



**International Convention on  
the Elimination of All Forms  
of Racial Discrimination**

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**Committee on the Elimination of Racial Discrimination**

**Reports submitted by States parties under article 9 of the  
Convention**

**Ninth and tenth periodic reports of States parties due in 2012**

**Slovakia\* \*\***

[30 May 2012]

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\* This document contains the ninth and tenth periodic reports of Slovakia due in 2012, submitted in one document. For the sixth to eight periodic reports and the summary records of the meetings at which the Committee considered this report, see documents CERD/C/SVK/8 and CERD/C/SR.1975, 1976, 1995 and 1996.

\*\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited.

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## I. Introduction

1. The Slovak Republic (hereinafter referred to as the 'SR') is a party to the International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter referred to as the 'Convention'), signed in the name of the Czechoslovak Socialist Republic on 7 March 1966. By succession from the Czech and Slovak Federal Republic, the Slovak Republic became a party to the Convention on 28 May 1993, with retroactive effect from 1 January 1993.

2. In view of article 9 of the Convention, the Slovak Republic as a party to the International Convention on the Elimination of All Forms of Racial Discrimination submits reports on the implementation of the Convention to the Committee on the Elimination of Racial Discrimination. The Slovak Republic submitted its sixth, seventh and eighth periodic reports in May 2008.

3. The Slovak Republic hereby presents its ninth and tenth periodic reports on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination. The present report contains information on the legislative, judicial, administrative and other measures taken in order to put the provisions of the Convention into practice, and on the progress attained in this field in the period between 2009 and 2012.

4. The present report was prepared by the Ministry of Foreign Affairs of the Slovak Republic (hereinafter referred to as the 'MZV SR') working in conjunction with the sectors that have substantive competence over relevant issues, in compliance with the reporting guidelines issued by the Committee Elimination of Racial Discrimination containing recommendations on the content and form of individual periodic reports concerning the Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/70/1), and with concrete recommendations contained in the final conclusions of the Committee adopted on 16 March 2010 subsequent to the examination of the sixth, seventh and eighth periodic reports of the Slovak Republic.

## II. General part

### National minorities

5. According to the census conducted as of 21 May 2011, the population of the Slovak Republic was 5,397,036. 80.7 per cent of which were Slovak nationals. National minorities formed 12.3 per cent of the population, 7 per cent of the population did not declare their nationality.

6. Almost 4,353 thousand people recognised themselves as being Slovak nationals. In comparison with 2001, the number of Slovak nationals has decreased by 262 thousand; their share in the total population has dropped as well.

7. The Hungarian minority is the most numerous: more than 458 thousand inhabitants (8.5 per cent of the total population) declared being of Hungarian nationality. Their number as well as their share in the total population has decreased in comparison with 2001.

8. The Roma population represents the second most numerous national minority in Slovakia - almost 106 thousand inhabitants declared being of Roma nationality, i.e. 2 per cent of the total population. The number and share of inhabitants who declared being of Roma nationality has increased in comparison with 2001.

9. The population of the Slovak Republic, broken down by nationality is set out in the table below.

<i>Housing population</i>	<i>2011</i>		<i>2001</i>		<i>1991</i>	
	<i>abs.</i>	<i>in %</i>	<i>abs.</i>	<i>in %</i>	<i>abs.</i>	<i>in %</i>
Total	5,397,036	100.0	5,379,455	100.0	5,274,335	100.0
Nationality						
Slovak	4,352,775	80.7	4,614,854	85.8	4,519,328	85.7
Hungarian	458,467	8.5	520,528	9.7	567,296	10.8
Roma	105,738	2.0	89,920	1.7	75,802	1.4
Czech	30,367	0.6	44,620	0.8	52,884	1.0
Ruthenian	33,482	0.6	24,201	0.4	17,197	0.3
Ukrainian	7,430	0.1	10,814	0.2	13,281	0.3
German	4,690	0.1	5,405	0.1	5,414	0.1
Polish	3,084	0.1	2,602	0.0	2,659	0.1
Croatian	1,022	0.0	890	0.0	x	x
Serbian	698	0.0	434	0.0	x	x
Russian	1,997	0.0	1,590	0.0	1,389	0.0
Jewish	631	0.0	218	0.0	134	0.0
Moravian	3,286	0.1	2,348	0.0	6,037	0.1
Bulgarian	1,051	0.0	1,179	0.0	1,400	0.0
other	9,825	0.2	5,350	0.1	2,732	0.1
unidentified	382,493	7.0	54,502	1.0	8,782	0.2

10. In the period of assessment, the effort to create a concept of statistical data collection continued, mainly through the activities of the working group established at the Office of the Slovak Government's Plenipotentiary Office for Roma Communities (hereinafter referred to as the 'ÚSVRK') in order to elaborate benchmarks for the national data collection concept. In view of the urgency to improve the collection of statistical data according to attributes which might be a reason for discrimination, as well as in order to increase its efficiency, this working group has come under the patronage of the Vice-President of the Government for Human Rights and National Minorities. The mentioned multi-disciplinary working group, in charge of the elaboration of a methodology of collection of data related to age, sex, membership in a national minority or an ethnic group or other characteristics, has been established within the Government Council for Human Rights, National Minorities and Gender Equality.

11. The stated aim is currently being performed by the Section of Human Rights and Equal Treatment of the Government Office of the Slovak Republic, within an extensive year-long project subsidized by the European Commission's PROGRESS 2011 project. One of its priorities is to analyse needs in the area of the collection of relevant data for the regular continuous monitoring of the observance of the equal treatment principle (including data related to ethnicity or membership in autochthonous or non-autochthonous minorities, sexual orientation, social status, etc). The aim of this project is to identify needs in the area of the collection of relevant data on the observance of the equal treatment principle, with a particular focus on social exclusion, to summarize the existing tools for measuring, possibilities of their further use, to develop new indicators and new methods of data collection in order to find out the situation in the given area, to create a platform for an expert discussion regarding the collection of data and their putting into practice, and to draft recommendations, policies and methodologies for the needs of relevant data collection. The above-mentioned multi-disciplinary working group, in charge of the elaboration of a

methodology of the collection of data related to age, sex, membership in a national minority or an ethnic group or other characteristics, will follow up on the project activities, while it will also intensify its activity when performing the above-mentioned project in the course of 2012.

### **Aliens and asylum procedure**

12. The non-refoulement principle, in view of the Article of the European Convention on Human Rights, is regulated separately in the legislation of the Slovak Republic in the provisions of article 81 of the Act No. 404/2011 Coll. on the Residence of Foreign Nationals and on amendments and supplements to certain laws (hereinafter referred to as the 'Act on the Residence of Foreign Nationals'), as obstacles of administrative expulsion.

13. In relation to monitoring the access of aliens to asylum procedure and observing the non-refoulement principle on borders, it is necessary to state that in 2010, 2011 and 2012, access to the asylum procedure of persons in the interest of UNHCR has been monitored on borders and in Police detention units for aliens through the UNHCR project 'BMPR – Border Management and Protection of Refugees', previously the 'AMAS – Access Management and Support Project' project, (more information to be found at <http://www.unhcr-centraleurope.org/sk/co-robime/monitorovanie-hranic.html> and <http://www.hrl.sk/projects/view/4>), performed by the Human Rights League. The project was launched in 2008 on the basis of a 3-party Memorandum among the Bureau of Border and Aliens Police of the Police Force Presidium, UNHCR and the Human Rights League, which was renounced in 2010, and currently a new wording of the relevant contract is being discussed, while the monitoring continues. On the basis of the project, the association's lawyers regularly monitor action taken at the units of border control and the access to asylum procedure, if there is a person in the interests of UNHCR. Monitoring is also continuing in the premises of the international airport of M. R. Štefánik in Bratislava and Košice airport, as well as in the Police Detention Unit for Aliens in Medveďov and the Police Detention Unit for Aliens in Sečovce. Reports are elaborated on the course and result of each monitoring visit, and they are sent to UNHCR (as long as the 3-party Memorandum was valid and effective, also to the Bureau of Border and Aliens Police of the Police Force Presidium). The several-year-long discussion about the wording of a new contract which is going to replace the renounced 3-party Memorandum, and which is to define the rights and obligations of both contracting parties again, is hampering the execution of the project. The non-existence of the contract may potentially pose a threat to the access of foreigners in the interests of UNHCR, and in whose cases it is necessary to respect the non-refoulement principle, to the asylum procedure, UNHCR and NGOs.

14. A considerable change has been seen in the issue of a suspensive effect of appeals against the decision on administrative expulsion. In principle, the suspensive effect of appeals against the decision on administrative expulsion is governed by the relevant provisions of the Administrative Order granting the suspensive effect, with the exception of cases when an administrative body excludes it in decision proceedings due to public order. Currently Act No. 404/2011 on the Residence of Foreign Nationals and on amendments and supplements to certain laws lays down that the suspensive effect of appeals against the decision on administrative expulsion must not be excluded if it is the case of an administrative expulsion for the reason that the foreigner has illegally crossed an external border. In connection with article 77, paragraph 7 of Act No. 404/2011 Coll. on the Residence of Foreign Nationals and on amendments and supplements to certain acts which lays down that foreigners in administrative expulsion proceedings (in the appellate procedure) are entitled to be provided, under certain circumstances, with free legal aid by the Legal Aid Centre; it represents an increase in the legal protection of aliens who are detained directly in relation to illegal border-crossing. In practice, however, it is necessary to ensure that such persons have efficient access to the legal aid ensured, in view of the fact that border procedures are often

held within several hours. Facts justifying the application of the non-refoulement principle may be found during return proceedings - in line with the terminology used by the Regulation of the European Parliament and of the Council 2008/115/EC of 16 December 2008 on common standards and procedures of Member States for returning illegally staying third-country nationals, published in the Journal of the EU L 348, 24.12.2008, p. 98 – 107 (the so-called 'Return Regulation') in article 3, section 3, 'return' means the process of a third-country national returning – whether in voluntary compliance with an obligation to return or enforced – to: his or her country of origin, or a country of transit in accordance with Community or bilateral readmission agreements or other arrangements, or another third country, to which the third-country national concerned voluntarily decides to return and in which he or she will be accepted. The 'Return Regulation', in its article 8, paragraph 6 obliges the Member States to establish an 'effective forced-return monitoring system'. This obligation has not been met by the Slovak Republic until now, as currently forced returns made by Slovak national authorities are not monitored.

15. When examining obstacles to administrative expulsion, a foreigner's statements made in the course of the procedure about his/her administrative expulsion are examined first of all. Therefore, in order to confirm or exclude reasons for obstacles in administrative expulsion, available information about the country of origin is important, acquired mainly through the coordination of the Bureau of Border and Aliens Police of the Police Force Presidium with the Department of Documentation of the Migration Office of the Ministry of Interior of the Slovak Republic. The mentioned Department provides complex documentation and information activity, as well as analytic activity on countries of origin, consisting mainly of searching, compiling, analyzing and providing this information, mainly for the purposes of asylum procedures. Other information is provided by the Ministry of Foreign Affairs of the Slovak Republic (MZV SR), as well as by police attaches at embassies of the Slovak Republic abroad or on web pages.

16. In the Slovak Republic, the issue of asylum, subsidiary protection and temporary refuge is laid down in the Asylum Act. The Asylum Act reflects not only the Convention Relating to the Status of Refugees (Geneva, 1951) or the Protocol Relating to the Status of Refugees (New York, 1967), but also the relevant EC/EU legislation (Council Regulation 2001/55/EC, Council Regulation 2003/9/EC, Council Regulation 2004/83/EC, Council Regulation 2005/85/EC).

17. Although the Asylum Act was not amended in the monitored period of 2009 – 2011, we can mention Act No 451/2008 Coll. amending and supplementing Act No 480/2002 Coll. on Asylum and on amendments and supplements to certain laws as amended which became effective on 1 December 2008. The aim of this Act was mainly to transpose article 15 (right to legal aid and representation) of Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status.

18. In the period of 2009 – 2011, the decreasing trend seen in the number of applications for asylum filed in the territory of the Slovak Republic continued. In 2009, 822 applications for asylum were filed, while the Ministry of Interior of the Slovak Republic granted asylum in 14 cases and provided subsidiary protection in 98 cases. In 2010, 541 applications for asylum were filed, while the Ministry of Interior of the Slovak Republic granted asylum in 15 cases and provided subsidiary protection in 57 cases. In 2011, 491 applications for asylum were filed, while the Ministry of Interior of the Slovak Republic granted asylum in 12 cases and provided subsidiary protection in 91 cases. Asylum procedure was suspended by the Ministry of Interior of the Slovak Republic in 460 cases in 2009, 361 cases in 2010, and 270 cases in 2011. Asylum seekers came mainly from the following countries of origin: in 2009 – Pakistan, Georgia, Moldova, the Russian Federation, India and Vietnam; in 2010 –

Afghanistan, the Russian Federation, Georgia, India, Moldova, Pakistan; and in 2011 - Somalia, Afghanistan, Georgia, Moldova, the Russian Federation, India.

19. The key document of the Slovak Republic in the issue of the integration of foreign nationals under the auspices of the Ministry of Labour, Social Affairs and Family (hereinafter referred to as the 'MPSVR SR') is the 'Concept of Foreigner Integration in the Slovak Republic (Decree of the Government of the Slovak Republic No 338 of 6 May 2009; hereinafter referred to as 'KIC'). As a part of KIC fulfilment, on 9 May 2011 the Government of the Slovak Republic approved the first 'Summary Report on the Fulfilment of Measures Resulting from the Concept of Foreigner Integration in the Slovak Republic for 2010' and on 7 March 2012, it approved the second 'Summary Report on the Fulfilment of Measures Resulting from the Concept of Foreigner Integration in the Slovak Republic for 2011' (hereinafter referred to as the 'Summary Reports'). The KIC itself covers a lot of measures, the fulfilment of which is required by the Convention, such as employment, housing, education, social security, health care and the integration of foreigners into the wider society. At the same time, the Summary Reports present the status of task fulfilment within the whole Slovak Republic. Another important document dealing with integration and migration in the Slovak Republic was approved by the Government of the Slovak Republic on 31 August 2011 (Decree of the Government of the Slovak Republic No 574) 'Migration Policy of the Slovak Republic with Outlook up to 2020'. MPSVR SR, on the basis of the Decree of the Government of the Slovak Republic, elaborated an 'Action Plan of Migration Policy in the Domain of the Ministry of Labour, Social Affairs and Family of the Slovak Republic for 2012 – 2013' related to this material.

20. In the period under assessment, no cases of the violation of article 33, paragraph 1 of the Convention relating to the Legal Status of Refugees were discovered on the external border of the Slovak Republic.

21. The introduction of free legal aid in the cases of a negative decision of the Ministry of Interior of the Slovak Republic made in asylum procedures led, in addition to the amendment of the Asylum Act, to the amendment of Act No 327/2005 Coll. on Providing Legal Aid to Persons in Material Need and on amendments and supplements to Act No 586/2003 Coll. on Advocacy and on amendments and supplements to Act No 455/1991 Coll. on Trade Licensing ('Trade Licensing Act') as amended by Act No 8/2005 Coll. and amendment of Act No 586/2003 Coll. on Advocacy and on amendments and supplements to Act No 455/1991 Coll. on Trade Licensing ('Trade Licensing Act') as amended. Moreover, Act No 451/2008 Coll. e.g. brought an extension of the period for filing a legal remedy against a decision denying an asylum application as obviously unsubstantiated or unacceptable from 7 to 20 days; some provisions of the Asylum Act have been updated in view of the experience and knowledge of the application practice.

