



# Civil Society Monitoring Report

on the Implementation of the National Roma Integration Strategy  
and Decade Action Plan in 2012 in

SLOVAKIA



DECADE OF  
ROMA  
INCLUSION  
2005-2015

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**Prepared by a civil society coalition comprising the following organizations:**

Roma Institute, n.o. (lead organisation) ■ Centre for the Research of Ethnicity and Culture  
Quo Vadis, o.z. ■ Cultural Association of Roma in Slovakia



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This report was prepared by a civil society coalition comprising the following organisations: Roma Institute, n.o. (RI), Centre for the Research of Ethnicity and Culture (CVEK), Quo Vadis, o.z. and Cultural Association of Roma in Slovakia (CARS). The lead researcher of the coalition is Jarmila Lajčáková (CVEK) and the project manager is Sofia Daskalová (RI).

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In the pilot year of 2012, the Decade Secretariat decided to support reports from civil society coalitions in seven countries (Albania, Bulgaria, Hungary, Macedonia, Romania, Slovakia and Spain) and the Roma Initiatives Office commissioned an additional report from the Czech Republic. In addition, the Decade Secretariat made a template public in order to encourage additional civil society actors to monitor the implementation of National Roma Integration Strategies (NRIS) and Decade Action Plans.

In the reports, civil society coalitions supplement or present alternative information to Decade Progress Reports submitted by Participating Governments in the Decade of Roma Inclusion and to any reports submitted by State parties to the European Commission on implementation of their NRIS. These reports are not meant to substitute quantitative monitoring and evaluation by State authorities but to channel local knowledge into national and European policy processes and reflect on the real social impact of government measures. The civil society reports provide additional data to official ones, proxy data where there is not official data, or alternative interpretation of published data.

The project is coordinated by the Decade of Roma Inclusion Secretariat Foundation in cooperation with Making the Most of EU Funds for Roma programme and the Roma Initiatives Office of the Open Society Foundations.



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## EXECUTIVE SUMMARY

This civil society monitoring report critically assesses policy developments relevant for the implementation of the Revised National Action Plan of the Decade of Roma Inclusion for 2011-2015 adopted by the Slovak Government in 2011 (Revised Action Plan) and the Strategy of the Slovak Republic for Integration of Roma until 2020 (NRIS) approved in January 2012. We focus on the monitoring period commencing with the adoption of the Revised Action Plan in August 2011 until March 2013. Where necessary, we have included policy development prior to the reporting period.

The report is based on a data set and information gathered through desk research, information requests directed to the relevant agencies and interviews with public officials, including mayors, and NGOs. In addition, we have prepared case studies of five policies to assess the impact of key flagship policies on the ground: Individual integration in education, activation works, municipal firms, Roma health mediators and the programme of lower-standard housing. The cases studies draw on desk research complemented with qualitative empirical research in four localities in eastern and central Slovakia.

The report finds that the implementation of NRIS and Revised Action Plan greatly suffered from administrative and personal changes brought by the early parliamentary elections in March 2012. Both documents were prepared by the previous administration. The incumbent high ranking officials including the newly appointed Government Plenipotentiary for Romani Communities (GPRC), Peter Pollák, have made no statements suggesting their solid support for these policies. We have seen, for instance, no palpable progress in ensuring sustainable budgetary commitments to the implementation of the Revised Action Plan and the NRIS. Instead, Pollák has introduced principles of the so-called "Roma Reform – the Right Way" ("Rómska Reforma – Správna Cesta"). The reform proposal that is in many ways discriminatory is based on the enforcement of a desired behaviour under the threat of sanctions. This principle is in a dire conflict with the NRIS.

Furthermore, the ability of the GPRC to co-ordinate implementation of the Revised Action Plan and of the NRIS has been curtailed by the shift of the Office into the structures of the Ministry of Interior (MI). This change has undermined the previous co-ordinating and overarching position of the GPRC when it was placed within the structure of a significantly smaller Government office. The complex bureaucratic structure of Slovakia's largest ministry has curtailed the ability of the office to act in a flexible and timely manner. In addition, the personal and institutional changes have prompted numerous experienced officials to leave the office. All these aspects are further compounded by the fact that the Plenipotentiary is simultaneously a Member of Parliament, which, among others, significantly constrains his ability to devote sufficient time to running the Office. Ultimately, it appears that the Office of the GPRC is unable to satisfactorily handle its tasks, among others, in relation to the implementation of the NRIS.

The new administration has furthermore delayed and also curtailed numerous positive developments and plans of its predecessor in the area of combating discrimination and racism. First of all, the new Government has abolished the key governmental human rights post, Deputy Prime Minister for Human Rights (DPHR), which was in charge of the new changes. The human rights agenda was vaguely dispersed among several agencies lacking personal capacities in this area while numerous human rights experts were laid off. The DPHR Office was replaced by the Office of the Government Plenipotentiary for National Minorities (GPNM) with significantly reduced powers and agenda. Much needed plans to transform the national equality body have been put on hold.

