to the assumption that the legislator's intention was, by means of the amendment to the law, to influence the behavior of a „Romani mother“ and motivate or sanction her via granting or not granting her the maternity allowance.

159. According to the provision of Section 1 paragraph 2 of the Act no. 235/1998 Coll. of Laws on Maternity Allowance, the benefit is a state social welfare benefit, by means of which the State contributes, via a certain amount of money, to covering of costs related to securing the basic needs of a newborn child. The aim of the legislator granting this benefit is to help parents bear the costs related to birth of a new family member. On the contrary, the legitimate claimant is not granted the benefit if the child does not become a member of its original family, but is committed to the care of a foster family or institutional care, or if the legitimate claimant has given his/her consent to adoption of the child. In such context, the condition introduced by the amendment does not seem conceptual, even contradictory to the original intention of the legislator, as it denies the family, whose member the new born child is, financial aid. The fact that a „Romani mother“ leaves the hospital does not mean that she gives up the child or that she has abandoned it for good. The mother collects the child a few days later, the child then becomes a member of her family and the family then bears the expenses related to care of a new family member. Moreover, the reasons why Romani women leave the hospital prematurely after the delivery were not taken into consideration when adopting this legal provision. It is very often the discrimination and degrading conditions at the hospitals' gynecological and obstetric departments that cause their premature leaving. Reasons related to their family background and the role Romani women have in the family also frequently occur. Since these Romani women have several other minors at home who need their care, they leave the hospital in order to look after the other children knowing that the new born child will well be taken care of until they come back. This traditional role of a Romani woman taking care of children and the household will not be substituted by anyone in the family. This particularly applies to families living in segregated Romani communities where, within the community, the traditional division of roles between women and men still prevails. These important factors influencing the behavior of some Romani women were not considered in the process of developing the above mentioned law, which currently results in the fact that this legal provision seems discriminatory against Romani women.

160. The Slovak National Center for Human Rights – a specialized body set up under the law supervising the adherence to the equal treatment principle under the current Act no. 365/2004 Coll. of Laws (Anti-discrimination Act) - also took an unambiguous stand on the issue. The Slovak National

---

<sup>103</sup> For more details see Center for Civil and Human Rights, „Report on the Field Survey Outcomes“, Košice, 2006, available at <http://www.poradna-prava.sk/go.php?p=502>.

<sup>104</sup> For more details see Center for Civil and Human Rights, „Report on the Hospital Survey Outcomes“, Košice, August 2007, available at <http://www.poradna-prava.sk/go.php?p=502>.

Center for Human Rights, in its expert opinion of 15th August 2007, observed that the aforementioned legal provision does not allow for effective protection and actual performance of rights guaranteed under the Constitution of the Slovak Republic and relevant international conventions and recommended the legislator to initiate the amendment of this piece of legislation. Up to date no amendment has been adopted.

### **Recommendations to the Slovak Government and Other State Bodies**

161. Based on the above mentioned facts we hope that the CEDAW Committee incorporates the following recommendations to the Slovak Government into its concluding observations:

- To take steps towards publicly apologizing to the victims of the forced and coerced sterilizations practice.
- To take measures with a view of setting up a special independent commission with participation of NGOs and Romani communities and adopting a special legislation in order to compensate the victims affected by the forced and coerced sterilizations practice.
- To undertake a thorough investigation into forced and coerced sterilizations practices.
- To provide for a consistent implementation of the newly adopted legislation in the field of sterilizations, informed consent and medical record reviewing via issuing an implementary regulation and internal guidelines for hospitals in its administration.
- Via education institutions such as the Slovak Health Care University, provide for life-long education of physicians and other health care staff, e.g. nurses, on main principles of patients' rights; to develop mechanisms for supervising physicians' approach to patients with a view of encouraging the physicians to not only respect the current legislation but also to be able to apply it in their communication with patients while respecting the individual needs of each person.
- To provide for consistent education in the field of informed consent and its human rights background at medical schools and for consistent ethical education of physicians and nurses in contact with patients from a different social and cultural background within the life-long education scheme.
- To provide for legislative measures with a view of changing the conditions for granting the maternity allowance under Act no. 235/1998 Coll. of Laws and abolishing the condition under which a mother who leaves the child in the health care facility prematurely and without the permission of the physician is not entitled to maternity allowance.
- To provide for adopting mechanisms for effective prevention, elimination and serious sanctioning of all forms of discrimination in access to health care.