22. On 20 July 2009, the Agreement between the Government of the Slovak Republic, the United Nations High Commissioner for Refugees, and the International Migration Organization was signed regarding the humanitarian transfer of refugees who need international protection across the Slovak Republic. On the basis of this Agreement, since August 2009 a humanitarian transfer of 98 Palestinian refugees located in Iraq was performed across the area of the Slovak Republic to the United States of America. In the Slovak Republic, the Palestinian refugees were placed in the asylum establishment of the Ministry of Interior in Humenné, where they were provided accommodation, dining and basic hygienic needs by the Ministry of Interior of the Slovak Republic. Health-care costs were settled with resources from the Office of the United Nations High Commissioner for Refugees. The relocation of the last group of Palestinian refugees to a third country took place in March 2011.

23. In view of the requirement of the Office of the United Nations High Commissioner for Refugees for temporary acceptance of other refugees and persons protected by UNHCR who

are under difficult and inconvenient living conditions and necessarily need to be relocated to a third country, a new Agreement was signed on 22 December 2010 among the Government of the Slovak Republic, the United Nations High Commissioner for Refugees, and the International Migration Organization about the humanitarian transfer of refugees who need international protection across the Slovak Republic. On the basis of this Agreement, in May 2011, 46 Afghan refugees from Iran came to the territory of the Slovak Republic, while the relocation of the last group of Afghan refugees was carried out in December 2011. In December 2011, a group of Somali refugees came to Slovakia from Eritrea; in January 2012 this was supplemented by a group of 35 refugees from Eritrea, Somalia, Iraq and Ethiopia who had come from Egypt. The relocated refugees were placed again in the asylum establishment of the Ministry of Interior in Humenné, where they are being provided accommodation, dining and basic hygienic needs by the Ministry of Interior of the Slovak Republic. Currently there are discussions ongoing among the representatives of the contracting parties regarding the preparation of another agreement on the humanitarian transfer of refugees.

24. For the purpose of the further enhancement of the asylum procedure, in 2009 the Migration Office of the MV SR joined the ASQAEM project (Asylum Systems Quality Assurance and Evaluation Mechanism) for Central and Eastern Europe, which continued in 2010 to 2011 with the FDQ project (Further Developing EU Asylum Quality). The mentioned projects were focused on increasing the quality of decision-making in asylum procedures and their aim was to monitor the status of procedures in the Slovak Republic, and on the basis of analyses to guide a further development for the following period. On the contractual basis with UNHCR (Agreement on Cooperation between the Migration Office of the MV SR and the Regional UNHCR Representation for Central Europe) and the allocated UNHCR Project Manager for the Slovak Republic, a work team focused on pursuing the control mechanism and enhancing the quality of decision-making regarding asylum granting was established in the domain of the Migration Office of the MV SR. Subsequently, expert seminars (12) were held for the staff of the Migration Office of the MV SR, attended by experts dealing with asylum in the Slovak Republic (decision-makers, lawyers, judges of regional courts and of the Supreme Court of the Slovak Republic), international asylum experts, and NGOs. The projects were finished on 30 September 2011.

25. On the basis of the above-stated, the Migration Office of the MV SR, in view of its achievements, took its own measure to continue in the control mechanism and in enhancing the quality of decision-making also in the upcoming period – it has also been included in the Annual Plan of the Migration Office of the MV SR for 2012.

### **III. Special provisions**

#### **Article 2- Legal, administrative and other provisions to eliminate racial discrimination in all its forms**

##### **A. Legislative measures**

###### **Criminal law**

26. Since 1 September 2009, the amendment of the valid Penal Code has been in force (Act No 257/2009 Coll., amending and supplementing Act No 300/2005 Coll. Penal Code as amended). This Code has supplemented the provisions of article 129 of the Penal Code with the legal definition of an extremist group (para. 3), article 130 with a legal definition of extremist material (para. 8), and article 140a with the definition of extremist criminal acts. The content of the amendment transposes the Framework Decision of the EU Council on



combating some forms and expressions of racism and xenophobia by means of criminal law (No 2008/913/SVV).

27. The amendment has introduced new extremist criminal acts in the Penal Code (Article 140a), namely: Producing extremist materials (art. 422a), Dissemination of extremist materials (art. 422b), Possessing extremist materials (art. 422c), Incitation, defaming and menace to persons on the grounds of their race, nation, nationality, skin colour, ethnic origin or family origin (art. 424a). In addition, this amendment has changed the already existing provisions of extremist criminal acts in the Penal Code (Defaming a nation, race and belief – article 423).

28. Under an extremist motive, we should understand committing a crime with the purpose to publicly incite to violence or hatred towards a group of persons or an individual on the grounds of their race, nation, nationality, skin colour, ethnic origin, family origin or religious belief, or committing a crime based on national, ethnic or racial hatred or hatred due to skin colour. Such a limited extremist motive is a special qualification notion as an aggravating circumstance, conditioning the application of a higher penal punishment.

29. It is necessary to emphasize, in relation to the criminal acts of producing, disseminating and possessing extremist materials, that any material may be considered extremist only in the case when it is produced, spread or possessed with the intention to incite hatred, violence or unjustified non-equal treatment of a group of people or an individual due to their belonging to a certain race, nation, nationality, skin colour, ethnic group, parentage origin or religious belief. This circumstance has to be proved without reasonable doubt as well. So it is not a punishment without a legitimate reason for criminal prosecution, regardless of the content, motives or consequences.

30. Introducing the subject-matter of extremist criminal acts also means the fulfilment of one of a criminal law's tasks - prevention.

31. Amendment of the Code of Criminal Procedure No 262/2011 Coll., effective from 1 September 2011, established as penal and penalizes public denial, doubting, approval of or an effort to excuse holocaust, fascist-ideology-based crimes, communist-ideology-based crimes, or crimes of another similar movement which use violence, violence threat, or the threat of a different serious harm in order to suppress the basic rights and freedoms of persons (Article 422d of the Penal Code).

## **B. Other measures to suppress and eliminate racial discrimination**

### **Action plan**

32. In 2009 – 2011, the basic systemic tool of the Government of the Slovak Republic in the area of the prevention and reduction of negative phenomena in society, such as racism, xenophobia, intolerance and discrimination, was carried out. Already a fifth 'Action Plan for the Prevention of All Forms of Discrimination, Racism, Xenophobia and Other Expressions of Intolerance' (hereinafter referred to as the 'Action Plan') was adopted by Government Decree No 357/2009 of 13 May 2009.

33. In an effort to combat the above-mentioned negative phenomena in society, the Action Plan mainly focused on long-term objectives, with the aim of increasing the level of tolerance of all inhabitants of Slovakia. An important component of the Action Plan were activities performed parallel to those of state authorities by non-governmental organisations and other entities dealing with these issues.

34. The targets of the Action Plan in the 2009 – 2011 period included:

### **General targets**

#### **Preventing all forms of discrimination, racism, xenophobia, anti-Semitism and other expressions of intolerance, and the application of the equal treatment principle in all national policies adopted**

#### **Specific targets**

1. Implementation of obligations resulting from international conventions and contracts in the area of human rights and non-discrimination; monitoring the fulfilment of recommendations and adopted measures;
2. Effective protection against discrimination, racism, xenophobia, anti-Semitism and other expressions of intolerance, including alternative forms of protection mechanisms;
3. The creation of tools to ensure the collection and analysis of sensitive personal data about age, sex, belonging to a national minority or an ethnic group, sexual orientation or other features, while observing the principles of personal data protection in line with the valid legislation;
4. Ensuring the efficient integration of persons into society who belong to a national minority or an ethnic group, or come from a socially disadvantaged environment, and foreigners;
5. Educational activities in the area of human rights and multi-cultural education for children and youth;
6. Regular training of members of professional groups who, through the exercise of their professional duties, may influence the prevention of all forms of discrimination, racism, xenophobia, anti-Semitism and other expressions of intolerance;
7. Supporting activities aimed at commemorating the Holocaust;
8. Supporting cultural, sports and social-science activities promoting the observance of human rights and preventing all forms of discrimination, racism, xenophobia, anti-Semitism and other expressions of intolerance;
9. Raising awareness and the informedness of the public regarding the issue of non-discrimination and the equal-treatment principle, with the aim to eliminate prejudice and stereotypes and promote a multi-cultural society;
10. Creating conditions for the successful integration of asylum-seekers and immigrants in society, applying the right to non-discrimination and the equal-treatment principle.

#### **Horizontal targets**

1. To consistently apply the anti-discrimination legal framework, including the use of temporary equalizing measures on the basis of the Anti-Discrimination Act in the integration process;
2. To bear in mind equality of opportunity for everybody, and to prevent discrimination on the basis of social categories such as sex, gender, age, race, ethnic group, denomination or religion, sexual orientation, health handicap, including the application of gender-specific languages in all adopted policies and measures;
3. To apply a multi-cultural attitude, including information spread and promoting the benefits of a multi-cultural society;
4. To develop the cooperation of state, public and municipal authorities with representatives of national minorities;

5. To intensify the cooperation of state, public, municipal authorities and persons involved in the public sector, including NGOs in different areas of social life, with the aim to build partnerships when eliminating discrimination and non-tolerant attitudes;

6. To apply an anti-discrimination aspect in relation to all prohibited reasons for discrimination (also in the context of so-called multiple discrimination), and to create adequate frameworks and tools for Action Plan monitoring and evaluation.

35. At that time, the Action Plan was an appropriate tool to ensure the cooperation of NGOs and national authorities in the given area, and thus the wide participation of civic society in fulfilling the Action Plan targets was ensured. In 2009 - 2011, a total of 59 projects were supported with a total sum of approximately €537,000, focused on fulfilling the Action Plan targets mainly on the regional and local level. Nevertheless, several projects had state-wide impact.

36. In 2011, Action Plan projects were involved in the subsidy system of the Government Office of the Slovak Republic to support and protect human rights. A total of 130 projects were supported in 2011 with this scheme with a total sum of over €2,257,000. The vast majority of projects focused on the fulfilment of Action Plan targets, be it with a primary or secondary impact.

37. With its Decree No 717/2011 of 16 November 2011, the Government of the Slovak Republic approved the intention to elaborate a nation-wide strategy to protect and support human rights in Slovakia. The aim of the given strategy, which is to be presented to the Government of the Slovak Republic on September 2012 for discussion, is to analyse and propose further steps, mainly in areas which are significantly and inseparably related to human rights values or obligations.

38. The proposed Decree of the Government of the Slovak Republic related to the material also contains a proposal to eliminate points of the Decree of the Government of the Slovak Republic No 357/2009 of 13 May 2009, related to the elaboration of the Action Plan for the Prevention of All Forms of Discrimination, Racism, Xenophobia, Anti-Semitism and Other Expressions of Intolerance for the following programme period of 2012 – 2014. The elaboration and implementation of the mentioned strategy will help determine public policy as largely protecting and supporting human rights and most Action Plan areas will be primarily included therein, or they will also be the subject of other partial programmes which will directly follow up on the strategy. In view of this fact, it is not necessary to continue the Action Plan concept, as in its nature it will be replaced and extended by the strategy under preparation.

## **C Implementation of international human rights protection instruments**

39. In 2009, Slovakia signed the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; in its Decree of 13 April 2011, the Government of the Slovak Republic agreed with ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. In its Decree No 452 of 24 May 2011, the National Council of the Slovak Republic approved the proposal to express its agreement with the Optional Protocol. The Ratification bill was signed by the President of the Slovak Republic on 31 October 2011 and then filed with the depository (UNO Secretary General).

40. Slovakia ratified the Convention on the Rights of Persons with Disabilities on 28 April 2010, and then filed it with the Depository (United Nations Secretary General) on 26 May 2010. The Convention became effective for Slovakia on 25 June 2010 in line with article 45, paragraph 2.

41. Slovakia ratified the Optional Protocol to the Convention on the Rights of Persons with Disabilities on 28 April 2010, and then filed it with the Depository (United Nations

Secretary General) on 26 May 2010. The Optional Protocol became effective for Slovakia on 25 June 2010 in line with article 13, paragraph 2.

42. On 28 February 2010, a new Optional Protocol to the Convention on the Rights of the Child was solemnly opened for signing in Geneva; its adoption was initiated and coordinated by the Slovak Republic. Slovakia also coordinated the preparation of a signing ceremony. On behalf of Slovakia, the Protocol was signed by the Prime Minister; it was also signed by another 19 countries from all world regions.

#### **D. Bodies authorized to act in matters involving expressions of discrimination**

##### **The Public Defender of Rights (Ombudsman)**

43. In its legal order, Slovakia established the institute of an ombudsman – public defender of rights – in 2001. The position of the public defender of rights and the conditions of his/her activity are governed by the Constitution of the Slovak Republic and Act No 564/2001 Coll. on the Public Defender of Rights as amended (hereinafter referred to as the ‘Public Defender of Rights Act’). The Public Defender of Rights (Ombudsman) is an independent body which protects the fundamental rights and freedoms of natural and legal persons in the activities, decision-making or inactivity of public administration bodies, if their action, decision-making or inactivity is contrary to the legal order or the principles of a democratic and legally consistent state.

44. The public defender of rights’ competence to deal with a claim is conditioned by fulfilling two basic conditions – firstly, they are fundamental rights and freedoms, and secondly, it is a case of the activity, decision-making or inactivity of public administration bodies. In order to fulfil the conditions of competence of the public defender of rights in the context of discrimination issues, it is necessary that it is a kind of discrimination related to the infringement of a fundamental right or freedom caused by the activity, decision-making or inactivity of public administration bodies.

45. Anyone who believes that fundamental rights or freedoms have been infringed may turn to the Public Defender of Rights. It need not be an infringement of the fundamental rights or freedoms of the applicant himself/herself, nor are conditions determined of a prior obligatory application of potential legal remedies. The Public Defender of Rights may also act on his/her own initiative.

46. The amendment of the Public Defender of Rights Act adopted in 2011 extended the competence of the Public Defender of Rights also to the disciplinary offense of a prosecutor.

47. The Public Defender of Rights does not participate in the formation of public policy and has no right to initiate legislation. He/she continuously presents his/her knowledge and bills of legislative changes, including the support of anti-discrimination policies, in the form of recommendations or notices to the relevant committees of the National Council of the Slovak Republic, as well as in activity reports which he/she annually presents to the National Council of the Slovak Republic.

48. If the Public Defender of Rights discovers, when dealing with a claim, facts implying that a law or a different public statute or internal regulation issued by a public administration authority infringes the fundamental rights and freedoms of natural and legal persons, he/she may file a claim for its change or abolishment to a relevant authority. Similarly, he/she may make a claim to initiate proceedings before the Constitutional Court of the Slovak Republic, in the issues of compliance with legal regulations in view of article 125, paragraph 1 of the Constitution of the Slovak Republic, if their further application may pose a threat to fundamental rights or freedoms, or human rights and fundamental freedoms resulting from an international contract which the Slovak Republic has ratified, and which has been declared in a way laid down in legislation.

### **The Slovak National Centre for Human Rights**

49. The Slovak National Centre for Human Rights (hereinafter referred to as the 'Centre') was established by the Act of the National Council of the Slovak Republic No 308/1993 Coll. on the establishment of the Slovak National Centre for Human Rights ('Centre Act'), effective from 1 January 1994, on the basis of the international Agreement between the Government of the Slovak Republic and the United Nations Organization on Establishing the Slovak National Centre for Human Rights.