The civil society monitoring report begins with a discussion on the **structural set up** for the implementation of the Revised Action Plan and the NRIS. As mentioned above, personal and institutional changes at the GPRC seem to undermine the ability of this body to co-ordinate implementation of the NRIS. Moreover, while both Romani and non-Romani civil society organisations were suitably included in the drafting of the Revised Action Plan, the form of their participation in the preparation of NRIS was questionable. Consultations with regional NGOs took place after the NRIS was prepared in an unreasonably short time by the State administration and hired experts. Some interviewees viewed the process as merely a legitimisation of yet another Roma strategy on which they have had limited say.

Romani and non-Romani NGOs have been, so far, almost completely left out of implementation, monitoring and evaluation processes. Implementation and monitoring of the Revised Action Plan and the NRIS would also benefit from improved co-ordination between various layers of Government (in particular with the regional and municipal levels and among ministries). Both strategic documents also lack solid monitoring and evaluation mechanisms. Importantly, funding of specific measures is unclear. The Government largely relies on the use of EU structural funds in the programming period 2014-2020, expressing little willingness to use State budget funds.

Weakening the human rights agenda in the time of economic crisis is rather disquieting. Right wing extremist ideas have been penetrating the mainstream political rhetoric. In political discourse, over the last few years the situation of the Roma minority has been redefined from being an issue of exclusion and discrimination to being primarily a matter of neighbourly relations and a threat to the majority (especially economic and demographic). This redefinition of Roma issues is highly troubling. It practically prevents any meaningful discussion about positive measures that could, in fact, support processes of inclusion and social cohesion. Instead, the majority that feels threatened by a 'maladjusted minority' supports shameless plans of politicians who abuse this agenda for political gains.

**In the area of anti-discrimination**, the report notes that despite adequate transposition of the EU Race Equality Directive into Slovak anti-discrimination legislation, its implementation in practice is limited. Early parliamentary elections in March 2012 postponed and/or curtailed numerous positive efforts made by the previous administration in the area of anti-discrimination, such as the preparation of a comprehensive human rights strategy. Human rights education is incorporated in school curricula but it is of questionable quality at best. Moreover, it is rather hypocritical to teach human rights in segregated settings, as is often the case in elementary schools with a significant proportion of Romani children.

A particularly positive effort by the current administration is the inclusion of a provision allowing for the adoption of affirmative action (temporary equalising measures) on ethnic grounds by State and private bodies into the Anti-discrimination Act. The amendment entered into force on 1 April 2013. Clarification of the legal status of affirmative action could provide an enormous opportunity for Slovakia to embark upon policies ensuring equal opportunities in accessing especially education and employment for Roma. However, no key high ranking officials appear committed to implementing this.

Slovakia continues to lack a strong equality body. The Slovak National Centre for Human Rights (SNHRC) suffers from a lack of competencies and qualified personnel and undue political influence.

Serious violations of rights of Romani individuals found in judgments of the European Court of Human Rights (ECHR) go literally unnoticed by high ranking officials. Although the applicants were awarded financial compensation, State authorities have downplayed the importance of these cases, particularly those involving the involuntary sterilisation of Romani women. The vulnerable situation of Romani women and girls, especially those living in segregated areas, remains largely ignored.

Trafficking in human beings in marginalised Romani communities (MRCs) is another area that would require more attention by State authorities. Despite the fact that police estimates indicate that up to 60% of all victims of human trafficking in Slovakia come from MRCs, these figures are only marginally reflected in the State's approach to tackling human trafficking. The State shifts its responsibilities in this area on the non-governmental sector with limited financial and personal resources.

**In the area of education**, the report notes that the landmark ruling of the Prešov District Court of December 2011 outlawing segregation in mainstream education has been a major breakthrough. The decision was upheld by the Regional Court in October 2012. However, the case has not prompted relevant authorities to start to proactively eliminate widespread practices of segregation. The major (and indeed the only) state initiative addressing issues of segregation and of inclusive education is the nation-wide project *Inclusion of Romani Communities through Education of Teachers*, co-financed by the European Social Fund in Operational Programme Education. Its overall budget amounts to 25,000,000 EUR and should run for 40 months at 200 schools from October 2011 to January 2015. So far, project implementation has been delayed. At this stage, we are unable to evaluate the impact as no monitoring reports have been made available.

No improvement has been made in addressing the disproportionate placement of Romani children into special schooling. While the Ministry of Education, Science and Sports (ME) has recommended that schools repeat diagnostics for all children from socially disadvantaged environments (SDEs), field work for this report revealed that re-diagnosis is simply not performed or delayed since there are not enough psychologists. No progress has been made in ensuring that Romani parents can provide their fully informed consent to the placement of their child into a special school.

The pre-school attendance of Romani children remains low in comparison to non-Romani children, with no significant initiative on the State's part. The GPRC recently proposed compulsory pre-school attendance from the age of three for children from "risky families". The concept of "risky families" is, however, highly discriminatory and may in fact strengthen existing practices of segregation. Compulsory pre-school for all children from the age of three would be less discriminatory. However, such endeavour would be not only financially unfeasible, but may also constitute an intrusion into privacy and family life. Moreover, it should be noted that many Romani families who may not believe in sending children to school at such a young age.

