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Slovakia

**Submission to the UN
Universal Periodic Review**

**Fifth session of the UPR Working Group of
the Human Rights Council**

May 2009



Executive summary

In this submission, Amnesty International provides information under sections B, C and D as stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*:¹

Under section B, Amnesty International raises concern over shortcomings in legislation leading to discrimination against Roma in the area of education.

Section C highlights Amnesty International's concerns about violations of the rights of Romani people to education and housing and instances of forced sterilization of Romani women.

In section D, Amnesty International makes a number of recommendations for action by the government to address the areas of concern.

¹ Contained in Human Rights Council Decision 6/102, Follow-up to Human Rights Council resolution 5/1, section I adopted 27 September 2007.

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Amnesty International submission to the UN Universal Periodic Review

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Introduction

In this submission, Amnesty International focuses on the plight of the Roma minority in Slovakia. Roma are caught in a cycle of marginalization and poverty, and experience discrimination in access to education, housing, health care and other public services.

B. Normative and institutional framework of the State

Decade of Roma Inclusion

In 2005 Slovakia joined the Decade of Roma Inclusion, for which purpose the government adopted a National Action Plan. This, however, has yet to be operationalized and does not yet include indicators by which to compare the situation of Roma to that of non-Roma in Slovakia. The National Action Plan aims, among other things, to reduce the number of Romani children attending special schools, but does not specify concrete measures to achieve such integrated education.

Anti-Discrimination legislation

Slovakia incorporated the EU Race Equality Directive into its 2004 Anti-Discrimination Act, which significantly strengthens the existing national legal framework. However, the European Commission instituted infringement procedures against Slovakia in 2007 because its Anti-Discrimination Act still fails to fully conform to the Race Equality Directive, in particular in the following areas: the definition of equal treatment and harassment, limited material and personal scope, broader exemptions and definition of social advantages. At the time of writing, Amnesty International was aware of a recent amendment to the Anti-Discrimination Act, however, its impact on these issues has yet to be assessed.

Government policy for the development of the Roma minority

In March 2008 the government adopted a policy entitled 'Mid-term Conception for the Development of the Roma National Minority of the Slovak Republic, SOLIDARITY – INTEGRITY – INCLUSION, 2008-2013' aimed at improving the lagging educational and living standards of its large Roma population. According to national non-governmental organizations, the policy had not been subject to wide consultation with the Romani community and civil society.

The policy is drafted in broad terms, essentially as a list of "aspirations". The measures outlined include compulsory nursery schooling for all five-year-olds by 2013, providing Roma-language school books, and stricter requirements for sending Roma children to special schools for the disadvantaged. The plan also aims to improve Roma living conditions through self-help projects to build new homes. As such, it does not constitute a comprehensive strategy to address the systemic causes of the social exclusion faced by the Romani minority. It lacks clear objectives and concrete methods for implementation. It does not identify the bodies responsible for its implementation, nor does it identify the financial resources necessary for its timetabling and realization.

New education legislation

In May 2008, the Slovak Parliament (National Council) passed the new Act on Upbringing and Education (the Schools Act), which came into force in September 2008 and replaced the 1984 Act and its various amendments.

Although Article 3 of the Schools Act, on *Principles of instruction and education*, prohibits "all forms of discrimination, mainly segregation", it does not include concrete, targeted and effective measures to eliminate the discrimination faced by Roma in the area of education.

Moreover, the new Schools Act fails to remove the category of "socially disadvantaged children" from the list of those with special educational needs or to decouple the term from mental disability. The term "socially disadvantaged pupils", which in practice is understood as referring to Romani children, is vague and ill-defined in the law, and may contribute discrimination in the educational placement of Romani children. Due to often discriminatory attitudes by individual staff carrying out assessments and making decisions on the school placement of children, the result in many cases has been the *de facto* placement and segregation of Romani children in special schools and classes.

Revised European Social Charter

The government has undertaken a wide consultation on draft legislation with a view to ratifying the Revised European Social Charter of the Council of Europe. However, with respect to the Charter itself, the government has taken a narrow approach, and has not incorporated in the proposed text of the bill any aspect of Article 31 of the Charter, on the right to housing or Article D under Part IV, which sets out for a system of collective complaints.

Collection of ethnically disaggregated data

The Advisory Committee of the Framework Convention for the Protection of National Minorities (FCNM) of the Council of Europe welcomed the publication in 2004, by the Office of the Plenipotentiary for Roma Communities, of a demographic study on Roma settlements in Slovakia. However, the Advisory Committee also called on the authorities to improve the collection of statistical data in areas such as access to medical health and employment.