### **C. The Housing Rights of Romani Women in Slovakia**

*Centre on Housing Rights and Evictions and Milan Šimečka Foundation*<sup>105</sup>

162. The Government of Slovakia has persistently failed to protect the Roma from discrimination and consequently deprived them of their housing and associated rights. Since the fall of the Iron Curtain in 1989, the Slovak government has implemented numerous policies and practices aimed at systemic racial segregation of Roma in the housing sector. Although Slovakia has had access to extraordinary resources in recent years to address the issue of the appalling living conditions of the Roma – in

---

<sup>105</sup> This text was prepared based on a three year project carried out by the Centre on Housing Rights and Evictions, Milan Šimečka Foundation and European Roma Rights Centre, funded by the Open Society Institute.

particular, resources made available from the European Union as well as from other donor agencies – the Slovak authorities have failed to use them effectively for this purpose. Romani women are a particularly vulnerable group frequently living in extreme -- and predominantly rural -- circumstances. The severe housing situation of an extremely marginalized segment of the Romani community in Slovakia has a number of particular, gendered effects, including heightening vulnerability to violence, including domestic violence, coercive sterilization and other forms of inhuman and degrading treatment.

163. Forced evictions of Roma in Slovakia continue unabated throughout the country. Last year, large-scale forced evictions of Roma have taken place in the municipalities including but not necessarily limited to Tornaľa, Kežmarok, Košice and Nové Zámky, and further evictions are imminent and/or threatened in Prešov, Nitra, Levoča, Kežmarok and Zlaté Moravce. Approximately 45 Roma were forcibly evicted from a block of flats in Košice by local municipal officials in August last year. They were not provided with alternative housing. Local authorities evicted nearly 200 Roma from a block of flats in Nové Zámky in September 2007. The evictions in Nové Zámky were carried out with the assistance of a private security agency. More than 200 Roma have also been evicted from their homes in Tornaľa since July 2007.

164. Forced evictions represent a brutal violation of the right to adequate housing, and have particular ramifications for Romani women. It is women who are most often the primary targets during forced evictions because evictions most often take place during the day, when women are at home. In the midst of the violence and chaos which often accompanies forced evictions, private actors and State authorities at times perpetrate acts of abuse and harassment against women and girls.

165. Indeed, the affects of forced evictions are very hard on Romani women, as women are often charged with taking care of the children and family before, during and after an eviction takes place, and for providing a sense of stability at home. Forced eviction damages or destroys the social and community networks on which women, in particular, often depends for security and livelihood. In cases where a woman is the sole economic provider for her household, forced eviction can also result in utter destitution for herself and her children.

166. It is estimated that possibly over 120,000 Romani persons currently reside in slums in Slovakia, or are otherwise housed in substandard, segregated housing conditions. A survey conducted during the period 2003 – 2005, documented the existence of 149 Roma settlements (both in urban and rural areas) and other 638 ethnically concentrated settlements in Slovakia. According to the survey, 46 of these settlements were in need of urgent humanitarian assistance. Of these, 9% lacked the provision of electricity, 81% lacked adequate sewerage facilities, 59% lacked gas supply and 37 percent lacked access to safe drinking water. In a majority of these settlements, polluted drinking water and lack of basic sanitary amenities have caused several infectious diseases and high levels of infant mortality and general morbidity. Again, the burden of this lack of services places additional burdens on women, who care for the young and the sick, and who are charged with providing for the basic needs of the household.