50. The Centre, as an independent legal person, fulfils non-substitutable tasks in the area of human rights and fundamental freedoms, including the rights of child, observing the equal-treatment principle, and on the basis of Act No 365/2004 Coll. on Equal Treatment in Certain Areas and on Protection against Discrimination and on amendments and supplements to certain laws (hereinafter referred to as the 'Anti-Discrimination Act') as amended, acts as a unique Slovak institution for equality, i.e. for the assessment of observing the equal-treatment principle in view of the Anti-Discrimination Act.

### **Article 3- Prohibition of racial segregation and apartheid**

51. The Slovak Republic is a party to the Convention on the Suppression and Punishment of Apartheid signed on 30 November 1973 in New York. In the new Penal Code, apartheid is prohibited under the criminal offence of 'inhuman act'. The Penal Code has taken over a verbatim description of such acts from the previous legal text. The criminal offence of 'inhuman act' is a so-called blanket crime, i.e. it directly refers to the Rome Statute of the International Criminal Court whose article 7 defines the crime of apartheid as a crime against humanity.

### **Article 4- Legal, administrative and other measures to eliminate all propaganda based on racial superiority, hatred and discrimination**

52. Some of the highly current topics which have started to be echoed in Slovak society are extremism and expressions of intolerance and hatred towards members of other races, nations, national minorities and ethnic groups which bring with them the danger of direct threat to the due functioning of a democratic society.

53. After the approval of its the statute on 27 June 2011, the Committee for the Prevention and Elimination of Racism, Xenophobia, Anti-Semitism and Other Forms of Intolerance (hereinafter referred to as the 'Committee') was set up as a part of the Government Council of the Slovak Republic for Human Rights, National Minorities and Gender Equality, as a permanent expert body of the Council dealing with issues related to racism, xenophobia, anti-Semitism, antiziganism, Islamophobia, homophobia, extremism and other forms of intolerance (hereinafter referred to as the 'forms of intolerance'). The Committee processes, concentrates, discusses and, through its chairman, submits materials to the Council and performs activities related to the prevention and elimination of forms of intolerance. The Committee has 32 members, 12 of whom are representatives of the civic society and 3 are independent experts in the field. Three Committee meetings had been held until this report was submitted.

54. Discussions between the Government Office of the Slovak Republic and the Ministry of Interior of the Slovak Republic led to the approval of merging the Multidisciplinary Integrated Expert Group (hereinafter referred to as 'MISO') with the Committee, in order to eliminate duplicity when dealing with the problem of extremism and racially-motivated criminal activity.

55. The Decree of the Government of the Slovak Republic No 379/2011 approved the Conception to combat extremism for 2011 - 2014 which, inter alia, contains tasks to enhance cooperation with subjects involved in dealing with partial issues of combating extremism.

56. In 2009, a total of 132 racially-motivated criminal acts were seen in Slovakia. 68 criminal acts have been solved, i.e. 51.52 per cent of the total incidence of this type of crime. Altogether 79 offenders have been found, of whom four minors, 15 persons were juvenile, and 23 intoxicated.

57. As for the structure of criminal activity, the following was seen:

- 7 cases of racially motivated violence (defaming a nation, race and belief in view of article 423 of the Penal Code);
- 9 cases of racially motivated violence (inciting to nationalistic, racial and ethnic hatred in view of article 424 of the Penal Code);
- 112 cases of criminal acts against humanity (support and promotion of groups aiming at the suppression of fundamental rights and freedoms in view of article 421, article 422 of the Penal Code, production of extremist materials in view of article 422a of the Penal Code, dissemination of extremist materials in view of article 422b of the Penal Code, and possessing extremist materials in view of article 422c of the Penal Code).

There was no racially motivated murder.

58. In 2009, the number of racially motivated criminal acts dropped by 81 criminal acts, representing a total decrease of 38.02 per cent in comparison with 2008.

59. Racially motivated criminal activity is committed in three ways:

- Verbal attacks (form of psychological pressure);
- Attacks against physical integrity;
- Graphically (medially).
  - The basis of verbal attacks is the attack on the rights and freedoms of people without direct contact with the attacked person, which includes a verbal attack accompanied by invectives and threats.
  - A significant feature of violent attacks is increased brutality against bodily integrity of people and their property. A common feature is aggression through which criminals express their hateful attitude towards a racial, ethnic and nationalistic difference.
  - As for the graphic form, typical activities include publishing magazines, putting up posters, and the creation of various symbolisms typical for extremist groups. Usual motives of graphic expressions are symbols of fascism and Nazism.

60. In 2010, 79 racially-motivated criminal acts were seen in Slovakia. 48 criminal acts have been solved, i.e. 60.76 per cent of the total incidence of this type of crime. 53 criminals were found, of whom 1 person was a minor and 10 persons juvenile. In 2010, 77 extremist criminal acts were seen. 47 criminal acts have been solved, representing 61.04 per cent of the total incidence of this type of crime. 51 criminals were found of whom 1 person was a minor and 10 persons were juvenile.

61. As for the structure of criminal activity, the following was seen:

- 71 cases of criminal acts of supporting and promoting groups focused on suppressing fundamental rights and freedoms in view of articles 421, 422 paragraph 1, articles 422b, 422c, 423, paragraph 1 (a), article 423, paragraph 1 (b) of the Penal Code;

- 2 cases of criminal acts of inciting to nationalistic, racial and ethnic hatred in view of article 424, paragraph 1 of the Penal Code;
- 1 case of the criminal act of incitation, defamation and menace to persons on the grounds of their race, nation, nationality, skin colour, ethnic origin or family origin in view of article 424a, paragraph 1 of the Penal Code.

There was no racially motivated murder.

62. 2010 saw an increase by 24 criminal acts, representing total growth of 15.4 per cent in comparison with 2009.

63. 2011 saw 243 extremist criminal acts altogether. 107 criminal acts have been solved, representing 44.03 per cent of the total incidence of this type of crime. As for the structure of extremist criminal acts, the following was seen:

- 227 cases of criminal acts of supporting and promoting groups focused on suppressing fundamental rights and freedoms in view of articles 421, 422 paragraph 1, 422a, 422b, 422c, 423 paragraph 1 (a), article 423, paragraph 1 (b) of the Penal Code;
- 6 cases of criminal acts of inciting to nationalistic, racial and ethnic hatred in view of article 424, paragraph 1 of the Penal Code;
- 1 case of the criminal act of incitation, defamation and menace to persons on the grounds of their race, nation, nationality, skin colour, ethnic origin or family origin in view of article 424a, paragraph 1 of the Penal Code;
- 5 cases of the criminal act of violence against a group of inhabitants in view of article 539, paragraph 2 (a) of the Penal Code.

In 2011, the number of racially motivated criminal acts increased by 166, representing a total increase of 127.82 per cent in comparison with 2010.

64. The Police Force has intensified their activity in preventing violence against the Roma, Jewish, and immigrants coming non-EU countries, which was also manifested in a careful monitoring of mass meetings which were summoned by extreme rightist persons. At each mass meeting a police coordination body was called in, while representatives of the town participated as well and they were informed about when and under what lawful circumstances the public process would be held. The mentioned public meetings were in most cases summoned for the purpose of dealing with the 'Roma issue' in relation to a long-term pre-election campaign by the rightist-oriented political party of 'Ľudová strana Naše Slovensko' (Folk party - Our Slovakia) whose leader is Mgr. Marián Kotleba, in close cooperation with the civic movement of Slovenská Pospolitosť, whose leader is Mr. Marcel Urban. It was also a reaction to conflicts presented in the media between the majority population and the Roma minority (Medunice, Zlaté Moravce, etc).

65. All extremist criminal acts and racially motivated criminal acts have been duly documented and investigated. In order to duly document and investigate these criminal acts, instructional and methodical trainings are held where members of the Police Force are re-trained in new ways of the committing of the criminal activity in question as well as its investigation. In order to ensure that the fight against extremism and racially motivated criminal acts is efficient, the Sub-Department of Extremism and Spectator Violence has been established at the Criminal Police Department of the Police Force Presidium, and each Regional Police Force Directorate features a Sub-Department of Extremism and Spectator Violence of the Criminal Police Department.

66. As for the criminal activity of members of the Police Force, the Control and Inspection Service Section of the Ministry of Interior of the Slovak Republic (hereinafter

referred to as ‘SKIS MV SR’) is an expert unit in the Control and Inspection Service Section of the Police Force within the Ministry of Interior of the Slovak Republic. The inspection service bureau of SKIS MV SR is competent to investigate the criminal activity of Police Force officers and it carefully inspects all criminal acts regardless of sex, race or ethnic origin of the aggrieved persons. Statistical data, or special records on the number and nature of reported criminal acts motivated by hatred, prosecution, conviction and punishments imposed on criminals in this relation, are not separately recorded by SKIS MV SR.

67. In relation to preventing the infringement of human rights and freedoms by members of the Police Force, SKIS MV SR submits to the Department of Extremism and Spectator Violence, Criminal Police Department of the Police Force Presidium, in view of article 14 (a) and (b) of the regulation of the Minister of Interior of the Slovak Republic No 66/2011 on procedures of Police Force units and units of the Ministry of Interior of the Slovak Republic in the issue of combating criminal acts of extremism and spectator violence, information on the cases of extremism which it has dealt with in line with its competence.

68. In order to reveal, clarify and document extremist criminal activity, and for the purposes of the preventive action of the Police Force, there are five basic orientations of extremism currently identified in Slovakia:

- (1) Rightist-oriented extremism – presented by fostering the ideas of racism, fascism, Nazism, Neo-Nazism - based on the principle and ideology of national socialism;
- (2) Leftist-oriented extremism – presented mainly by anarchistic, anti-globalist and anti-corporativism ideas, and radical ecologists;
- (3) religiously-oriented extremism – presented by religious groups which may, with their ideology, opinions and activities and action based on them, pose a threat to the life, health or property of persons, and violate public statutes;
- (4) Ecological extremism;
- (5) Spectator violence at stadiums and sports events (as a specific form of expression of extremism).

69. Currently rightist extremist groups are organized on a completely different level in comparison with the situation in the 1990s. In the stated period were rather accidental groups without a permanent focus and structure. The public saw these people rather as rioters and fighters. In recent years there has been a qualitative change in the activities of subjects towards radicalization, efforts to extend their membership base, and in performing activities which are more sophisticated. Recently members of some of these groups have changed their strategy as well as the form of resistance against the social system, and they pursue their activities as members of both registered and non-registered civic associations, clubs and movements (e.g. *Slovenská pospolitost'*, *Nové slobodné Slovensko*, *Slovenské hnutie obrody*, *Spoločnosť Dr. Jozefa Tisu*, etc). In 2009 and 2010, several demonstrations and marches of rightist extremists took place, mainly in the east of Slovakia and in the territory of Slovakia's capital, Bratislava. With demonstrations and marches, they started to draw attention to themselves and highlight the Roma issue.

70. Extremist groups make use of certain loopholes in the current valid wording of Act No 84/1990 Coll. on the Right of Assembly. In view of the Act, it is not possible to abolish an assembly already at its start or when a procedure about its permission is already underway, as its true intention and reason is camouflaged by the fact that such assembly is announced by a natural person to a relevant municipality body, but this municipality body does not know the direct connection of the membership in an extremist group, and the declared reason for assembly is covered by various other tasks and aims implying its democratic and social-beneficial character. The true purpose of the assembly is usually different in its content though, and it has nothing in common with the declared reason. After the initial speeches of



organizers, or displaying various slogans and posters, the assembly has to end with the assistance of police units.

71. In recent years there has been a clear increase in spectator violence and expressions of extremism at sports venues and sports events in Slovak society. The issue of spectator violence is directly blended together with the issue of rightist extremism and racial hatred, as members of the most risky football fan groups regularly participate in demonstrations and marches organized by extremist groups. Generally speaking, they are persons who rank themselves among racists, fascists and football hooligans, and they manifest themselves at football and hockey stadiums with extremist ideologies, and by committing criminal activity of a general nature. Their common target is the fight against repressive groups and property, which is committed in the form of vandalism, riotous conduct, expressions of extremism, racism, xenophobia and intolerance. Manifestations of spectator violence have no particular leaders or organizers, but are formed spontaneously during sports (mainly football and hockey) events and are group manifestations. At some at risk sports events in the Slovak Republic, mainly public order is violated locally at the time and place of a football or hockey match, or rarely a different sports event, during their transportation, at the stadium, after their departure – violence, riots and vandalism, causing extensive damage to both human health and property. Of course, vandals also cause indirect damage to transport, streets, standing vehicles, public areas, etc.

72. On 1 November 2009, the provision of Article 10 of the Act of the National Council of the Slovak Republic No 479 of 2008 on organizing public physical-education events, sports events and tourist events became effective, on the basis of which the organizers of football and hockey events of the two top national competitions, with stadium capacity over 2,000 people, or when organizing events which are found to be risky by the event's organizer, a municipality or the Police Force, have to establish a functional camera security system for the event's participants, enabling the identification of the faces of physical persons, at entrances and exits from the premises, and in premises determined for event participants.

73. In view of the current situation, the issue of spectator violence should also be incorporated in the currently effective Penal Code as one of the subject matters, which would certainly enable, in a considerably simpler and clearer way, to qualify illegal actions which persons will take in relation to participation in public sports, but also non-sports events.

74. The General Prosecution of the Slovak Republic continues to submit reports on prosecution activity to the National Council of the Slovak Republic. The second part of this report contains an evaluation of criminality in the area of extremism and racism, with a special focus on criminal acts related to extremism. The General Prosecution keeps constant and exact records about these criminal cases as part of its reporting obligation in relation to subordinate district and regional public prosecution offices. It means a report is submitted about each criminal case to the General Prosecution by the district prosecution office about the initiation of criminal prosecution or about exhibiting the charging of a particular person, and the General Prosecution pursues this criminal case.

75. As for criminal-law regulation and the penalization of racially motivated criminal activity and criminal acts with an extremist and racial focus, it is necessary to state that in November 2008, the Ministry of Justice of the Slovak Republic submitted a bill to the legislative process amending Act No 300 of 2005, the Penal Code as amended. The reason for submitting the bill according to the submitting report was a recorded gradation of violent acts related to criminal activity which are currently increasing as cases of riots by groups of spectators at sports events, related to manifestation of opinions, or the promotion of movements aimed at suppressing fundamental rights and freedoms of people. Other reasons were cases of inciting to violence or hatred on the grounds of race, skin colour or nation, to public palliation of genocide, crimes against humanity or war crimes, or their public denial or

major understatement. At the same time, the Ministry of Justice of the Slovak Republic proposed to tighten the sanction for some of these actions which were also considered as criminal acts until then. The bill was adopted on 16 June 2009, effective from 1 September 2009, as Act No 257 amending Act No 300 of 2005, the Penal Code as amended.

76. Act No 257/2009 Coll. states a definition of an extremist group, extremist material, special extremist motive, definition of extremist criminal acts with their enumeration, and the connection with an extremist motive, which undoubtedly has importance also in relation to the assessment of criminal acts with racial motivation.

77. Although the notion of extremism has been introduced in the Penal Code, the amendment of the Penal Code does not expressly define this notion. The legislator explains the notion of extremism basically through the interpretation of other notions and particular subject matters. For example, for the purposes of the Penal Code, an extremist group is understood as a grouping of at least three persons for the purpose of committing an extremist criminal act.