The collection of appropriate data, disaggregated at least according to ethnicity and gender, is crucial in ensuring that laws, policies and practice are contributing to the elimination of discrimination. At present, the government does not collect ethnically disaggregated data, for example on the composition of different kinds of schools in Slovakia. However, it has been recommended to do so by various regional and international human rights bodies monitoring the implementation of treaties ratified by Slovakia.

In 2007 the UN Committee on the Rights of the Child (CRC) expressed concern at "deficiencies in the collection and analysis of disaggregated data," commenting that Slovakia's "policy concerning the collection of data based on ethnicity hampers the adequate collection and analysis of reliable disaggregated data on vulnerable groups, *inter alia*, the Roma community." The CRC called on Slovakia to strengthen its data collection system to ensure that data are disaggregated and contain information on a wide-range of vulnerable groups, including children belonging to minority groups such as the Roma, children living in poverty, and children living or working in the street.

C. Promotion and protection of human rights on the ground

Education

Huge numbers of Romani children are being placed unnecessarily in special schools and classes for children with mental disabilities and learning difficulties. Special schools – officially designed for children with mental disabilities – follow a greatly simplified curriculum which severely reduces future employment

prospects and further education opportunities. Poor housing conditions, physical and cultural isolation, poverty and lack of transport are all factors hindering Romani children's ability to attend school.

Some Romani children are segregated in Roma-only mainstream schools across the country. Education provided in Roma-only schools is often of a lower quality. This *de facto* segregation of Romani children in inferior schools compounds their marginalization and reinforces racial prejudices.

The procedure to decide whether to place children in a mainstream or a special elementary school is not clearly defined by law. The criteria for placement in a special school are vague and leave space for arbitrary interpretation by the pedagogue or psychologist conducting the assessment. There is also no procedure in place to monitor and assess the continued placement of children in special education.

Equally concerning is the placement of children, most of them Roma, in preparatory classes in special schools. The criteria for such placement are often on the basis of "social disadvantage" and the consequence of such placement is that children continue into special schools rather than in mainstream schools. Furthermore, there is currently no independent complaints mechanism for parents if, for instance, their children are considered to be inappropriately placed in special schools. The State School Inspectorate, mandated to process individual complaints and petitions, does not have the competence to issue sanctions related to segregation. Unlike similar bodies in Bulgaria and Hungary, the Slovak National Centre for Human Rights does not have authority to investigate individual complaints, to initiate its own investigations, or to recommend remedies in individual cases of violations of the right to education. Systemic failures are often compounded by flawed and discriminatory implementation of existing legislation by municipal and educational authorities.

- In Pavlovce nad Uhom, a town of 4,600 inhabitants in eastern Slovakia, 99.5 per cent of the approximately 200 pupils of the special school are Roma. They constitute more than half of the Romani children attending primary school in the town. Following inspections instigated by the mayor in 2007, it was officially acknowledged that 17 of these pupils did not belong in the special school. Officially, children can only be placed in special schools after the formal diagnosis of a mental disability and only with the full consent of the parents. However, many children had not been assessed at all and the assessment itself was deeply flawed. At the same time parental consent was often neither free nor informed; one of the main reasons leading Romani parents from disadvantaged backgrounds to place their children to special schools have been financial incentives in the form of motivational state scholarships based on school performance, which were easier to get in special schools where the curriculum is less demanding.

Housing

Many Roma experience very poor living conditions without access to plumbing, gas, water, sanitation and electricity. Romani settlements are very often physically segregated from the main town or village, with little public transport; where it exists, many Romani families cannot afford the bus fare. The government has not yet implemented the decision of the UN Committee for the Elimination of Racial Discrimination in the case of *L.R. and others v Slovakia* from 2005, in which the Committee determined that policies of racial segregation in Dobsina violated international law.

Roma continue to face forced evictions. In January 2007, three NGOs, Milan Šimečka Foundation, the Centre on Housing Rights and Evictions and the European Roma Rights Centre, released a report in which they described a wave of forced evictions of Roma communities in Slovakia.

Following a public hearing in 2007, the Slovak Parliamentary Committee for Human Rights, Nationalities and the Status of Women adopted a resolution in January 2008 on forced evictions of non-payers of rent. This called on the government to undertake a range of measures to guarantee protection against poverty and social exclusion and the right to adequate housing.

- In September 2007, more than 200 Roma were reported to have been forcibly evicted from their houses in Nové Zámky, and moved to neighbouring villages where they were allocated inadequate alternative housing. The Plenipotentiary for Romani communities of the Slovak Government, Anina Botošová, has criticized the increasing policy of evictions by several municipalities and stated that such acts were “illegal”.