167. While some local governments and municipalities have undertaken pro-active measures to improve slum conditions and otherwise improve the housing of Roma, for the most part, the Slovak Romani community lives in dramatically worse conditions than it did 20 years ago. Of particular concern has been the failure of the Slovak government to implement the United Nations Committee on the Elimination of Racial Discrimination (CERD) decision in the matter of *L.R et al. v. Slovakia*, the Committee's first ever decision in connection with racial discrimination in the field of housing. This case is exemplary of a disturbing trend in which municipalities deliberately neglect to improve – or indeed actively strive to worsen – the situation of Roma in the field of housing, and the national government fails to correct these omissions.

168. The Committee found Slovakia in violation of international law for racial discrimination against Roma in the field of housing in March 2005. In the matter of *L.R et al. v. Slovakia*, the CERD held that Slovakia had violated international law as a result of the actions of the Municipality of Dobšiná, which agreed to cancel a social housing project which would have benefited Roma in the town. The housing project was abandoned by the municipality following a petition campaign by local non-Roma against

Roma receiving such housing. The CERD held that this act of capitulation by the Municipality of Dobšiná was racially discriminatory, and therefore illegal.

169. To date, the Government of Slovakia has refused to implement the first significant ruling on racial discrimination in housing to be issued by an international review body. As a result of this, 150 Romani families living in the Dobšiná settlement continue to live in appalling conditions. The area near the border of the settlement is currently used as a dumping ground for the town's garbage, excrement and chemical waste. The Municipality of Dobšiná reportedly disconnected the water supply for the area five years ago. At present, the only source of water for the entire settlement is a stream which flows from a nearby forest. Unfortunately, the stream water is not potable. According to Roma inhabitants, there are several cases of Hepatitis and Dysentery among the local children. The situation of the Roma in Dobšiná is mirrored by approximately 120,000 other Romani Slovaks living in conditions of extreme material deprivation as a result of the acts and omissions of the Government of Slovakia.

170. Of particular concern are the ongoing processes of administrative decentralization in Slovakia (which began in 1990) which have transferred most powers governing housing matters from the national government to local municipalities. The national government has reserved for itself few if any instruments and powers to implement or actively influence housing policy at the local level. In effect, precisely at the juncture at which serious human rights concerns have been identified in the field of housing, Slovak lawmakers have ceded nearly all available powers for ensuring Slovakia's compliance with international human rights obligations in this area.

171. In addition, racial segregation of Roma in Slovakia has been intensified through comprehensive reforms to the welfare system in the period 2003 – 2004. Stringent conditions brought into effect by the reforms require persons to possess a lease for a flat and pay rent and utilities regularly, or have a have an installment plan agreed with the landlord to be eligible for receiving housing allowances. The first condition automatically excludes all Roma living in informal settlements from being eligible to receive housing allowances. The second condition disqualifies families with unpaid debts from receiving housing allowances.

172. For Romani women, the impacts of the welfare reform have been particularly acute. As CERD itself recognized in its General Recommendation No. 25 on the gender related dimensions of racial discrimination "...racial discrimination does not always affect women and men equally or in the same way. There are circumstances in which racial discrimination only or primarily affects women, or affects women in a different way, or to a different degree than men. Such racial discrimination will often escape detection if there is no explicit recognition or acknowledgement of the different life experiences of women and men, in areas of both public and private life."

173. These examples illustrate that the failure of the Government of Slovakia to counter racial segregation has been comprehensive, systematic and intensifying since 1989. This failure has had especially detrimental impacts on Romani women, who face discrimination on account of both their gender and their ethnicity.

174. As a result *inter alia* of systematic housing abuses against Roma in Slovakia, Romani women are particularly exposed to a number of gender-specific threats, including but not necessarily limited to:

- The threat of coercive sterilization, compounded by being readily identifiable as from a particular segment of the Romani community, as a result of living in exposed Romani slums;
- The threat of gender-based violence before, during, and after forced eviction from her community;
- The threat of violence aggravated by extreme deprivation of services in Romani slums, including adequate street lighting, the lack of availability of adequate policing; lack of bus lines and other means of public transport, as well as other conditions leading to extreme marginalization;
- Domestic violence, aggravated as a result of the foregoing factors, as well as other factors, such as the dearth of Romani women working in battered women shelters in Slovakia, as well as the near-complete unavailability of such shelters in areas where excluded Romani slums are located.