78. The Penal Code explicitly enumerates criminal acts with racial motivation and extremism through particular subject matters, but also through the feature of the subject matter – a special motive – which is the racial element and extremism, practically incorporated also in other subject matters of criminal acts, such as wilful murder, murder, manslaughter, bodily harm, damage to the property of another, violence against a group and against an individual, riotous conduct, and genocide.

#### **Article 5- Rights guaranteed under the Convention**

##### **A. Right to equal treatment before tribunals and all other organs administering justice**

79. In relation to the relevant provisions of the Constitution, Act No 385/2000 Coll. on Judges and Lay Judges as amended imposes an obligation on judges to be impartial when performing their function, and to interpret laws and other public statutes to their best knowledge and belief, to make decisions impartially, fairly, without any undue delays and only on the basis of facts found in line with legislation. When making decisions, judges are only bound by the Constitution, constitutional law, international treaties in line with Article 7 paragraphs 2 and 5 of the Constitution, and by law. Equally, also the legal opinion of the Constitutional Court of the Slovak Republic contained in its decision released in proceedings in line with article 125, paragraph 1 of the Constitution is binding for the court on the basis of the court's proposal.

80. The Ministry of Justice of the Slovak Republic prepared an extensive amendment of Act No 385/2000 Coll. on Judges and Lay Judges as amended (Act No 33/2011 Coll.), also amending and supplementing other legal regulations in the area of justice, mainly No 757/2004 Coll. on Courts and on amendments and supplements to certain laws as amended. They contain inter alia extensive disclosure and making court decisions available on the Internet, open selection procedures for the positions of judges, including chief justices, and public justice examinations. With the aim to strengthen trust in justice, the Ministry of Justice of the Slovak Republic elaborated a new legal regulation in such a way that selection procedures for judges and prosecutors are transparent and open for all applicants meeting the criteria established by law.

81. In addition, in order to open up justice to public control, a list of criminal and civil proceedings is disclosed on the official web page of the Ministry of Justice of the Slovak Republic, as well as proceedings of the Specialized Criminal Court, and a list of all judges of the Slovak Republic, with the option of electronic search. For the same reason, the Ministry of Justice of the Slovak Republic proposed a legal regulation of the assessment of the discharge of offices of judges, establishing exact criteria, process and consequences of the

assessment of the work of judges, with the possibility of the judge losing his/her function, if it has been proved that the judge has no competence to be a judge. For the purpose of increasing the efficiency of the work of judges and courts, disclosing the performance of judges has been put into practice (annual statistical reports) as a form of public control of performing the judge function.

82. As a part of strengthening an efficient exercise of the right to information, particularly access to legal information, the Ministry of Justice of the Slovak Republic keeps several public registers (list of bankruptcy trustees, list of experts, interpreters and translators, list of mediators, mediation centres and mediation education institutions, list of probation and mediation officers in criminal law and a list of auctioneers at voluntary auctions).

83. With the aim to simplify the access of victims of racial discrimination to justice, Act No 327/2005 Coll. on the Provision of Legal Aid to Persons in Material Need as amended has been amended too. The latest amendment to this Act (No 332/2011 Coll.), which became effective on 1 January 2012, has increased the conditions of providing legal aid on the basis of the income of natural persons in material need by increasing the income cap from 1.4 multiple to 1.6 multiple of the living wage, if this person cannot secure with his/her property such legal services.

**B. Right to security of person and protection by the State against violence or bodily harm**

84. No significant changes were made in this area during the monitored period as regards protection against discrimination. As for legal, administrative and other measures to eliminate racial discrimination in all its forms, refer to articles 2 and 4 of this report.

**C. Political rights, in particular the right to participate in elections**

85. No significant changes were made in this area during the monitored period as regards protection against discrimination. As for legal, administrative and other measures to eliminate racial discrimination in all its forms, we refer to articles 2 and 4 of this report.

**D Other civil rights**

Right to freedom of movement

86. No significant changes were made in this area during the monitored period as regards protection against discrimination. As for legal, administrative and other measures to eliminate racial discrimination in all its forms, we refer to articles 2 and 4 of this report.

Right to leave any country, including one's own

87. No significant changes were made in this area during the monitored period as regards protection against discrimination. As for legal, administrative and other measures to eliminate racial discrimination in all its forms, we refer to articles 2 and 4 of this report.

Right to citizenship

88. No significant changes were made in this area during the monitored period as regards protection against discrimination. As for legal, administrative and other measures to eliminate racial discrimination in all its forms, we refer to articles 2 and 4 of this report.

Right to marriage

89. No significant changes were made in this area during the monitored period as regards protection against discrimination. As for legal, administrative and other measures to eliminate racial discrimination in all its forms, we refer to articles 2 and 4 of this report.

Right to own property

90. No significant changes were made in this area during the monitored period as regards protection against discrimination. As for legal, administrative and other measures to eliminate racial discrimination in all its forms, we refer to articles 2 and 4 of this report.

Right to inherit

91. No significant changes were made in this area during the monitored period as regards protection against discrimination. As for legal, administrative and other measures to eliminate racial discrimination in all its forms, we refer to articles 2 and 4 of this report.

Right to freedom of opinion and expression

92. No significant changes were made in this area during the monitored period as regards protection against discrimination. As for legal, administrative and other measures to eliminate racial discrimination in all its forms, we refer to articles 2 and 4 of this report.

Right to freedom of assembly and association

93. No significant changes were made in this area during the monitored period as regards protection against discrimination. As for legal, administrative and other measures to eliminate racial discrimination in all its forms, we refer to articles 2 and 4 of this report.

Right to freedom of thought, conscience and religion

94. No significant changes were made in this area during the monitored period as regards protection against discrimination. As for legal, administrative and other measures to eliminate racial discrimination in all its forms, we refer to articles 2 and 4 of this report.

**E. Economic, social and cultural rights**

95. Some of the most frequent areas of discrimination in Slovakia are discrimination in education, access to the labour market, access to services, housing and health care, mainly in relation to ethnic minorities, particularly Roma.

96. In view of the work plan of the Government of the Slovak Republic for 2011 and the EU appeal denominated as the EU framework for the preparation of national strategies, ÚSVRK prepared a document of 'The Strategy of the Slovak Republic for the integration of Roma up to 2020' (hereinafter referred to as the 'Strategy'). The Strategy is a result of the systematic cooperation of the ÚSVRK, World Bank, OSN – UNDP Development Program, Open Society Foundation, Association of Towns and Municipalities of Slovakia, and NGOs. The Strategy was preceded by consultations in the regions. Meetings took place in Banská Bystrica, Prešov and Košice as round-table discussions and discussion forums with representatives from state administration, municipality administration, and representatives of the non-governmental sector. Then consultations were held in Bratislava with representatives of state administration and organizations active at the central level, as well as with academic authorities active in this area. A separate round-table discussion was held with representatives of the Roma civil society. The intention of the round tables was to precisely define the basic pillars of the strategic document, establish clear and actually achievable targets in the issue of Roma integration, as well as measurable indicators of the progress achieved. The Strategy, as a binding Government material, is based on three main principles – destigmatization, desegregation and deghettoization. The material also defines implementation principles: the principle of solidarity, lawfulness, partnership, complexity, systemic approach and permanent sustainability, respecting regional and sub-ethnic characteristics, observing the principle of gender equality, and the principle of responsibility and predictability.

97. The EU Framework for the preparation of national strategies has stimulated the harmonization of policies in four areas: education, employment, health and housing. These are areas identical with the priorities of the Decade of Roma Inclusion 2005 – 2015 initiative. The reviewed national action plan of the Decade of Roma Inclusion 2005 – 2015 for 2011 – 2015 approved by the Government of the Slovak Republic (Decree No 522/2011) served as a benchmark for preparing the strategy, and it also became part of it. In view of the fact that the social inclusion which the Roma are subject to is multi-spectral and often multiple, it was necessary to formulate policies in other areas as well: non-discrimination, work with the public, financial inclusion issues. Similarly, in the following period it is necessary to focus on the elaboration of inclusive policies also in the issue of supporting the rights of minorities and the use of the Roma language, safety, combating criminality, the area of gender issues, etc. USVRK will elaborate on the stated areas in 2012. The Strategy of the Slovak Republic for the integration of Roma up to 2020 represents a conceptual material defining starting points, principles of access, and implementation and long-term targets. Its main target is to decrease the differences between the majority population and Roma communities. All targets are defined as overcoming differences in access to education, employment, health care and housing. A special part deals with monitoring and evaluation and in this relation also with the collection of data. The Strategy also outlines starting points for programming EU funds for 2014 – 2020, while it seems to be appropriate to form a separate operational programme or a separate priority axis (providing there is an option to combine financing from ESF and ERDF) or an integrated strategy of territorial development (in the form of integrated territorial investments) with the aim to deal with the specific needs of territories with an increased concentration of marginalized Roma communities. The ‘Strategy of the Slovak Republic for the Integration of Roma up to 2020’ document was discussed on 11 January 2012 and approved by Decree of the Government of the Slovak Republic No 1/2012.

#### Right to work

98. No significant changes were made in this area during the monitored period as regards protection against discrimination. As for legal, administrative and other measures to eliminate racial discrimination in all its forms, we refer to articles 2 and 4 of this report.

#### Right to form trade unions

99. No significant changes were made in this area during the monitored period as regards protection against discrimination. As for legal, administrative and other measures to eliminate racial discrimination in all its forms, we refer to articles 2 and 4 of this report.

#### Right to housing

100. Housing is recognized as one of the fundamental human needs which should be satisfied to a level appropriate to the total level of the social-economic evolution of society. In line with the National Housing Policy Concept up to 2015, in a market economy it is the citizen who has primary responsibility for obtaining his/her own housing. Nevertheless, this principle only works when the state creates suitable conditions for its citizens to obtain their housing. The role of the Ministry of Transport, Construction and Regional Development of the Slovak Republic (hereinafter referred to as the ‘MDVRR SR’), as the body responsible for executing targets of state housing policy, is to create the economic and legislative conditions for housing accessibility to the broadest groups of the population.

101. In relation to the above-stated, Act No 443/2010 Coll. on Subsidies for Housing Development and Social Housing was adopted in 2010. The adopted Act determines the purposes and amount of subsidies for housing development, and it also defines so-called ‘social housing’. It is defined as housing obtained by using public resources determined for appropriate and human dignified housing for physical persons who are not able to obtain housing themselves. The definition reflects the fact that there are groups of people who are not able to obtain appropriate housing themselves, in view of the nature of a flat as a

commodity general identifier of the social status of the flat user, his/her income is used as an assessment criterion. MDVRR SR thus applies the equal treatment principle to all citizens when dealing with their housing issue.

102. In harmony with the Act, MDVVR SR also provides subsidies to obtain rental flats and technical facilities within the Housing Development Programme. Subsidies are provided for the construction of rental flats of a common and lower standard which are mainly determined for marginalized population groups, including members of socially excluded Roma communities. In contrast to common-standard flats, where subsidies are granted up to 30 per cent, subsidies up to 75 per cent of acquisition costs are granted for lower-standard flats. Moreover, subsidies of up to 80 per cent of the acquisition cost are granted for technical equipment to increase the social and cultural level of Roma settlements. At the same time, there is an option that the remaining part of the acquisition cost may be worked off by the future tenants themselves. Involvement of future tenants in the construction process of their housing brings about a positive relation with that particular real estate. It is clear from the above-stated, that Slovakia applies a 'positive discrimination' principle when dealing with the housing issue of citizens in danger of social exclusion.

103. MDVRR SR has provided the following financial resources for the construction of flats and technical facilities for marginalized population groups under the Housing Development Programme:

<i>Year</i>	<i>Number of rental flats of a lower standard</i>	<i>Subsidy provided (Eur)</i>
2008	633	8,530,239.60
2009	314	5,065,150.00
2010	241	4,058,850.00
2011	169	2,862,680.00

<i>Year</i>	<i>Number of subsidized flats</i>	<i>Subsidy provided for construction of technical facilities to increase the social and cultural level of Roma settlements (in EUR)</i>
2008	264	530,604.80
2009	50	259,050.00
2010	182	423,620.00
2011	64	96,610.00

104. The construction of lower-standard rental flats was carried out mainly in areas with the highest concentration of the Roma population, particularly in the administrative regions of Košice, Prešov and Banská Bystrica.

105. The situation described in the sixth, seventh and eighth periodic reports in the housing area, has basically remained unchanged in view of Roma communities in Slovakia. The housing issue is undoubtedly one of the issues where differences between the Roma population and majority population have deepened the most. In spite of the fact that there are groups which are disadvantaged in different areas and also labelled as vulnerable, due to their economic status or ethnic origin, in the majority population only the Roma communities create settlements in Slovakia with various types of non-standard dwellings which do meet technical or hygienic standards. These non-standard dwellings are often built on lands with

unsettled legal title and without construction permits. Building materials are also non-standard: wood, metal plates, clay. Another big problem is the unavailability of basic infrastructure such as electricity, drinking water access, access roads and pavements with public lightning, gas, sewage system. Waste disposal and communal waste treatment represent a special problem in this area.

#### Right to protection of health, medical care

106. In line with article 11 paragraphs 1 and 2 of Act No 576/2004 Coll. on Healthcare, Healthcare-Related Services and on amendments and supplements to certain laws as amended (hereinafter referred to as 'Act No 576/2004 Coll.),' everyone has the right to be provided health care, while this right to be provided health care is guaranteed to everyone equally, in harmony with the equal treatment principle in health care established by a special provision. In accordance with the principle of equal treatment, discrimination is prohibited on grounds of sex, religion or faith, marital status and family status, colour of skin, language, political or other views, trade union activity, national or social origin, disability, age, property, family origin or other status.

107. In view of paragraph 2 of annex 4 (Code of Ethics of Medical Staff) to Act No 578/2004 Coll. on health-care providers, health workers, and professional organizations in the health service, and amending and supplementing certain laws as amended (hereinafter referred to as 'Act No 578/2004 Coll.),' some of the general obligations of medical staff are obligations to preserve life, protect, support and renew health, prevent diseases, and mitigate suffering, regardless of the nationality, race, religion, sexual orientation, political views, social status, moral or mental level and reputation of the patient.

108. If these were infringed, the aggrieved persons have the right to turn to the Healthcare Surveillance Authority and apply for an examination of the given fact.

109. In 2010, two claims were delivered to the Ministry of Health of the Slovak Republic, presenting objections against an alleged discrimination action, in relation to providing outpatient health care by the attending physician. These claims were connected in their content, as they were filed by a husband and wife.

110. In 2011, the Ministry of Health of the Slovak Republic received one complaint (from the same writer as in 2010) against a specialist providing outpatient health care. In relation to providing information to the writers by the Ministry of Health of the Slovak Republic, we see that they have been instructed in detail about the procedure in the case of their protection in relation to potential discrimination, stating particular legal provisions, as well as authorities competent in further procedures, if they decided to exercise their rights at a court.

111. In order to ensure the consistent application of Act No 576/2004 Coll., mainly the provision related to instruction and informed consent before sterilizing Roma women, the Ministry of Health of the Slovak Republic distributed a template of informed consent in the Roma language, which is to be fully used for this purpose, to all health-care institutions in the territory of the Slovak Republic.