Forced sterilization of Romani women

Both the current and former Slovak governments have failed to conduct thorough, impartial and effective investigations into cases of alleged forced sterilizations. To date, no Romani woman who suffered coercive sterilization has received compensation from the government. The authorities have refused to admit that forced sterilizations took place in the country's public hospitals, only recognizing that there had been “procedural shortcomings”.

- In February 2008, the Slovak Regional Prosecutor's Office of Košiče again halted prosecution in the case of alleged illegal sterilizations of Romani women in eastern Slovakia in 2003 as they considered that “the sterilizations were performed with the women's free and informed consent.” The Constitutional Court had decided to send the case back to the Regional Prosecutor for a new investigation last year. A new complaint was subsequently filed with the Constitutional Court, which was pending at the time of writing.

D. Recommendations for action by the State under review

Amnesty International calls on the government of Slovakia:

Ethnic data collection

- To systematically gather statistical information and data, disaggregated on the basis of gender and ethnicity, in relation to education, health, employment and other relevant areas, with due regard to European standards concerning the protection of personal data and the right to self-identification.

Right to education

- To remove the category of “socially disadvantaged children” from the list of those with special educational needs and to decouple the term from mental disability.
- To amend the law to require that “socially disadvantaged pupils” be educated in integrated, mainstream elementary schools, unless they have a physical or proven mental disability. The law should also strictly and explicitly limit preparatory classes in special schools only for children with physical or serious mental disability.
- To ensure the provision of preparatory year (so-called zero classes) and teaching assistants, in all districts in which a reasonable number of children requiring them, including Roma, are present. Those provisions should be made compulsory in the text of the new Schools Act.
- To ensure that all children currently in special schools and special remedial classes are assessed regularly to ensure their swift reintegration in mainstream education as appropriate and provided with appropriate additional support to facilitate their re-integration.
- To adopt the necessary legal or administrative measures to redress any erroneous placement of children in special schools, and prevent and sanction all forms of racial segregation in education.

- To review the mandate of the Slovak National Centre for Human Rights in order to enable it to monitor anti-discrimination legislation and its implementation, and to investigate individual complaints, to initiate its own investigations, or to recommend remedies in individual cases of violations of the right to education.

Housing

- To ratify and implement the Revised European Social Charter, including Article 31, and the Optional Protocol providing for a system of collective complaints.
- To stop and prevent forced evictions of Roma.
- To ensure the genuine participation of Romani communities in determining the upgrading or relocation of their communities to give effect to their rights to adequate housing, water and sanitation.
- To ensure that any agreement on rehousing complies with international human rights standards, including by prioritizing those who lack access to essential levels of housing, water and sanitation or security of tenure sufficient to protect them from forced eviction or other interference. Any rehousing, agreed in consultation with those affected, should be to locations with adequate housing, situated close to employment and services such as education, and seek to combat segregation.

Forced sterilization

- To ensure impartial, thorough and effective investigations into allegations of forced sterilization of Romani women in Slovakia.
- To fully examine the circumstances under which consent to sterilization was given, noting that according to international standards and international medical associations a signature alone is not *de facto* evidence of full and informed consent.
- To ensure that the victims promptly receive appropriate compensation; the victims and their legal representatives should be given unimpeded access to the appropriate information without which they are not able to file compensation claims.

Appendix: Amnesty International documents for further reference²

Still separate, still unequal: Violations of the right to education for Romani children in Slovakia (AI Index: EUR 72/001/2007)

Slovakia: Roma children and the right to education: Fact sheet (AI Index: EUR 72/005/2007)

Slovakia: Open letter regarding the Slovak Chairmanship of the Committee of Ministers at the Council of Europe (AI Index: EUR 72/010/2007)

Slovakia: NGOs call on Slovakia on International Roma Day to address discrimination of Roma in education (AI Index EUR 72/003/2008)

Slovakia: NGOs joint open letter on the occasion of the second reading of the draft new Schools Act at the Slovak National Council (AI Index: EUR 72/004/2008)

Slovakia: A tale of two schools: Segregating Roma into special education in Slovakia (AI Index: EUR 72/007/2008)

Slovakia: Failing to ensure an impartial and thorough investigation into allegations of illegal sterilization of Romani women (AI Index: EUR 72/004/2003)

Slovakia: Failed investigation into allegations of illegal sterilization of Romani women (AI Index: EUR 72/005/2003)

Europe: Discrimination against Roma (AI Index: EUR 01/012/2007)

² All of these documents are available on Amnesty International's website: <http://www.amnesty.org/en/region/slovak-republic>