The recent trend in setting up detached vocational schools in proximity with MRCs amounts to segregation.

**The area of employment** is marked with serious stagnation despite numerous initiatives using structural funds. The State's Active Policy on the Labour Market (APLM) has had limited impact on Roma employment rates. APLM policies funded with European Social Fund (ESF) have had difficulties ensuring territorial targeting to alleviate regional disparities. Various trainings aiming to spur employment among Roma merely impacted their chances to seek informal employment rather than work in the formal labour market.

The major policy addressing long-term unemployment among Roma, the activation works scheme, is deeply problematic and fails to deliver on its objectives. It is informed by the stereotypical presumption that Roma are "inactive" as such. The *de facto* aim is then to force them to "activate" themselves, often with the use of dehumanising practices. Since the material subsistence allowance (MSA) in Slovakia is rather low and its recipients often have no chance to find employment, activation works provide the only opportunity to increase family income. In some municipalities, activation works, are purely formal. The latter scenarios have been exposed in sensationalist reports in the tabloid media which further the myth of a free-riding minority unwilling to work. For municipalities, the organisation of activation works presents an administrative and organisational challenge.

There have been no efforts to tackle discrimination experienced by Roma generally and Romani women specifically on the labour market.

**The area of health care** is marked by regression. The central policy of using health mediators to reduce barriers in access to health care, predominantly in segregated Romani settlements, was terminated in 2011. It remains unclear when, if at all, the programme will continue. It must be noted that even before 2011, the programme supported only 30 mediators which was insufficient in proportion to the number of MRCs. The programme furthermore suffered from financial instability and a lack of systematic training for the mediators.



No specific measures addressing the particularly vulnerable situation of Romani women were recorded, especially in the area of reproductive rights. Although no data mapping discrimination in health care is available, NGOs caution that the practice of segregation in maternity and gynaecological wards continues.

**Housing interventions** were very limited in the reporting period. Although there are several State mechanisms allowing for the construction of low-standard flats for marginalised communities their use often furthers spatial segregation. There has been no effort to ensure that the housing allowance is accessible to those that reside in informally built shelters and settlements. Finally, housing interventions are seldom complemented by so-called “soft measures”, such as social field work, educational and employment measures that would significantly reinforce the effects of housing measures. Furthermore, our case studies suggest that the willingness of municipalities to eliminate segregation of local Romani communities plays a crucial role. Municipalities do have options and tools to work towards inclusion. their success strongly depends on their commitment and openness to employ innovative approaches based on local contextual needs.

# RECOMMENDATIONS

## Recommendations for the Slovak Government

### Structural Requirements

- Ensure that the Office of the GPRC is committed to the implementation of the Revised Action Plan and the NRIS. Ensure that the Government Plenipotentiary is a Romani professional able to make a full time commitment to the position.
- Consider reinstalling the previous administrative placement of the Office of the GPRC within the ambits of the Prime Minister, i.e. at the Government Office.
- Make sure that newly introduced and publicly communicated measures of so-called “Roma Reform” are in line with the Revised Action Plan and the NRIS.
- Establish an institutional structure open to all Romani and non-Romani NGOs which are willing to participate in the process of monitoring and evaluating the Revised Action Plan and the NRIS.
- Ensure reasonable financial support covering travel costs to enable the participation of NGOs, especially less affluent Romani NGOs, that are located outside Bratislava in policy-making.
- Systematically include elected Romani members of the Committee on National Minorities and Ethnic Groups (CNMEG) in policy-making in key departments (esp. GPRC, ME, Ministry of Labour, Social Affairs and Family (MLSAF)).
- Strengthen the position of GPRC with respect to the use of structural funds for MRCs priority axis.
- Continue supporting comprehensive solutions, especially those addressing infrastructure and employment at the level of micro-regions.
- Reduce the administrative burden in operating structural funds projects, for example by following the principle of partnership with NGOs which entails shifting administration to ministries and leaving project execution to NGOs (as planned with the national project of community centres funded by the ESF at the MLSAF).
- Consider replacing the aspect of competitiveness in approving municipalities’ applications for funding and with the requirement that all localities with MRCs should apply for an investment project. Consider the model of global grants<sup>1</sup> and support of local and regional non-governmental institutions in project implementation at micro-regional level.

### Anti-discrimination

- Increase personal and professional capacities of ministerial departments vested with human rights responsibilities after the transformation of the institutional framework in 2012.
- Draft and implement the new human rights strategy in close partnership with the non-governmental human rights sector (including Romani NGOs). Ensure that the NGO sector feels ownership of the strategy and strengthens the institutional framework for human rights and anti-discrimination protection. Importantly, ensure that human rights education receives the importance it deserves at all levels from kindergarten to adult education.

1 This model has not been used in drawing EU structural funds. It was used in the context of Norwegian and Swiss funds that allocated block grants to certified foundations, e.g. Open Society Foundation in Bratislava, which then financed smaller projects by NGOs. Project implementation by small grant beneficiaries, i.e. the NGOs, was thus significantly simplified.