Because this situation demonstrates a failure on the part of the Government of Slovakia to uphold its commitments under CEDAW (and in particular Articles 2, 3, 4, 12, and 14) we urge the CEDAW Committee to devote particular attention to these issues, and to note the nexus between violations of the right to adequate housing, and particular harms Romani women in Slovakia face.

### **Recommendations to the Slovak Government and Other State Bodies**

175. Based on the above mentioned facts we hope that the CEDAW Committee incorporates the following recommendations to the Slovak Government into its concluding observations:

- To explicitly acknowledge and guarantee the right to adequate housing as one of the fundamental human rights. Strengthen legal protections against forced eviction, providing for the particular needs of groups including women and children among excluded minority groups.
- To explicitly condemn all forms of racial discrimination and segregation of Roma in the field of housing and to secure that such actions do not occur anymore.
- To take all available measures to prevent forced evictions and to provide due legal remedy to all persons forcibly evicted.
- To clearly define the social housing policy and the means of its implementation, including regular evaluation.
- To enlarge programming aimed at providing real and durable security of tenure to all persons in Slovakia, with a particular focus on Roma living in substandard or otherwise excluded settlements. To ensure that women's rights concerns are mainstreamed in any and all such programming.
- In consultation with affected communities, and with a particular focus on the needs of women, to expand efforts to improve housing and infrastructure in excluded Romani settlements in Slovakia.
- On an emergency, stop-gap basis, to ensure that Romani housing and infrastructure provides for suitable protections against gender violence by ensuring, for example that public spaces are well-lit, and that community infrastructure is sufficient to meet the needs of women threatened by domestic violence.
- To provide legal aid to the poor to assist in matters concerning the regularization of tenancy; to ensure that such programming reaches women and other persons threatened with gender-based exclusion.

### **Article 16: Marital and Family Relations**

*Zuzana Magurová, Pro Choice Slovakia*

176. The new Family Act<sup>106</sup> of 2005 is, in a lot of its aspects, a step back in the state of Slovak society reached before. It does not take into consideration new trends in family policy and does not respect plurality of different forms of a family, which means it reflects the implementation of equal opportunities principle insufficiently. In its introduction, in Article 1 on "Basic Principles", marriage is defined as being "a union of a man and a woman" despite the fact it is a family law. Marriage cannot constitute a framework for the needs of a family law. Other forms of a family are mentioned in the law only in its Article 2 in the following way: "The society protects all forms of a family in all aspects." This sentence, however, follows the previous provision according to which "a family based on marriage is the core unit of the society."

---

<sup>106</sup> Act no. 36/2005 Coll. of Laws on Family and amendment to other laws of 19th January 2005.

177. According to the law, “starting a family and appropriate upbringing of children“ are the main aims of a marriage. Such definition discriminates against childless married couples who do not wish or cannot have and bring up children. At the same time, the law limits the purpose of marriage only to starting a family.

178. In its Section 82, the law rigidly sets that “The woman who delivers a child is its mother” and it also determines that “Agreements and contracts, which violate [the previous provision], shall be null and void.” In this respect, it is necessary to say that the issue of assisted reproduction, which can, at worst, result in legal actions on determining the mother, is new and almost unknown in Slovakia. An unambiguous solution in favor of the woman who delivers the child is, therefore, premature. This decision was not preceded by an open discussion of both the professional and general public. The aforementioned provision does not take into consideration medical methods of assisted reproduction (e.g. surrogacy in cases when a woman is not able, due to health problems, to carry the fetus). At the same time, the provision discriminates against women who cannot get pregnant in a natural way.

#### **Recommendations to the Slovak Government and Other State Bodies**

179. Based on the above mentioned facts we hope that the CEDAW Committee incorporates the following recommendations to the Slovak Government into its concluding observations:

- To broaden the definition of a family in the Family Act that would not be limited to marriage and would take into consideration the existence of plurality of family forms.