112. In 2012, the Ministry of Health of the Slovak Republic plans, through a written instruction of the Director General of the Section of Health of the Ministry of Health of the Slovak Republic, to inform all health-care institutions in the territory of the Slovak Republic or their statutory representatives to provide trainings, within their competence, to their medical staff, mainly in the area of gynaecology and obstetrics, as well as to medical staff of first intervention, focused on the consistent application of article 6 of Act No 576/2004 Coll., and also focused on raising awareness about the adverse effects of illegal sterilization, or about the criminal-law responsibility of medical staff for sterilizing women without the prior instruction and informed consent of the women.

Right to education and training

113. Effective from 1 September 2008, Act No 245/2008 Coll. on Upbringing and Education (the School Act) and on amending and supplementing certain laws as amended (hereinafter referred to as 'Act No 245/2008 Coll.')

came into force as a long-expected legislative standard, a major change in the school system, which has mainly established a 2-level model of educational programmes, provided by state educational programmes and school educational programmes. The Act also establishes principles – the prohibition of discrimination, in particular of segregation, targets, conditions, extent, content, forms and organization of education and upbringing in schools and school establishments, education levels, admission for education and upbringing, termination of education and upbringing, length and fulfilment of obligatory schooling, etc.

114. Act No 245/2008 Coll., inter alia, has introduced several considerable changes in the school environment:

- New principles have been established, e.g. of equal access to education and upbringing, taking into account individual needs in education and upbringing, and individual's shared responsibility for his/her education; prohibition of all forms of discrimination and of segregation in particular, prohibition of using all forms of corporal punishments and sanctions in education and upbringing; of free choice of education, considering the expectations and preconditions of children and pupils in harmony with the possibilities of the educational and upbringing system; of preparing children for a responsible life in a free society in the spirit of understanding and tolerance, equality of men and women, friendship among nations, national and ethnic groups and religious tolerance, etc;
- Defining children and pupils from socially disadvantaged environments has been introduced.

115. The rights provided by the School Act are guaranteed equally to everyone in accordance with the principle of equal treatment in education established by the Anti-Discrimination Act.

Right to equal participation in cultural activities

116. The right of national minorities and ethnic groups living in the territory of the Slovak Republic to receive information in their mother tongue has been long-term legislatively secured in the area of public-service broadcasting. Adoption of Act No 532/2010 Coll. on the Radio and Television of Slovakia and amending and supplementing certain laws established a public-service and independent institution providing a service to the public in the area of radio and television broadcasting, which originated by merging Slovak Radio and Slovak Television. The adoption of this Act brought an obligation of the public-service broadcaster to broadcast programmes balanced in content and regional base in the languages of national minorities and ethnic groups living in the territory of the Slovak Republic, with the aim to ensure a balanced content of broadcasting in relation to the number of people declaring their belonging to single nationalities, complemented with the condition that the time-extent of broadcasting has to represent the nationalistic and ethnic structure of the population of the Slovak Republic. At the same time, it established a legal obligation for the public-service broadcaster that one in four radio programme services, which it is obliged to broadcast at least, has to be determined for the broadcasting of programmes balanced in their content and regional base in the languages of national minorities and ethnic groups living in the territory of the Slovak Republic.



**F. The right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theatres and parks**

117. No significant changes were made in this area during the monitored period as regards protection against discrimination. As for legal, administrative and other measures to eliminate racial discrimination in all its forms, we refer to articles 2 and 4 of this report.

**Article 6- Protection against any acts of racial discrimination**

118. In its article 12, the new Penal Code has laid down that the scene of committing a criminal act is to be understood as each place where a criminal has acted, or where an effect supposed by this Act occurred or was supposed to occur in the criminal's opinion. It is a new provision of the Penal Code with special importance, as the determination of the legal court to deal with the issue is derived from the place of committing the criminal act.

119. In its article 9, the Anti-Discrimination Act ensures the right of every person to claim his/her rights at court, if he/she believes that his/her rights or interests or freedoms protected by law have been affected by the violation of the equal treatment principle. They may mainly claim that the person who has violated the equal treatment principle shall stop his/her action, and if possible, rectify the illegal status or provide appropriate compensation.

120. If an appropriate compensation was not sufficient, mainly if the violation of the equal treatment principle has led to significant decrease of dignity, social respect or social performance of the aggrieved person, this person may also claim financial compensation for non-financial damage. The sum of financial compensation of non-financial damage will be determined by the court, taking into account the severity of the non-financial damage incurred and all circumstances which have led to its occurrence.

**Article 7- Measures implemented in the fields of teaching, education, culture and information on combating prejudice leading to racial discrimination**

121. The Vice-President of the Government for Human Rights and National Minorities has repeatedly publicly commented on causes related to the issue of the coexistence of minorities and the majority as specific cases which have appeared in the media in this connection. On 8 February 2012, he published a declaration where he called on political parties not to use the 'Roma card' before the elections to the National Council of the Slovak Republic, and to refrain from misleading theses describing the Roma as the main users of state social support. Social support in Slovakia is only provided after lawful social and economic conditions have been met. It is thus accessible to all persons in the same social situation, regardless of ethnicity.

122. In these cases, the Vice-President of the Government for Human Rights and National Minorities has tried to set the system of protection and support of human rights in such a way that each case is monitored, each victim could claim an efficient remedy, and that human and legal institutions and authorities engaged in criminal proceedings work fairly and efficiently. He has publicly commented on several cases, whether in the case of Hedviga Malinová, whom he apologized to, or regarding the discrimination of the Samková sisters. He has called on the municipal authority as well as on the mayor of Rajec to abandon the intention to install a bust to Ferdinand Ďurčanský, he has asked for tolerance and support of the Dúhový pochod (Rainbow march). He has publicly disapproved with statements of Marián Kotleba, though the court in Banská Bystrica freed him, he has asked for a fair assessment of reasons for releasing the accused Chechniyans from Russian authorities, he has responded to the case of the segregation of Roma children in the school in Šarišské Michal'any, and the suspicion of torture in a re-educational centre in Spišský Hrhov.

123. The Vice-President of the Government of the Slovak Republic has also welcomed the decision of the European Court of Human Rights regarding the cruelty and inhumanity of sterilization of Roma women without consent.

124. The Government Council for Human Rights, National Minorities and Gender Equality discussed the issue of politic expressions with a xenophobic content at its session. At its fifth session held between 20 and 27 February 2012, it adopted a statement regarding the procedures and statements of political parties in the pre-election campaign, where it asked political parties to refrain from actions in their pre-election campaigns which could lead to decreasing human dignity, which could incite the infringement of human rights, discrimination, or intolerant expressions; it openly condemned racist and sexist billboards which had appeared in the pre-election campaigns; it asked bodies engaged in criminal proceedings to take immediate steps in this regard, and the Central Election Commission to investigate the stated facts and draw consequences.

125. ÚSVRK is preparing the Action Plan (hereinafter referred to as the 'AP') for work with the public which will form a separate, non-integral component of the Strategy for integration of the Roma up to 2020. The aim of this AP is to combat deeply-rooted prejudice and myths connected with ideas about the Roma. The AP should also support inclusive approaches, education and expertise, mainly by supporting inclusive behaviour towards the Roma. The primary target groups in this effort should be representatives of municipal authorities, pedagogues, medical staff, units engaged in administering justice (public prosecution offices, police, judiciary), and journalists. Last but not least is the creation of a pro-integration platform. The main agents in the pro-integration platform are ÚSVRK, the Government Office of the Slovak Republic, relevant ministries (Ministry of Interior of the Slovak Republic, Ministry of Education, Science, Research and Sport of the Slovak Republic, Ministry of Health of the Slovak Republic, Ministry of Labour, Social Affairs and Family of the Slovak Republic, Ministry of Economy of the Slovak Republic), territorial administration authorities, and the police. Other decisive subjects involved are organizations of civic society which can mediate high-quality and quick feedback and they share the campaign's values.

#### **A. Education**

126. MŠVVaŠ SR pays intensive attention to perform the Human Rights Education Plan ('PVLV') in the school system for 2005 – 2014, based on three supporting pillars, including the creation of education content. MŠVVaŠ SR, Section of Regional Education, is responsible for the execution of the PVLV. Its patron is the National Institute for Education which also coordinates the fulfilment of proposed tasks, executed in cooperation with the Methodology and Pedagogy Centre and its regional offices in the Slovak Republic, the Research Institute for Child Psychology and Pathopsychology, State School Inspection, Institute of Information and Prognoses of Education, State Institute of Professional Education, and NGOs cooperating with directly managed organizations. Crucial parts of NPVLV are the following basic areas with their internal connections: Further education of pedagogic staff – publishing methodological materials and educational texts (in 2011, 16 materials were elaborated, e.g. Opportunities and Limitations of Psychological Diagnostics of the Roma Children. Methodological material for Centres of Pedagogic and Psychological Consultancy and Prevention elaborated by the Research Institute for Child Psychology and Pathopsychology.) - Monitoring and evaluation system of the extent and quality of education related to the human rights of the MŠVVaŠ SR – Section of Regional Education annually monitors the fulfilment of the accepted tasks and then sets up a plan of activities for the next calendar year with their purposeful financial provision (budgetary provision).

127. In recent years the Justice Academy has offered several educational activities such as seminars, workshops and conferences (115 events in 2011, 109 events in 2010, 129 events in 2009). The Academy ensures education through their staff and pedagogic staff in line with

the approved annual study plan on the basis of the contents of education determined by the General Prosecutor of the Slovak Republic and the Judicial Council of the Slovak Republic after agreement with the Minister of Justice, also including the issue of racially and xenophobically motivated criminal acts.

128. Within its study plan, the Academy held seminars and lectures in 2008 - 2012, focused mainly on the current issues of the protection of human rights, racially motivated criminal activity, and the issue of discrimination in the wider context, along with psychology lectures.

129. Over 29 – 30 June 2011, the seminar ‘Racially motivated extremist criminal acts – decision-making practice of courts; trafficking in human beings – application practice’ was held for judges and prosecutors. The seminar was attended by national lecturers (from the Regional Court in Košice, Government Office of the Slovak Republic, Criminal Police Department of the Police Force Presidium) and a foreign lecturer (representative of the Bureau for Democratic Institutions and Human Rights OBSE in Warsaw – Mrs. Carolyn Bys). There were 37 attendants at this event from the Slovak Republic (of whom 5 judges, 12 prosecutors, 8 legal prosecution candidates, 10 senior judicial officers and 2 assistants of a judge of the Supreme Court of the Slovak Republic).

130. In relation to measures performed in the area of education, culture and information to combat prejudice leading to racial discrimination, the Corps of Prison and Court Guard (hereinafter referred to as the ‘Corps’) provided the systemic training of Corps officers on human rights, with an emphasis on the prevention of all forms of discrimination, racism, anti-Semitism, xenophobia and other forms of intolerance through the systemic professional education of Corps officers. All Corps officers are informed of relevant basic legal provisions, international treaties in compliance with the new 2004 – 2015 Policy of Corps officers and Corps employees which is available to the public on the website of the Corps ([www.zvjs.sk](http://www.zvjs.sk)). The 2004 – 2015 Policy of Police Corps officers and Corps employees training states that this topic is taught under the Basis of Law subject. Basic training has five hours allocated to it. Of this, three hours focus on Roma ethnic group issues. Another two hours are included in specialized training in the Prison Systems and Prison Organisations subject.

131. The Ministry of Justice of the Slovak Republic published a second edition of ‘The Slovak-English Text of Selected Provisions of Act No. 300/2005 Coll. Criminal Code as amended, Act No. 301/2005 Coll. Code of Criminal Procedure as amended and Other Acts Implementing International Humanitarian Law into the Legal Order of the Slovak Republic’. The publication is a result of the continuing cooperation between the International Committee of the Red Cross (ICRC) and the Central Secretariat of the Slovak Red Cross in Bratislava. Inter alia it contains a Slovak-English translation of the Title Twelve of a special part of the Penal Code (entitled ‘Criminal acts against peace, against humanity, criminal acts of terrorism, extremism and war criminal acts’) and some provisions of the general part of the Penal Code (including provisions about defining the terms of special motive, extremist criminal acts, extremist material, etc.).

## **B. Culture**

132. The subsidy programme of the Culture of Disadvantaged Population Groups is focused on strengthening the equality of opportunities in the area of culture for disadvantaged population groups with the aim to eliminate material and mental barriers (prejudice and stereotypes) in access to cultural values. Its aim is to create conditions to draw attention to and present a specific culture of disadvantaged population groups and thus prevent discrimination and all forms of violence. Every year approximately €300,000 is allocated within the programme (in 2009 – 2011, for 2012 €375,000 has been earmarked). Through this Programme, the Ministry of Culture of the Slovak Republic also fulfils its obligations (temporary equalising measures) in the area of culture defined by the Anti-Discrimination

Act. As part of the subsidy programme, support can be requested by entities ensuring care for the development of the cultural needs of disadvantaged groups – persons with a physical handicap, older people, marginalised Roma communities, vulnerable groups of children and youth, women, homeless and unemployed people, immigrants, etc. The aim of the programme is to create conditions for promoting and presenting specific cultures of disadvantaged population groups.

133. The subsidy system of ‘The Culture of Disadvantaged Population Groups’ is currently a well-established and stable financial tool of the Ministry of Culture of the Slovak Republic (MK SR) enabling the meeting of cultural needs of marginalized population groups. The support has the form of subsidizing cultural activities of civic associations, living culture, as well as publishing periodic and non-periodic press focused on preventing discrimination and promoting equality of opportunity in culture.

134. Projects subsidized by the MK SR subsidy system – Culture of Disadvantaged Population Groups – extend the cultural rights of people in danger of poverty and social exclusion, but also facilitate the prevention and elimination of all forms of violence, thereby contributing to the development of tolerance and multicultural dimension of Slovak society. Through this tool, the Ministry of Culture annually carries out and evaluates anti-discrimination cultural activities which are a part of the Government’s strategic document – the Action Plan for the Prevention of All Forms of Discrimination, Racism, Xenophobia, Anti-Semitism and Other Expressions of Intolerance for the Period of 2009 – 2011.

#### **IV. Information on the fulfilment of the recommendations of the Committee on the Elimination of Racial Discrimination with respect to the sixth, seventh and eighth periodic reports of the Slovak Republic**

##### **Reply to the recommendation contained in paragraph 7 of the concluding observations (CERD/C/SVK/CO/6-8)**

135. When preparing the reviewed Action Plans in 2010 – 2011, as well as when preparing the Strategy for integration of the Roma up to 2020 (hereinafter referred to as the ‘Strategy’), the ÚSVRK was intensively dealing with the issues of collecting ethnic data in cooperation with external partners. Evolution in the area of targeted public policies focused on the Roma population is complicated due to a lack of ethnic data. The requirement to have exact data which could be broken down depending on ethnic characteristics has been both directly and indirectly appearing in almost all conceptual Government documents for several years. In recent years, data on the life conditions and discrimination in Slovakia has been saturated by the monitoring probes of European institutions and specialized, mainly sociologist, research in the Roma environment. Such research has been initiated and performed by research institutes, academic workplaces, European institutions, non-governmental organizations (NGOs) and international organizations. Monitoring reports of European institutions have provided partial data on specific areas of life in the Roma population. Mapping of the Roma communities in Slovakia – ATLAS of Roma Communities 2004 (hereinafter referred to as ‘Atlas’) is based on the presumption that marginalized Roma communities live in certain territorial units, enclaves, either inside towns/villages, or on their peripheries, or in segregated settlements, and thus the monitoring and mapping of Roma communities is possible. Such procedure is not contrary to the principles laid down in the Constitution of the Slovak Republic, rather it is in harmony with standards for the protection of personal data, as mapping does not examine the ethnic identity of individuals, but is a kind of ‘inventory’ of settlements.