- High ranking officials should adhere to the human rights and equality principles in their statements about Roma. Avoid framing Roma exclusion as a matter of security and or an economic issue.
- The ME should develop a detailed guideline/directive for the State School Inspection (SSI) and/or other institutions such as the Office of the Public Defender of Rights (OPDR) or the SNHRC to identify practices of segregation and discrimination of Romani children.
- Ensure quality human rights and anti-discrimination education of prospective and practicing service providers in all key areas: education, health, employment, housing and law enforcement.
- Ensure inspection of the quality of human rights education and the practice of segregation in education. Develop monitoring manuals in partnership with NGOs and academic experts working in the area.
- Ensure prompt transformation of the SNHRC to fulfil its legislative tasks, including proper anti-discrimination monitoring and legal assistance to victims of discrimination. The institution's director should have a solid human rights background and recognition in the NGO sector. Ensure that the SNHRC's personnel have the necessary expertise and experience in the field of human rights.
- Improve the reach of Legal Aid Centre to people living in MRCs in order to provide them with legal assistance in cases of discrimination.
- Undertake awareness-raising activities about the problem of discrimination and especially about available legal remedies.
- Ensure systematic training of prospective and practicing judges in the area of anti-discrimination, including trainings focused on shifting the burden of proof, identifying forms of discrimination and awarding effective, proportional and dissuasive remedies.
- Publish anti-discrimination case law and make it available to the public.
- Prepare a specific Action Plan focusing on the particularly vulnerable situation of Romani children. Alternatively, prepare detailed revisions/guidelines to relevant provisions of the Revised Action Plan and the NRIS to reflect issues pertaining to the rights of the child. Pay specific attention to the situation in foster homes and re-education centres.
- Review educational measures of the Revised Action Plan to reflect a "children rights" perspective.
- Revise the National Action Plan for Children to address the specific concerns of Romani children.
- In partnership with non-governmental organisations propose and implement changes within the criminal proceedings system to address deficiencies in guaranteeing the rights of Romani (and Romani children) victims.
- Prepare and adopt an action plan for the NRIS to implement the principle of gender equality in specific measures in education, employment, health, housing and financial inclusion. Design specific measures in close partnership with Romani women's NGOs, and include academics and experts on gender equality. Because of the sensitive nature of issues relating to Romani women, particularly concerning reproductive and sexual health, specific measures must be prepared in partnership with Romani and non-Romani women's NGOs/experts from the early drafting stages.
- Empower Romani women's NGOs efforts in challenging gender inequalities within their communities by providing systematic financial support through the human rights grant scheme at the Ministry of Foreign and European Affairs (MFA). Create a specific programme to support awareness-raising and human rights education of key actors and devote additional financial resources to the grant scheme tied with the priority – ensuring access of Romani women and girls to fundamental human rights.
- Promptly, thoroughly and impartially investigate the practice of involuntary sterilisation of Romani women and provide fair and adequate compensation to the victims. Remedy all such practices, including those that took place during Communism. Publicly renounce the practice and apologise for such serious human rights violations.
- With respect to human trafficking, strengthen prevention activities in MRCs, foster homes and re-education institutions, making prevention of human trafficking an integral part of inclusive social work carried out in excluded Romani communities.
- Work towards de-stigmatisation of victims to improve identification of victims of trafficking from MRCs.

- Ensure more intensive focus on identification and prosecution of human traffickers and recruiters, including those coming from within the community (potentially usurers). Greater attention should be paid to the role of employment agencies arranging jobs abroad. The MI in co-operation with the Central Labour Office should ensure thorough checks and consider introducing a verification/certification scheme providing accessible standardised information to the general public.

## Education

- High ranking state officials, including the Prime Minister and the Minister of Education, should publicly and firmly renounce the school segregation of Romani children.
- Issue a directive to precisely implement the Schooling Act, specifying the method of allocating children into classes (on a random basis) and prohibiting all separation of Romani children (in separate classes, buildings, cantinas, playgrounds). The ME should furthermore establish a robust system of financial sanctions for segregation and monitoring of the observance of anti-discrimination legislation in the school setting.
- Provide financial and personnel support to schools that adopt desegregation measures.
- Develop a mechanism for the collection of sensitive data on ethnicity to track progress in addressing, among others, the problem of school segregation (in its numerous forms), school completion and drop-out rates.
- Adopt the Strategy of Inclusive Education (from early childhood development through university), identifying systemic changes required to transform the education system to ensure inclusiveness. That entails a shift from the dominant perception of children being the primary problem towards education as a tool for developing each child's potential and providing quality education to all children regardless of their social/ethnic background, gender and/or disability.
- Establish a more robust financial grant scheme for schools to promote inclusive education.
- Ensure that measures leading to the prevention of segregation, desegregation and the promotion of inclusive education are a priority in the use of structural funds in the upcoming programming period.
- Develop and implement a plan for the gradual elimination of the parallel special educational track, starting immediately with the elimination of "variant A" - children with light mental deficiencies.
- Offer schools tangible financial support to employ professionals such as psychologists, special pedagogues, teaching assistants and advisors to smoothen the process of including children with special education needs in mainstream education.
- Ensure that Romani children are not diagnosed as having a light mental deficiency by biased tool kits, that special schools do not recruit them and that their parents are fully aware of what special schooling entails.
- Strengthen monitoring of the diagnostics system and the placement of Romani children into special schools and classes.
- Ensure that the assessment of special needs of children is used to design an individual curriculum to develop the child's potential, not only to place the child in parallel system of education.
- Ensure the availability of pre-school education for all children, with a specific focus on regions with a high proportion of children from MRCs.
- Provide financial aid to impoverished parents so they can afford to send their children to pre-school.
- Promote measures to create an inclusive environment in pre-school facilities.
- Scale up good practises in working with parents, specifically targeting MRCs.
- Create tangible opportunities for Romani language education as guaranteed by the Slovak Constitution and the Charter on Regional or Minority Languages.
- Support the use of Romani language in school as a tool in educating children whose mother tongue is Romani.
- Adopt legislative changes ensuring that teaching assistants for Romani children are of Romani origin and are able to speak Romani. Ensure that the necessary number of teaching assistants is systematically funded from the State budget.
- Develop methodological aids and teach of Slovak as a second language to children whose mother tongue is different.

- Prepare and implement an affirmative action scheme for Romani students at the secondary and university levels, particularly in prestigious departments such as legal studies, medicine, engineering and schools preparing teachers to ensure there are enough qualified teachers providing education in Romani language.
- Discontinue the creation of segregated vocational schools or their field offices close to Romani settlements. Instead prepare a financial scheme for travel and lodging of students from MRCs attending mainstream secondary schools and also universities.

### Employment

- Undertake major revision of the APLM through targeted policies prepared in partnership with municipalities and regional self-governments. As part of this, one alternative should be the adoption of a robust affirmative action scheme, at least in the public sector, targeting Roma generally and Romani women specifically. Amend legislation on public procurement to stimulate the employment of Roma at minimum in projects requiring low skilled labour.
- Include MRCs as a specifically disadvantaged target group in the current APLM legislation. Include ethnicity (possibly in combination with gender) among the categories of disadvantage to facilitate better targeting and monitoring of these policies.
- Provide targeted financial and non-financial (trainings, assistance with business plans) support to Romani entrepreneurs, particularly female ones.
- Develop a strong system of monitoring discrimination at the labour market generally. Develop and implement a monitoring and evaluation framework for APLMs with special focus on Roma and other vulnerable groups.<sup>2</sup>
- Improve capacities of labour offices to provide targeted assistance in job seeking and re-qualification of members of MRCs.
- Ensure sustainable State financing of social field work. Improve quality control in the performance of social field workers through on-site visits in localities (in MRCs, not only in municipal offices). Ensure transparency of selection processes. Adopt affirmative action measures to hire Romani applicants for the position of social field workers. Engage social field workers in monitoring and evaluating Roma related policies.
- Develop a mechanism for the collection of sensitive data on ethnicity to trace progress in Roma inclusion in the labour market.

### Health Care<sup>3</sup>

- Make maternal and child health a policy priority. Engage, among others, Romani mediators at gynaecology and obstetrics wards in hospitals that are frequently attended by Romani women. Romani assistants could be employed to provide all the information about delivery and baby care in a language that is understandable to Roma.
- Ensure sustainable State funding of the Programme of Support of Health of Disadvantaged Communities. Expand the number of health mediators to at least 120 and ensure, through standard employment contracts, adequate remuneration and regular training.
- Adopt and implement a National Programme of Sexual and Reproductive Health that takes into consideration the particularly vulnerable situation of Romani women and girls.
- In partnership with community and social field workers and harm reduction organisations, develop and implement a plan and activities to tackle the problem of drug abuse among Romani youth and ensure the provision of adequate and sustainable harm reduction services to drug users.
- Fulfil the commitments stemming from the NRIS and Revised Action Plan relating to access to quality drinking water and protection from environmental hazards.
- Develop a mechanism for the collection of sensitive data on ethnicity as a means to design and implement targeted policies addressing barriers in access to health care, discrimination and inequalities in health status.

<sup>2</sup> Please note also the recommendation in section antidiscrimination concerning establishment of a solid equality body.

<sup>3</sup> See also recommendations concerning the involuntary sterilisation of Romani women in the section related to anti-discrimination above.

- Develop and put in place sustainable mechanisms that ensure systematic and ongoing documentation by affected groups of their experiences with programmes designed and implemented to improve Roma health. In particular, develop and implement monitoring tools that ensure inclusion of contributions from Roma civil society organisations and Romani communities as sources of data for monitoring. Their contribution should include specific experiences with the health programmes and services that are meant to be tailored to Roma as well as gaps in/barriers in access to these services.