136. Checking the life conditions of Roma households in 2005 and then in 2010 carried out by the United Nations Development Programme (UNDP) and the World Bank was based on

the territorial approach when identifying the target group. Thanks to detailed data about Roma settlements from Atlas, Roma households could be divided into 3 basic groups, depending on the degree of integration with the majority population for the purpose of comparing some demographic and socio-economic parameters. A significant weak point in creating, implementing and evaluating policies and measures in relation to the Roma community is the lack of quality and valid data. Seeing the lack of data about Roma communities as one of the systemic and legislative barriers impeding an improvement of the situation, the Ministry of Labour, Social Affairs and Family of the Slovak Republic proceeded in cooperation with UNDP, and in 2010 they launched a common project of 'Statistical Monitoring of the Living Conditions of Selected Target Groups', focused on collecting statistical data about the living conditions of the Roma community.

137. In addition to the question of ethnicity, the 2011 Census contained for the first time also two questions about the languages of national minorities, in the categories of the most frequently used language in public and the most frequently used language in the household. This is considered to be of a great value, as self-identification through language used is less stigmatizing than a national self-identification which did not allow multiple identity in the case of the Census. Use of these questions has brought positive results.

**Reply to the recommendation contained in paragraph 8 of the concluding observations**

138. See paragraphs 52–78.

**Reply to the recommendation contained in paragraph 9 of the concluding observations**

139. See paragraphs 52–54.

**Reply to the recommendation contained in paragraph 10 of the concluding observations**

140. Several natural persons, particularly of Roma ethnic origin, sought protection against discrimination in the monitored period by filing a so-called anti-discrimination action at general courts on the basis of the relevant provisions of Act No 365/2004 Coll. on Equal Treatment in Certain Areas and on Protection against Discrimination and on amendments and supplements to certain laws (the Anti-Discrimination Act). For example Slovakia accepted the complaints of three persons of Roma ethnic origin regarding the violation of the relevant provisions of the International Covenant on the Elimination of all Forms of Racial Discrimination (ICERD) to take a stand through the Committee on the Elimination of Racial Discrimination or the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Geneva. The stated complaint, registered under No 49/2011 in CERD, is acceptable in line with the standpoint of the Ministry of Justice of the Slovak Republic of 14 February 2012, while the Ministry of Justice of the Slovak Republic also provided its standpoint to the MZV SR related to the core of the matter; they have been forwarded to the Committee on the Elimination of Racial Discrimination.

141. In article 9, the Anti-Discrimination Act ensures the right of every person to claim his/her rights at court if he/she believes that his/her rights or interests or freedoms protected by law have been affected by a violation of the equal treatment principle. They may mainly claim that the person who has violated the equal treatment principle stop his/her action, and if possible, rectifies the illegal status or provides appropriate compensation. If an appropriate compensation has not been sufficient, mainly if violation of the equal treatment principle has led to a significant decrease of dignity, social respect or social performance of the aggrieved person, this person may also claim financial compensation of non-financial damage. The sum of financial compensation of non-financial damage will be determined by the court, taking into account the severity of the non-financial damage incurred and all circumstances which have led to its occurrence.

142. In administration law, in line with the provisions of article 49, paragraph 1 (a) and (f) of Act No 372/1990 Coll. on Offences as amended, punishing offences against civic cohabitation, the following cases are considered to be offences:

- (a) Defamation of another person by offending or ridiculing him/her;
- (b) Causing bodily harm of another person by negligence;
- (c) Intentional statement of incorrect or incomplete data to a State authority, municipal authority or an organization in order to achieve an unjustified advantage;
- (d) Intentional violation of civic cohabitation by menacing, bodily harm, minor bodily harm, false accusation of an offence, wilful acts or other coarse behaviour;
- (e) Violent enforcement of property rights or rights resulting from them, which the person believes belong to him/her without an executable decision of a relevant authority, alone or assisted by other persons;
- (f) Assistance, by personal participation, in violent enforcement of property rights or rights resulting from them, although there is no executable decision of a relevant authority to enforce them.

143. The following fines may be imposed for an offence according to (a) – up to EUR 33, according to (b) to (d) and (f) - up to EUR 99, and according to (e) - up to EUR 331.

**Reply to the recommendation contained in paragraph 11 of the concluding observations**

144. The Strategy for the integration of the Roma up to 2020 contains a component specifying the ambitions and procedures in the implementation of Monitoring and Evaluation (MaE) procedures. As a coordinator of the Strategy implementation procedure and initiator of the MaE framework, the ÚSVRK, in cooperation with all partners – state administration and municipal authorities, civic society, scientific institutions, international organizations and the Roma, is primarily responsible for monitoring the Strategy at the level of single policies, programmes and projects.

145. The ÚSVRK specifically deals with the particular issue of marginalized Roma communities. Its intention is to strengthen cooperation, and the more efficient coordination of activities and financial resources leading to an improvement of the living conditions of members of marginalized Roma communities. The targets are being performed by means of national projects, demand-oriented projects and local strategies of a complex approach, applied in six operational programmes (Regional OP, Employment and Social Inclusion OP, Education OP, Competitiveness and Economic Growth OP, Environment OP, Health System OP). The stated operational programmes are co-financed by EU Structural Funds in the Programme Period of 2007 – 2013.

**Reply to the recommendation contained in paragraph 12 of the concluding observations**

146 See paragraphs 52-78.

**Reply to the recommendation contained in paragraph 13 of the concluding observations**

147. See paragraphs 121– 130.

**Reply to the recommendation contained in paragraph 14 of the concluding observations**

148. As already stated in the text related to Recommendation No 12, SKIS MV SR is an expert unit, within the Ministry of Interior of the Slovak Republic, in the Control and Inspection Service Section of the Police Force. In view of control relations, it reports directly to the Minister of Interior of the Slovak Republic. The inspection service of SKIS MV SR is competent to investigate the criminal activity of members of the Police Force which

investigates all criminal acts regardless of the sex, race or ethnic origin of the aggrieved persons. The Section pays due attention to claims against members of the Police Force, mainly in cases when dealing, in the line of duty, with persons of different nationality, ethnicity, etc. Claims are thoroughly reviewed and investigated, and a potential racial motive is verified, a decision is issued on each complaint in the manner prescribed by the law. Investigation and shortened investigation of criminal acts committed by members of the Police Force is carried out in line with the Penal Code and the Code of Criminal Procedure. Supervision over compliance with law prior to the prosecution and in pretrial proceedings is exercised by prosecutors, in line with Act No 153/2002 Coll. on Prosecution as amended ('Act on Prosecution'). All decisions on the merits of the case issued by a police investigator and/or authorized officer are reviewed by a competent prosecutor's office relevant in the subject and location in view of the Act on Prosecution.

149. As for the recommendation to take other steps in order to increase the representation of Roma in the Police Force, e.g. by taking special measures for their recruitment, let us state the following. Conditions for accepting applicants in the Police Force are laid down in article 14 and subs. of Act No 73/1998 Coll. on State Service of Members of the Police Force, Slovak Information Service, Corpse of Prison and Judicial Guard of the Slovak Republic and Railway Police, as amended. In line with article 14, paragraph 1 of this Act, every national of the Slovak Republic who meets the conditions stated in this provision can be a police officer. It means that all Slovak nationals have an equal right to be admitted in the Police Force if they meet the determined conditions. The Minister of Interior of the Slovak Republic and officials appointed by him/her decide about particular applicants to be admitted in the Police Force. A relevant official decides about the admission or non-admission of an applicant in the service exclusively on the basis of the results of the applicant achieved in an entrance examination, and depending on vacancies at a particular unit. It results from the above-stated that selection, not recruitment, is carried out for the Police Force.

150. In line with article 2a of the relevant Act, rights established by this Act are guaranteed equally to all nationals when joining the state service in line with the equal treatment principle in labour-legal and similar legal relations laid down in the Anti-Discrimination Act. In line with the above-stated, applicants are assessed on the basis of equal criteria when being admitted to the service of the Police Force, while their racial origin must not be enquired. From this point of view, it is not possible to statistically state the number of Roma in the Police Force.

**Reply to the recommendation contained in paragraph 15 of the concluding observations**

151. See paragraphs 12 – 25.

**Reply to the recommendation contained in paragraph 16 of the concluding observations**

152. Within its competence, the ÚSVRK coordinates public policies in relation to the Roma (previously marginalized) communities. In 2010, the National Plan of the Decade of Roma inclusion for 2005 – 2015 started to be reviewed under its auspices. In its Decree No 522/2011 of 10 August 2011, the Government of the Slovak Republic approved its reviewed version for 2011 – 2015. The MŠVVaŠ SR intensively cooperated with the ÚSVRK in order to review the National Plan of the Decade of Roma inclusion for 2005 – 2015 in the area of education. In the 'Education' priority, there are 6 basic goals determined for the education sector, with measures and particular tasks. Altogether there are 68 Tasks related to this area are included in Goal No 6 - To deal with problematic issues of education and upbringing at special schools and school facilities including school consultancy and prevention. Measure no 6.1. To provide the highest possible accuracy and to carefully use the control mechanism in the process of testing and placing children in special education. Activity 6.1.1. After the first schooling year and then as necessary, re-diagnose pupils with a diagnosed light mental disability and enable the conduct of the diagnosing and re-diagnosing also in an environment

familiar for a child – i.e. school, kindergarten, community centre, etc. Activity 6.1.2. When suspecting discrimination in a diagnostic checking of a Roma pupil to provide a follow-up examination by the State School Inspection, the aim of which will be to check the process and result of the original testing; we recommend that this follow-up examination is made by a psychologist from an independent consultancy facility who is familiar with the issue of the specific conditions for testing Roma children. Activity 6.1.3. Methodical and supervisory action of consultancy facilities determined for fulfilling this task in line with article 130 (10) of Act no. 245/2008 Coll. on Education and Upbringing (the School Act) and on amendments and supplements to some laws as amended, to focus on the careful guidance of expert employees in consultancy facilities leading to the exclusion of the possibility of discrimination when diagnosing children from a socially disadvantaged environment. Activity 6.1.4. To ensure the comprehensive assessment of a pupil's skills, which will form a basis for an individual educational programme (if necessary for the pupil) or for his/her acceptance to elementary school (with the parents' consent) no later than the 3rd class. Activity 6.1.5. To re-assess a dual system of psychological counselling (CPPPaP and CŠPP). Activity 6.1.6. To increase the control of quality of the education and upbringing in standard classes where pupils with ŠVVP are integrated.

153. In addition to reviewing the National Action Plan of the Decade of Roma inclusion, ÚSVRK has also been appointed as a contact point for the elaboration of the Strategy of the Slovak Republic for the integration of the Roma up to 2020, in line with the EU framework for national Roma integration strategies up to 2020. This Strategy was approved by Decree of the Government of the Slovak Republic No 1/2012 on 11 January 2012.

154. MŠVVaŠ SR regularly guides schools and school establishments through pedagogical and organizational instructions for the relevant school year, where it recommends to apply the prohibition of all forms of discrimination and segregation in all schools and school establishments, to eliminate problems of pupils coming from marginalized groups which complicate the process of their admission into standard schools and school establishments, of their placement in standard classes and the following educational-upbringing process, to create appropriate conditions for their education in schools and classes together with the majority population, in schools educating children and pupils from socially disadvantaged environments, and to take steps in order to improve attendance, behaviour and educational achievements, and to create individual conditions in the education and upbringing of these children.

155. Upon the impulse of the MŠVVaŠ SR, the State School Inspection annually fulfils the long-term task with the aim to find out the status and level of care for pupils from socially disadvantaged environments in elementary and secondary schools over the course of comprehensive inspections. During such inspections carried out in elementary schools for pupils with mental disabilities, it always inspects the personal documentation of pupils, original special-pedagogic diagnostics and its results, and correct placement of pupils in the given school type. In the case of doubt about a correct placement, it calls for re-diagnostics and monitors the procedure until the potential relocation of the pupil to a different school type. It performs inspection tasks focused on, but not limited to, admission of pupils in the first year of a special elementary schools and the placement of children from socially disadvantaged environments to a special elementary school. The State School Inspection is going to continue the mentioned inspection activities, widened by monitoring segregation - more intensified inspection of segregation procedures in elementary schools. On the basis of the requirement from the Ministry, the State School Inspection will focus on schools with a higher concentration of children from socially disadvantaged environments, and intensify inspection and assistance to headmasters/schools; in the educational-upbringing process it will monitor the observance of non-discrimination attitude to pupils from socially disadvantaged environments or to pupils from marginalized Roma communities. The State School Inspection should draw up an internal guideline to investigate cases which could be



assessed as segregation on the basis of ethnicity. It will provide the Section of Regional Education with regular information about particular cases. Moreover, the State School Inspection will intensify the verification of the admission of pupils to special elementary schools, and it will also use the option of re-diagnosing more actively in the case of suspecting an incorrectly determined diagnosis of mental disability.

156. It the amendment of Act No 245/2008 Coll. on Education and Upbringing and amending and supplementing certain laws as amended (the School Act) which is being prepared, the MŠVVaŠ SR will introduce obligatory re-diagnostics for all pupils who have been placed in an educational programme for children with a health disability, after the first year of obligatory schooling, and in the course of the following two years. The stated provision will ensure the re-assessment of the child's potential after a 1-year to 3-year-systematic special-pedagogic work on his/her development within the educational-upbringing process and other special-pedagogical care. If the reason for the pupil's education in line with the educational programme for pupils with a health handicap is ruled out on the basis of a result of re-diagnostics, the manner of the pupil's education will be changed. As the obligation to perform re-diagnostics in the determined period and not on the basis of indication by the school teacher, expert staff of a consultancy establishment, or the child's parents can only be introduced by law, the Ministry has issued a recommendation, through pedagogical and organizational instructions for the school year 2012/2013, for schools, school establishments and their establishers to perform re-diagnostics of pupils included in education on the basis of an educational programme for pupils with a health disability after the first year of schooling, with the above-mentioned target. Let us note that for the purpose of applying the stated instruction, it is not possible to specify the target group in other than the stated way, as it is necessary to maintain the principle of equal treatment to all children belonging to the group of health-disadvantaged children.

157. As a result of systematic special-pedagogic work, each health-disadvantaged child may prove the positive progress of his/her potential, regardless of the fact he/she comes from a socially less-stimulating or standard environment. The obligatory re-diagnostics at determined dates will help to exclude a subjective assessment of the reason for its conduct. It will also be important to establish other measures, the use of which will help the educated child, in line with the educational programme determined for educational mainstream pupils, to be successful and not fail. Diagnostic procedures serve for the identification of special educational and upbringing needs of children which need to be fulfilled during their schooling. As it is necessary to make them more exact for language-disadvantaged children or children with underdeveloped social skills, a new diagnostic tool for this target group has been developed and put into practice. Meeting the conditions determined by public statutes - pupils whose expert diagnostics would not show a clear health disadvantage, be it a mental handicap or a different reason for placing the pupil in this category of pupils, must not be educated in special schools – the State School Inspection is aimed at monitoring and drawing subsequent measures, with an emphasis on children coming from a socially less-stimulating environment and Roma communities. The intention of the school resort is to develop other reliable diagnostic tools and procedures focused on the identification of special educational and upbringing needs of Roma children, as well as to achieve the ensuring of such control by the State School Inspection which will be focused on verifying the procedure applied during initial diagnostics of the child and his/her re-diagnostics.

158. In 2008, the MŠVVaŠ SR announced a call for a development project aimed at 'E-learning for children from socially disadvantaged environment 2008'. 25 projects were approved which were to be performed in elementary schools, at the total sum of SKK 4,938,000. The development project of 'E-learning for children from socially disadvantaged environment and pupils with a health disadvantage 2009' was aimed at innovating education, using information and communication technologies. 33 projects were approved, with the allocated sum of €199,164, while this sum was allocated as follows, by a proportionate part

to the number of projects: 21 projects focused on pupils from socially disadvantaged environments of €134,669 and 12 projects focused on pupils with a health disadvantage €64,495. On 15 February 2012, a call for a development project was published on the MŠVVaŠ SR web page 'Supporting the creation of a positive social climate and motivation in multicultural classes in elementary schools' for establishers of elementary schools, in the amount of €60,500. Applications for the provision of financial means for the performance of a development project are submitted by school establishers by means of the relevant Regional School Office until 23 March 2012, in envelopes marked 'Positive social climate'. The Regional School Office will present applications to the Ministry of School, Science, Research and Sport of the Slovak Republic until 23 April 2012. The priority support area are activities contributing to the elimination of undesired phenomenon - spatial, organizational, physical and symbolic exclusion or separation of Roma pupils as a result of ethnic origin (often in combination with a social disadvantage) from other pupils. The area of support within renewing education and upbringing is the creation of multicultural classes (mainly in first classes) with the aim to gradually create a positive social climate in the school. Another area of support is the improvement of material and technical equipment of such classes with the aim to increase the qualitative conditions of the educational and upbringing process, general development of pupils' personalities, as well as their socialization and integration in society. The support also includes cooperation with NGOs working in this area, whose partnership in the project is a necessary condition for being able to participate in the call.

159. In relation to the recommendation contained in paragraph 16 (c) of the concluding observations and in the context of an unlawful decision of the Regional Court in Prešov regarding the segregation of Roma pupils in the elementary school with kindergarten in Šarišské Michaľany, ÚSVRK organizes a working group the aim of which is to prepare an inclusive plan. Even though we are fully aware of the limits of the general application of particular outputs of this working group, we want certain principles to be an outcome which also other schools with a high proportion of children from socially disadvantaged environments / marginalized Roma communities could adopt.

160. Within the Government Council of the Slovak Republic for Human Rights, National Minorities and Gender Equality, a Working Group for Inclusive Education has been established inter alia. The aim of the Working Group is to mainstream the topic of inclusive education, the purpose of which is to conceptually influence legislative creation in education from the point of view of the international human-right obligations of the Slovak Republic and new European trends in this area, and to create a platform for fostering inclusive education focused on making high-quality education accessible to everyone, regardless of circumstances which they cannot influence (racial or ethnic origin, socio-economic background, health disadvantage, etc.) in concurrence with the development of necessary conditions in the form of education and upbringing related to human rights, global education and inter-cultural dialogue. The reason for establishing the Working Group was the need to realize the society-wide importance of this cross-sectional issue. The benefits of inclusive education are practically undoubtedly scientifically proven. One of its considerable benefits is economic efficiency. The Working Group is composed of representatives from the Government Office of the Slovak Republic, the Ministry of Education, Science, Research and Sport of the Slovak Republic and its directly controlled organizations, the Ministry of Labour, Social Affairs and Family of the Slovak Republic, the Ministry of Foreign Affairs of the Slovak Republic, the Slovak National Centre for Human Rights, NGOs, and pedagogic and academic representatives. Three sessions of the Working Group have been held at the Government Office of the Slovak Republic, where partial expertises have been elaborated in the issue of inclusive education from the point of view of different target groups, and recommendations and conclusions adopted. Expertises have been elaborated on the basis of key principles, benefits and practical measures. One of the recommendations of the Working Group was a proposal for membership of the Slovak Republic in the European Agency for

Development in Special Needs Education, which the Government of the Slovak Republic approved in Decree No 682 of 2 November 2011, starting from 2012. The supporting philosophy of the Agency is the inclusion of persons with special educational needs in mainstream-education schools. It also emphasizes the task of schools separately established for pupils with special educational needs as resource, educational and methodical-consultancy centres.

161. On 20 February 2012, the Government Council for Human Rights adopted Decree No 38 related to the problem of segregation and the need for inclusive education. In its Decree, the Council took into account the first-instance court decision related to the process of the elementary school with kindergarten in Šarišské Michaľany when placing children of Roma origin into separate classes; the Council has pointed out that in view of the School Act, one of the main principles in education and upbringing is the prohibition of all forms of racial discrimination, in particular segregation, to the need for a legislative outline of the terms of segregation and inclusion in the Anti-Discrimination Act, the School Act and in other relevant legislation; to the need for elaboration of guidelines for identification, monitoring and elimination of the segregation of various vulnerable groups in different situations, and particular plans for inclusive education for different target groups of pupils and students with special educational and upbringing needs, mainly Roma persons, persons living in marginalized environments of social exclusion, persons with health disabilities, members of national minorities, foreigners and immigrants, and for different situations in which the stated target groups could find themselves, while particular features of the target groups should be considered when creating an inclusive school environment; to the need to adopt systemic public policies in the area of inclusive education, including social policies; the Council has recommended to the Government of the Slovak Republic to entrust members relevant as for the subject-matter to initiate inclusion of the performance of the proposed recommendation in the plan of their tasks; when performing the stated tasks, to apply the conclusions and recommendations adopted by the Working Group of the Government Council of the Slovak Republic for Human Rights, National Minorities and Gender Equality for the area of inclusive education adopted by the Council; the Council has imposed an obligation on the Council chairman to make members of the Government of the Slovak Republic familiar with the stated Decree of the Council.

**Reply to the recommendation contained in paragraph 17 of the concluding observations**

162. The situation description found in the sixth, seventh and eighth periodic reports in the housing area has basically remained unchanged in view of the Roma communities in Slovakia. The housing issue is undoubtedly one of the issues where differences between the Roma population and majority population are greatest. In spite of the fact of groups with disadvantages in different areas also labelled as vulnerable, due to their economic status or ethnic origin, in the majority population only the Roma communities create settlements in Slovakia with various types of non-standard dwellings which do not meet technical or hygienic standards. These non-standard dwellings are often built on land with unsettled legal title and without construction permits. Building materials are also non-standard: wood, metal plates, clay. Another big problem is the unavailability of basic infrastructure such as electricity, drinking water access, access roads and pavements with public lightning, gas, and sewage system. Waste disposal and communal waste treatment represent a special problem in this area.

163. The situation is partially dealt with in the Housing Development Programme approved by the Government of the Slovak Republic and performed since 1998. As part of this Programme, the MDVRR SR provides subsidies to obtain rental flats of a standard and lower standard, technical facilities, and also to remove systemic defects of apartment dwelling houses. This Programme is currently regulated by Act No 443/2010 Coll. on Subsidies for Housing Development and Social Housing. Almost 2,900 flats have been built on the basis of

this Programme. In spite of the unique character of the Programme in Central and Eastern Europe, we cannot claim that the Programme is a universal solution to the issue of the housing of the Roma communities, and it still has its limits. It is in the interests of Slovakia to maintain, and, if possible, to improve this Programme.

164. The last issue is social housing as a service. Housing is an area which most household expenditures are spent on. A definition of social housing appeared for the first time in 2010. Towns and villages, as primary providers of social services, will have to seek opportunities for their citizens to deal with their housing issue more often, even at times of limited municipal budgets.

165. In relation to recommendation No 27 (2000) on the discrimination of Roma in relation to the Convention on Elimination of all Forms of Racial Discrimination, the Section of Registry Offices and Residency Reports of the Department of General Internal Administration of the Ministry of Interior of the Slovak Republic immediately responds to situations related to residency reporting where the law may have been violated.

166. Record-keeping of citizens is regulated by Act No 253/1998 Coll. on the Reporting on Citizen Residency and on the Registry of Inhabitants of the Slovak Republic as amended. The mentioned legal norm defines exactly the conditions necessary for residency recording. At the same time, it contains a provision that if a registration office or social services establishment fail to meet their obligations, the District Police Force Directorate, in the territory in which the registration office or the seat of the social services establishment is located, will immediately ensure the fulfilment of the stated obligations.

167. If a registration office refuses to register a person meeting all the conditions prescribed by law to be registered for his/her permanent residency, the applicant may ask a relevant District Police Force Directorate to make the relevant act.

**Reply to the recommendation contained in paragraph 18 of the concluding observations**

168. The valid Act No 300/2005 Coll. the Penal Code, effective from 1 January 2006, establishes 'the unauthorized extraction of organs, tissues and cells and illegal sterilization' to be criminal acts and sanctions them, and in comparison with the previous legal regulation, the criminal-law sanction is stricter here.

169. In line with article 159, paragraphs 2 to 4 of the Penal Code, a person who sterilizes a natural person without authorization to do so will be punished by imprisonment of two – eight years. A criminal will be punished by imprisonment of 7 – 12 years if he/she has committed this crime with a special motive, such as, but not limited to, committing a criminal act on the grounds of a nationalistic, ethnic or racial hatred, or skin-colour-based hatred. A criminal will be punished by imprisonment of 10 – 15 years if he/she has caused serious bodily harm or death with this act.

170. In connection with article 160, paragraph 2 of the Penal Code, anyone who obtains an organ, tissue or cell from a dead person for himself/herself or for a different person in an unauthorized way, by a more serious form of action or out of a special motive, i.e. including nationalistic, ethnic or racial hatred or skin-colour-based hatred.

171. The valid Act on Compensation to Persons Injured by Criminal Acts (No 215/2006 Coll. as amended by Act No 79/2008 Coll.) enables lump-sum financial compensation to persons injured by criminal acts whose health was damaged as a result of intentional violent criminal acts, without any discrimination including racial discrimination, skin-colour-based discrimination or discrimination for other reasons. In this area, the current status of the Slovak legislation complies with international obligations of the Slovak Republic resulting from the relevant convention.

172. The Act on Healthcare, Healthcare-Related Services and on amendments and supplements to certain laws (No 576/2004 Coll. as amended) ('Act on Healthcare of 2004') came into force on 1 November 2004 and became effective on 1 January 2005. Provisions of Article 6 of this Act are related to the instruction and informed consent of patients. In line with article 6, paragraph 1, the attending medical worker is obliged to notify the below-mentioned persons on the purposes, nature, impacts and risks of health-care provision, on the options of the proposed procedures, and on the risk of rejecting health care, unless laid down otherwise in this Act. The obligation to inform is applied inter alia to the person whom the health care is to be provided to or a different person determined by this person, or a legal representative or a fosterer, if the person to whom health care is to be provided is a minor child, person deprived of the capacity to execute legal acts, or person with restricted capacity to execute legal acts, and also a person unable to give an informed consent in an appropriate way. In line with article 6, paragraph 2, the attending medical worker is obliged to give a comprehensible, understandable instruction without restraint, with the possibility and sufficient time to opt freely for informed consent, and in appropriate way to the intellectual, volitional and health condition of the instructed person. In line with article 6, paragraph 3, whoever is entitled to instruction shall also be entitled to reject the instruction. A written record on the rejection of instruction shall be made. In line with Article 6 paragraph 4, informed consent is a proven approval with health-care provision preceded by instruction as per the Act on Healthcare of 2004. Informed consent is inter alia required in the case of sterilization. Anyone who has the right to give informed consent has the right to freely withdraw the informed consent at anytime.

173. The provision of article 40 of this Act reads as follows:

‘Sterilization

(1) For the purposes of this Act sterilization is the prevention of fertility without removing or damaging sex glands.

(2) Sterilization can only be performed pursuant to a written application and a written informed approval following instructions given to the person fully capable of executing the legal act or a legal representative of the person unable to give an informed approval or pursuant to a ruling of a court pursuant to the application of the legal representative.

(3) The instructions prior to the informed approval must be provided as per § 6 subsection 2 and must contain information on

- a) Alternative methods of contraception and family planning;
- b) Possible changes of life circumstances leading to the application for sterilization;
- c) Medical consequences of sterilization as a method, the objective of which is an irreversible prevention of fertility;
- d) Possible failure of sterilization.

(4) The application for sterilization is submitted to the provider of sterilization. The application for sterilization of a woman is reviewed and the sterilization itself is performed by a doctor specializing in the field of gynaecology and obstetrics, the application for sterilization of a man is reviewed and the sterilization itself is performed by a doctor specializing in the field of urology.

(5) Sterilization cannot be performed earlier than 30 days after the informed approval was expressed.’

174. In view of the stated legal guarantees of human rights protection, including protection against illegal sterilizations in Slovakia, it is necessary to state some basic facts related to the genesis of the case, also with regard to the verdict of the European Court for Human Rights in the case V.C. against the Slovak Republic of 8 November 2011.

175. On 23 January 2003, as a reaction to the publication of the Centre for Reproduction Rights and the Consultancy for Civic and Human Rights 'Telo i duša (Body & Mind): Violent sterilizations and other attacks on the reproduction liberty of the Roma in Slovakia' (hereinafter referred to as the 'Telo i duša report', the Section of Human Rights and Minorities of the Government Office of the Slovak Republic filed a claim for the initiation of criminal prosecution in relation to the alleged illegal sterilization of several Roma women. The criminal prosecution was led by the Office of Justice and Criminal Police of the Regional Police Force Directorate in Žilina. The criminal prosecution was eventually lawfully stopped because in relation to the sterilization of women of Roma origin, no criminal act had been committed.

176. After the 'Telo i duša report' was published, the Ministry of Health of the Slovak Republic appointed a control group of experts to investigate the alleged illegal sterilizations and segregation of Roma women.

177. According to the report of the Ministry of Health of the Slovak Republic of 28 May 2003 presented to the Committee of the National Council of the Slovak Republic of Human Rights, Nationalities and Role of the Women, 3,500 medical reports of sterilized women were reviewed and approximately 18,000 medical reports of women after a Caesarean section for the last 10 years.

178. The frequency of sterilized women in Slovakia represented only 0.1 per cent of women of reproductive age. In European states it is from 20 to 40 per cent. The reason for the low number of sterilizations in Slovakia was mainly the fact that such intervention was not generally used as a form of birth-control.

179. In view of the absence of official statistical data in medical establishments related to the ethnic origin of patients, the group of experts could assess the situation concerning Roma women only indirectly. In regions where it was possible to indirectly assess the share of Roma women, the frequency of sterilizations and Caesarean sections was significantly lower with the Roma population compared to the rest of the population. The frequency of sterilizations was statistically insignificantly higher in the regions of Prešov and Košice than other Slovak regions.

180. The group of experts came to the conclusion that the crime of genocide had not been committed and nor had the Roma population been segregated in the inspected hospitals. All cases of sterilization were based on health indications. In some cases it found certain shortcomings in health care and a violation of sterilization regulations (such as no performance of administrative acts). However, these affected all the population, regardless of ethnic origin. The hospitals where cases of administrative errors had been discovered took steps to rectify them.