## Housing

- Redefine housing desegregation in law – acknowledge that desegregation goes beyond its spatial aspects and that it requires the engagement of social work as well. Provide incentives and support (funding and technical assistance) to municipalities to settle the titles to property underneath Romani settlements, for example by swapping plots of land with private owners to unite municipal plots. Where plots in private ownership are beneath a Romani settlement, municipalities should initiate and mediate negotiations between the owners and the users. Assist Romani households in formalising their homes through registration in the cadastre, formalising lease agreements or facilitating land purchases from private owners.
- Improve the affordability of housing by making access to the housing allowance independent of formal residence status.
- Employ an integrated approach to implement housing measures which are connected with measures in employment (e.g. municipal firms, social enterprises employing local Roma should be used in the construction of low-standard housing), education (e.g. inclusive education and desegregation of schooling), health and financial literacy.
- Increase the participation of local Romani communities in decision-making concerning housing and in housing production, for example in municipal firms employing local Roma for the construction of low-standard flats or innovative housing projects. This would spur the employment of local Roma, increase participation and commitment to the site and significantly reduce construction costs.
- Provide incentives and support for innovative community housing projects based on local contextual needs by providing interested Romani families with construction material and technical assistance under a long-term re-payment scheme.
- Introduce viable mechanisms for using European Regional Development Funds for housing interventions in both urban and rural areas in the programming period 2014-2020.
- Increase the availability of micro-credit for home improvements.
- Reflect the complex needs of excluded/segregated communities in overall urban planning policies.
- Explore and expand the mechanism of transfer housing to provide opportunities for upward mobility, utilising vacant housing in integrated areas and providing strong social support (social field work) to help with the transition.
- Refrain from forcibly evicting Roma and comply with international legal standards as set out in General Comment 7 of the Committee on Economic, Social and Cultural Rights on forced evictions when eviction cannot be avoided and when they are used as a means of last resort.
- Provide, without delay, adequate potable water, electricity, waste removal, public transport, road provision and other public infrastructure in Romani settlements which presently lack one or more of the above.
- Review and amend all laws and regulations to ensure that Roma have equal access to public housing.

## Recommendations for the European Commission

- In the allocation of structural funds, ensure that programmes explicitly target Roma and Romani communities.
- Be cautious of endorsing uniform policies (e.g. compulsory pre-schooling from the age of three) that fail to take into consideration salient differences among nation states and among diverse Romani communities.

- Condition the availability of relevant EU funds with the requirement that all EU-funded interventions actively enforce desegregation and non-discrimination of Roma in all areas (especially housing, employment, health and education).
- Introduce a clear definition of and a set of indicators for desegregation and non-discrimination for all relevant areas (see above). The definition and indicators should be developed in close co-operation with national experts to ensure their contextual validity.
- Ensure regular independent monitoring and evaluation of implemented interventions. Where failures to enforce desegregation and non-discrimination are identified, insist on the implementation of remedying interventions; otherwise, such expenditures should be deemed non-eligible.
- Provide continuous assistance to final project beneficiaries and provide them with advice and consultancy on the correct implementation of interventions in all areas in a desegregational and non-discriminatory manner.
- Financially support infrastructure and housing interventions that are sufficiently account for the circumstances of diverse communities. For instance, while the support of segregated housing would be problematic, in the case of some separated communities housing and infrastructural interventions may be justified.

## LIST OF ABBREVIATIONS

<b>ATaM</b>	Association of Towns and Municipalities
<b>APLM</b>	Active Policy on the Labour Market
<b>CARS</b>	Cultural Association of Roma in Slovakia
<b>CCHR</b>	Centre for Civil and Human Rights
<b>CNMEG</b>	Committee on National Minorities and Ethnic Groups
<b>Convention</b>	European Convention for the Protection of Human Rights and Fundamental Freedoms
<b>CVEK</b>	Centre for the Research of Ethnicity and Culture
<b>DPHR</b>	Deputy Prime Minister for Human Rights and National Minorities
<b>EARDF</b>	European Agricultural Rural Development
<b>EC</b>	European Commission
<b>ECHR</b>	European Court of Human Rights
<b>ERDF</b>	European Regional Development Fund
<b>ERRC</b>	European Roma Rights Centre
<b>ESF</b>	European Social Fund
<b>EU</b>	European Union
<b>GCHR</b>	Government Council for Human Rights, National Minorities and Gender Equality
<b>GPNM</b>	Government Plenipotentiary for National Minorities
<b>GPRC</b>	Government Plenipotentiary for Romani Communities
<b>HP MRC</b>	Horizontal Priority Marginalised Romani Communities
<b>LSCA</b>	Local Strategies of Comprehensive Approach
<b>MC</b>	Ministry of Culture of the Slovak Republic
<b>ME</b>	Ministry of Education, Science and Sports of the Slovak Republic
<b>MEC</b>	Methodical Pedagogical Centre
<b>MFA</b>	Ministry of Foreign and European Affairs of the Slovak Republic
<b>MH</b>	Ministry of Health of the Slovak Republic
<b>MI</b>	Ministry of Interior of the Slovak Republic
<b>MJ</b>	Ministry of Justice of the Slovak Republic
<b>MLSAF</b>	Ministry of Labour, Social Affairs and Family of the Slovak Republic
<b>MPC</b>	Methodical Pedagogical Centre
<b>MRC</b>	marginalised Romani communities
<b>MSA</b>	Material Subsistence Allowance