181. In none of the hospitals visited by the experts were there separate rooms for Roma women; all patients were provided health care under equal conditions without any discrimination. Due to the situation from previous decades, medical staff and individuals were not in an equal position, as for responsibility for maintaining and improving the health condition of individuals. The stated fact was mainly reflected in the limited rights and obligations of individuals in health care. Measures have been recommended which were supposed to ensure that individuals are provided with the necessary information, enabling them to give informed consent with the intervention or to refuse it.

182. Single applications for medical interventions should have been made in a legally relevant form enabling the affected persons to express their own free will after obtaining the adequate information.

183. The measures recommended in the report were based on the change of legal rules related to sterilization, with the aim to provide their compliance inter alia with the Convention on Human Rights and Biomedicine ratified by the Slovak Republic. The report also contained a set of recommendations in the area of medical staff education focused on 'cultural details in regions with a higher concentration of Roma communities'. With the intention to educate the Roma population in health care, the Slovak Medical University in Bratislava, in cooperation with the Ministry of Health of the Slovak Republic, created a network of health-care assistants who underwent special training and worked in Roma communities.

184. The adopted legislative measures, effective from 1 January 2005, harmonized patients' rights with international standards. The women allegedly affected by error in relation to sterilization which was carried out before 1 January 2005, had the opportunity to claim compensation before the general courts of the Slovak Republic in civic court proceedings. Five such proceedings are being held before national courts. Six other proceedings have lawfully terminated. Female complainants were successful in three of them.

185. On 8 November 2011, the European Court of Human Rights announced the verdict in the case of V.C. against Slovakia. The female complainant was sterilized on 23 August 2000 during her stay at the Hospital with Policlinics in Prešov, immediately after giving birth to her second child by Caesarean section. Doctors considered the intervention to be necessary as a potential third pregnancy represented a major threat to her life and her child's life, mainly the risk of uterus rupture.

186. When dealing with the complainant's case, the national civic-law courts reached the conclusion that the sterilization was made in line with the then-valid legal regulation, and that it was necessary due to her health condition. In its conclusions about violating the material part of articles 3 and 8 of the Convention, the European Court of Human Rights identified shortcomings in the legal regulation related to informed consent and in performance of sterilizations which international bodies and national experts had already highlighted in the past, and which led to the adoption of a new legal regulation in 2004, the Act on Healthcare. The above-mentioned was also shown in the case of the sterilization of the female complainant which was carried out in August 2000.

187. The European Court of Human Rights did not conclude that 'forced sterilizations of Roma women' were performed in Slovakia, and it stated that there was no evidence that it was the intention of the medical staff to maltreat the complainant. Nevertheless, it stated that the medical staff had acted with major disrespect towards the complainant's right to autonomy and decision-making in the role of a patient. At the same time, let us point out significant conclusions formulated by the European Court of Human Rights which did not confirm the serious accusations of an organized policy of sterilization of the Roma women in Slovakia due to their ethnic origin, made by legal representatives of the complainant, which our country has been facing at the international level for a long time. When dealing with the complainant's complaint in line with article 14 of the Convention, containing a prohibition of discrimination for any reason, the European Court of Human Rights commented that the available information did not sufficiently prove: that the doctors made the complainant's sterilization in bad faith, that their behaviour was intentionally racially motivated, nor that the sterilization was part of a generally organized state policy in the Slovak Republic. For analogical reasons, the European Court of Human Rights came to the conclusion that article 3 of the Convention was not infringed in its procedural part, and it distinguished that particular case from those where it required national authorities - on its own initiative - to initiate criminal prosecution after they had learned about the case. According to the European Court

of Human Rights, article 13 of the Convention was also not infringed, ensuring the right to a national legal remedy, as the complainant had the opportunity to turn to civil-law courts in two instances and then to the Supreme Court to review her case. In addition, she could, though she did not, initiate criminal proceedings by bringing a criminal charge. In the end the European Court of Human Rights came to the conclusion that article 13 of the Convention could not be interpreted in a way that required a general legal remedy in relation to national legal regulation in such extent as the complainant claimed, and that her sterilization and the following denial stemmed from a lack of appropriate guarantees in the national legal regulation.

188. On 20 February 2012 the Government Council of the Slovak Republic for Human Rights, National Minorities and Gender Equality adopted Decree No 37 related to the cases of illegal sterilization of women. In its Decree, it expressed regret over the intervention in the complainant's rights related to the sterilization carried out in August 2000, regarding which the European Court of Human Rights pronounced its sentence (the case of V.C. against the Slovak Republic) in November 2011, in which infringement of article 3 (ban on degrading and inhuman treatment) and Article 8 (right to respect his/her private and family) of the Convention on Protection of Human Rights and Fundamental Freedoms was found, and over any other cases of illegal sterilizations which may have occurred in practice in the past due to insufficient legislative regulation or particular failures. The Council has commissioned the Committee for Gender Equality and the Committee for the Prevention and Elimination of Racism, Xenophobia, Anti-Semitism and Other Forms of Intolerance to elaborate expert supporting documents in order to take a standpoint on the issue of reproductive health and on the Commissioner Hammarberg report. In the mentioned Decree, the Council also recommended to the Government of the Slovak Republic – in order to comply with the basic human rights documents and to harmonize the procedure applied in practice by medical establishments when making sterilizations – to ensure the elaboration of a draft of a decree of the Ministry of Health of the Slovak Republic about procedures when creating conditions guaranteeing the provision of informed consent to carry out sterilization on the affected women, in line with the regulation adopted by the International Federation of Obstetrics and Gynaecology – FIGO about performing contraceptive sterilizations of 2011; the Council also recommended to ensure the adoption of necessary measures to monitor the application of Act No 576/2004 Coll. with the aim to ensure the observance of all procedures when obtaining the full and informed consent of women interested in sterilization services in medical establishments; to ensure the organization of special trainings for medical staff focused on the issue when creating conditions for obtaining an informed consent to carry out sterilization, and in general to overcome common opinion stereotypes which often persist on the side of medical staff, mainly towards members of the Roma ethnic group, and also on correct and respectful non-discriminatory treatment of patients from ethnic minorities and other vulnerable groups; the Council has obliged its Chairman to make members of the Government of the Slovak Republic familiar with the Council's resolution.

#### **Reply to the recommendation contained in paragraph 19 of the concluding observations**

189. As results from a practical knowledge of the Public Defender of Rights, the vast majority of cases of infringement of human rights in relation to discrimination is seen in relations among natural persons or on the side of a legal person, which is not a public administration body, or the given case is not a case of exercising public administration. The claims from 2008 – 2012 prove the previous several-year-long experience that the complaints of discrimination in the vast majority of cases do not meet the conditions of competence of the Public Defender of Rights on the part of the persons who have filed such complaints.

190. Stating a person's belonging to a national minority or an ethnic group is not such personal data which would be necessary in order to inspect the claim by the Public Defender of Rights. Therefore, there are no special statistics kept of claims filed by national minorities



or ethnic groups. Nevertheless, the fact of belonging to a national minority or an ethnic group often results from the content of the claim, mainly in cases when the person filing it considers this status to be a discriminatory factor.

191. The Public Defender of Rights thoroughly examines and deals with all claims filed by natural persons and legal persons delivered to him/her. Discrimination, understood as a violation of the equal treatment principle, established in the provision of article 12 of the Constitution of the Slovak Republic, cannot be complained about in any legal relations, but only in issues of access to single fundamental rights and freedoms.

192. Claims where persons complained about discrimination due to their belonging to a particular race concerned, e.g. inspections made by a tax office, performing a control activity by a customs office, bullying at a workplace, the attitude of a municipality to the Roma population when performing activation works, and allocating financial resources after floods.

193. After dealing with the claims set aside by the Public Defender of Rights, but where the persons filing them highlighted potential discrimination, the Public Defender of Rights provided the persons filing them with basic guidance about anti-discrimination legal regulation, means of legal protection against discrimination, and the competences of bodies and organizations providing this protection, as well as contacts for these bodies and organizations.

194. Situations when a public administration authority, performing public administration, could have infringed fundamental rights and freedoms, mainly in relation to racial discrimination, are inspected by the Public Defender of Rights also from his/her own initiative. This was for example the case of constructing an artificial barrier separating a majority and minority population in Ostrovany, the construction of a concrete wall in Michalovce, and problems with the Roma settlement in Plavecký Štvrtok.

195. In 2008 – 2012, the Office of the Public Defender of Rights was delivered more than 10,300 claims, about 50 per cent of which were in the competence of the Public Defender of Rights. For the same period, the Public Defender of Rights proved more than 600 cases of the infringement of fundamental rights and freedoms of natural and legal persons. It was not proved in any of the proved infringements that a fundamental right or freedom due to racial discrimination had been infringed.

196. The access of victims of racial discrimination to effective legal remedies, enabling them to achieve remedy, is currently ensured by the stated Anti-Discrimination Act, on the basis of which victims of racial discrimination can take an anti-discrimination action to a general court relevant in its subject, location and function.

197. Moreover, in view of article 13 of the Civil Code, each natural person, and after his/her death his/her wife/husband, and in the case of none such, his/her parents, may take an action for the protection of personality. Its content is mainly the right to claim the abandonment of illegal interventions in the right to the protection of his/her personality, to eliminate the consequences of these interventions, and to be provided appropriate compensation.

198. Another efficient legal remedy of the right is compensation in view of Act No 514/2003 Coll. on Liability for Damage Caused During the Exercise of Public Authority and on amendments of certain laws as amended, which changed only slightly in the monitored period (e.g. widening the group of authorities acting on behalf of the state by the Ministry of Finance of the Slovak Republic).

199. After using the mentioned actions, in the case of dissatisfaction with the result of the proceedings held before general courts, persons may claim protection of their fundamental rights and freedoms at the Supreme Court of the Slovak Republic by means of a constitutional complaint in line with article 127 of the Constitution of the Slovak Republic. If

concluding that an individual's rights have been infringed, the Constitutional Court of the Slovak Republic has the power to recall a lawful decision of the general courts and grant appropriate financial compensation for the discovered infringement.

200. With the aim to increase the efficiency of general access of victims of racial discrimination to justice, Act No 327/2005 Coll. on the Provision of Legal Aid to Persons in Material Need as amended, has been amended too. The latest amendment of this Act (No 332/2011 Coll.), which became effective on 1 January 2012, has increased the conditions of providing legal aid on the basis of the income of natural persons in material need by increasing the income cap from a 1.4 multiple to 1.6 multiple of the living wage, if this person cannot secure legal services using with his/her property. It means that if free legal aid was guaranteed and provided by the state through the Legal Aid Centre before 1 January 2012 to approximately 1,500 persons a year, currently it will be 1,000 persons more. Moreover, this amendment in the new provision of article 6a also laid down conditions for providing legal aid with financial participation. In view of this provision, if a natural person's income exceeds a 1.4 multiple of the subsistence minimum amount, and at the same time it does not exceed a 1.6 multiple of the stated sum, and he/she cannot secure the use of legal services with his/her property, he/she has the right to be provided legal aid by a determined attorney or the Legal Aid Centre, when meeting the condition of financial participation in the amount of 20 per cent of the expenses of the legal representation in line with the provisions of articles 14a and 14b of the Decree of the Ministry of Justice of the Slovak Republic No 655/2004 Coll. on the Remuneration and Compensation of Advocates for Providing Legal Services as amended; meeting the conditions in line with article 6, paragraph 1 (b) and (c) is not affected therewith. Nevertheless, if appropriate to the circumstances of the required legal aid, the Legal Aid Centre may provide legal aid without settlement of the financial participation in the given case. If income exceeds the material need limit determined by law, the Legal Aid Centre may provide legal aid with the financial participation of an authorized person, if appropriate to the circumstances of the required legal aid.

201. Effective from 1 January 2012 (Act No 332/2011 Coll.), legal aid is to be understood as the provision of legal services to a person entitled in line with this Act, in relation to exercising his/her rights, which mainly include legal consultancy, as well as assistance in out-of-court proceedings, including mediation of disputes. The Legal Aid Centre provides legal aid in line with this Act through its staff, selected advocates and mediators. If purposeful, and if it is clear from the circumstances of the case that the legal dispute, whose participant is an entitled person or a foreign entitled person, could be resolved by mediation, the Legal Aid Centre will propose mediation to the entitled person or the foreign entitled person, and with the consent of the entitled person or the foreign entitled person and the mediator, it will appoint a mediator; if appropriate in view of the circumstances of the case, the Centre will appoint a mediator only after obtaining the agreement of the other dispute party.

202. If a mediator has been appointed by the Legal Aid Centre, he/she will receive remuneration determined in line with the amended Act No 327/2005 Coll. Under equal conditions as in article 6a, paragraph 1, the entitled person will co-settle remuneration of the mediator which he/she would be entitled to receive in line with Act No 422/2004 Coll. on Mediation and on amendments to certain laws as amended, if an agreement was concluded as a result of mediation. (*De lege lata* remuneration of the mediator is determined on the basis of an agreement between the mediator and persons participating in the mediation, unless determined otherwise by the Act on Mediation.)

**Reply to the recommendation contained in paragraph 20 of the concluding observations**

203. ÚSVRK regularly monitors the situation in Dobšiná. In spite of repeated consultations and work meetings, the town has not initiated the construction of rental flats of a lower standard. The town of Dobšiná included the construction of such flats in its medium-term plans for 2010, but construction has not started. At a work meeting of ÚSVRK and town

representatives, the municipality argued that as a result of financing other investment projects in the town (elementary schools, kindergartens, etc.), it currently has no financial means for further construction. ÚSVRK has repeatedly informed the town about options for financing the construction of rental flats from subsidies, regulated by Act No 443/2010 Coll. on Subsidies for Housing Development and Social Housing. However, the town has not specified an exact location where it is planning to locate this construction.

**Reply to the recommendation contained in paragraph 21 of the concluding observations**

204. The Convention has not been signed by the Slovak Republic to date. From the point of view of EU Member States, as well as the Slovak Republic, the biggest obstacles are felt to be its non-distinguishing between legal and illegal migrant workers, as well as requirements for the equal treatment of illegal migrant workers and members of their families in different areas (e.g. access to education, housing, social care and health care) which would inter alia mean a considerable increase in financial and administrative costs, and it would have a significant negative impact on the Slovak social system.

**Reply to the recommendation contained in paragraph 22 of the concluding observations**

205. The ninth and tenth periodic reports also include information on measures and other future plans with a view to implementing the Durban Declaration and Programme of Action.

**Reply to the recommendation contained in paragraph 23 of the concluding observations**

206. The Ministry of Foreign Affairs of the Slovak Republic addressed civil societies and NGOs working in the area of combating racial discrimination during the preparation of the ninth and tenth periodic report.

**Reply to the recommendation contained in paragraph 24 of the concluding observations**

207. Reports and recommendations are translated in the Slovak language and available on the web pages of the Government Office of the Slovak Republic (Government of the Slovak Republic/Discussions), as well as on the web page of the Ministry of Foreign Affairs of the Slovak Republic (Foreign policy/Human rights).

**Reply to the recommendation contained in paragraph 25 of the concluding observations**

208. The core document will be updated in 2012 after all statistical data from the Census 2011 has been published by the Statistical Office of the Slovak Republic.

**Reply to the recommendation contained in paragraph 26 of the concluding observations**

209. The Committee was provided with the information in the required deadline.

**Reply to the recommendation contained in paragraph 27 of the concluding observations.**

210. See answers to the recommendations contained in paragraphs 8, 10, 14 and 17 of the concluding observations.

**Reply to the recommendation contained in paragraph 28 of the concluding observations**

211. Implemented in the ninth and tenth periodic reports.

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