<b>NRIS</b>	Strategy of the Slovak Republic for Integration of Roma until 2020
<b>OPDR</b>	Office of the Public Defender of Rights
<b>RI</b>	Roma Institute
<b>Revised Action Plan</b>	Revised National Action Plan to the Decade of Roma Inclusion for 2011-2015
<b>ROP</b>	Regional Operational Programme
<b>SDE</b>	socially disadvantaged environment
<b>SDF</b>	Social Development Fund
<b>SNHRC</b>	Slovak National Centre for Human Rights
<b>SPI</b>	State Pedagogical Institute
<b>SSI</b>	State School Inspection

## INTRODUCTION

This civil society monitoring report, prepared by a consortium of NGOs lead by the Roma Institute, n.o. (RI), critically assesses policy developments and measures relevant to the implementation of the Revised National Action Plan of the Decade of Roma Inclusion 2005-2015 for years 2011-2015 (Revised Action Plan)<sup>4</sup> adopted in 2011 and the Strategy of the Slovak Republic for Integration of Roma until 2020 (NRIS) approved in January 2012.<sup>5</sup> We focus on the monitoring period commencing with the adoption of the Revised Action Plan in August 2011 through March 2013. The report is based on a data set and information gathered through desk research, information requests directed to the relevant agencies and interviews with State officials and NGOs. In addition, we have prepared case studies of five policies to assess the impact key flagship policies on the ground. The cases studies were based desk research complemented with qualitative research methods, i.e. individual interviews with relevant actors at the local level and with members of the target group – members of MRCs in four localities in central and eastern Slovakia. Interviews were further complemented with participant observation following guidelines and methodology provided by CVEK. Interviews were consequently transcribed, observations recorded in an observation checklist and a report for each policy was prepared by the field researchers from partner organisations Quo Vadis and Cultural Association of Roma in Slovakia. The case studies focus on the following policies: individual integration in the area of education, the activation work scheme and municipal companies in the area of employment, health mediators in the health care and construction of low-standard flats in the area of housing.

The civil society monitoring report analyses of the extent to which the State implements its commitments regarding the two documents in supporting inclusion of the Roma following a template prepared by the Decade of Roma Inclusion Secretariat Foundation. The report looks at structural and budgetary set up, anti-discrimination, education, employment, health care and housing.

4 *Revised National Action Plan of the Decade of Roma Inclusion 2005-2015 for years 2011-2015*, adopted by Government Resolution 522/2011 on 10 August 2011. Available at: <http://www.rokovania.sk/Rokovanie.aspx/BodRokovaniaDetail?idMaterial=19992>.

5 *Strategy of the Slovak Republic for Integration of Roma until 2020*, adopted by Government Resolution 1/2012 on 11 January 2012. Available at: <http://www.rokovania.sk/Rokovanie.aspx/BodRokovaniaDetail?idMaterial=20646>.

# 1. STRUCTURAL REQUIREMENTS

## Central Co-ordination Unit: Government Plenipotentiary for Romani Communities

The principal responsibility for co-ordinating and ensuring implementation of tasks of the NRIS rests with the Government Plenipotentiary for Romani Communities (GPRC). According to the NRIS, the GPRC Office should serve also as an expert platform assessing the viability of State policies.

The GPRC Office was established in 1999 as the Secretariat of the Plenipotentiary for Romani Communities within the organisational structure of the Government Office of the Slovak Republic. In 2004 the Secretariat was transformed into a separate office under the auspices of Deputy Prime Minister for Human Rights and National Minorities (DPHR). The office increased its personnel and opened regional offices. However, the GPRC lacked legal entity status. In 2010, the elected Government at that time placed the office within the auspices of the Prime Minister.

The newly elected administration has again shifted the GPRC Office, placing it within the structures of the Ministry of Interior (MI). According to the new Statute,<sup>6</sup> the office retains its standing as an advisory body to the Government. Peter Pollák, the first Romani Member of the Slovak Parliament (a member of the Ordinary People and Independent Personalities Movement) was appointed as the new GPRC on 1 October 2012 following the Interior Minister's nomination. Peter Pollák thus replaced Miroslav Pollák who was of Slovak ethnic origin.

According to the GPRC's statute, the Office creates and chairs the inter-sectoral Commission for Romani Communities' Affairs. Among the Office's central objectives is to participate in the implementation of systemic tools to overcome social exclusion and promote the integration of Roma. The statute directly obliges the GPRC to co-ordinate and to ensure that the tasks arising from the Revised Action Plan and NRIS that were assigned to various ministries are fulfilled.<sup>7</sup> Further, the GPRC's duties include participating in drafting strategies and administrative acts aiming to improve the circumstances of Romani communities and in the preparation and implementation of EU-funded programmes pertaining to Romani communities.<sup>8</sup> The Office's seat is currently located in Bratislava and employs 26 people in two main departments: the Department of Conceptions, Analyses and Regional Coordination and the Department of Horizontal Priority Marginalised Romani Communities (the use of structural funds in the programming period 2007-2013). The former co-ordinates five regional offices located in regions with a higher concentration of MRCs (Banská Bystrica, Rimavská Sobota, Prešov, Košice and Spišská Nová Ves). In 2011, the Office's annual budget totalled 833,878 EUR,<sup>9</sup> which was considered inadequate by interviewed officials. The budget is largely used for the Office's grant scheme intended to address social and cultural needs of Romani communities. However, in reality this scheme is predominantly used to respond to emergency situations involving reconstructions, support of community centres and aid with the legalisation of land required for the development of low income housing. In 2011, the funding allocated to the grant scheme totalled 753,164 EUR.<sup>10</sup>

6 *The Statute of the Government Plenipotentiary for Romani Communities*, adopted by Government Resolution No. 308/2012 on 27 June 2012.

7 *Ibid.* Article s4e8-9.

8 *Ibid.* Article 6(3).

9 In 2010, the amount was 1,163,878 EUR. Information available at: <http://www.vlada.gov.sk/rozpocet-uradu-vlady-sr/>.

10 Information available at: [http://www.minv.sk/?dotacie\\_romovia](http://www.minv.sk/?dotacie_romovia).

There are several moments that we consider important in the discussion about the Office's ability to undertake its duties, particularly with respect to the Revised Action Plan and the NRIS. First of all, we welcome the fact that the position of GPRC was assumed by a person of Romani origin. Since its creation in 1999, the Office has mainly been led by Romani plenipotentiaries and has also served as a model for employing Romani experts and Romani administrative employees. In 2010 the previous administration appointed a non-Romani individual as the Plenipotentiary for the first time. We viewed this as an unfortunate selection given the fact that the Office empowering a minority group should be led by a member of that minority rather than an individual with no ties to the community. In our opinion, however, the recent appointment of an MP was a problematic decision. Both positions are demanding and time consuming, particularly the GPRC. Indeed, interviewed officials working at the Office anonymously expressed their frustration that the new Plenipotentiary has no time to lead the office. This deficiency is visible in the inability of the central office to manage the regional offices. Indeed, employees of the regional offices complained that they were not informed about the general policy of the office and what their tasks truly were. Moreover, the appointment of an MP to an executive office somewhat compromises the balance between legislative and executive powers.

Second, a major challenge in running the institution is to ensure a suitable power balance between the Office vis-à-vis other ministries. Although being situated within an office with strong powers, even a Ministry, may seem appealing, in practice there is serious risk that other ministries will use this office (perhaps as an excuse) to dispose of all Roma-related issues. In other words, other sectors may shirk their responsibility to promote integration. Retaining the share of responsibility is critical as the integration of Roma requires transforming mainstream institutions to create a space for integration. Using the capacities and expertise of its personnel, the GPRC shall to some extent retain its position as a co-ordinating body with direct influence on other ministries through the inter-sectoral Commission (at least at the level of State secretaries). However, the shift of the GPRC Office under the auspices of a single ministry, the Ministry of Interior, has somewhat undermined its co-ordinative and overarching position.<sup>11</sup> In addition, the MI is Slovakia's largest Ministry with a complex bureaucratic structure. Some of the interviewed officials viewed the form of communication within the MI, formalised as "orders", to be problematic in executing a strategy aiming at inclusion. The shift, according to the interviewed officials, has significantly constrained their ability to act more flexibly and promptly. Moreover, the change of Plenipotentiary has caused numerous experienced officials to leave the Office.

Furthermore, the placement of the Office within the MI appears symptomatic of the trend to address Roma as a security issue.<sup>12</sup> In fact, the incumbent GPRC has helped redefine the social exclusion of Roma as a security matter. It is highly problematic to have the Interior Minister communicate a policy proposal for enforcing compulsory pre-school education of children from so-called high-risk families.

Past experiences suggest that the GPRC's personal skills and his or her expertise and managerial and political skills are key to gaining influence and shaping relevant policies. So far, the current GPRC has not paid any attention to the Revised Action Plan or the NRIS. Instead, Mr. Pollák has introduced the broadly and often vaguely-drafted principles of the so-called "Roma Reform".<sup>13</sup> Its central tenet is based on the enforcement of a desired behaviour under the threat of sanctions, which is in dire conflict with the NRIS.<sup>14</sup> Taking into account the Plenipotentiary's political agenda and other institutional and personnel aspects of the GPRC, we believe that this institution is unable to handle its tasks, among others, in relation to the implementation of the NRIS. We are concerned that the Office's newest personnel and administrative changes will ultimately lead to its transformation into a *pro forma* unit.

11 This negative effect was confirmed in interviews.

12 See section on pp. 32-33 below.

13 The details of the "Roma Reform" proposals can be found at: <http://www.minv.sk/?romskareforma1>.

14 Although the NRIS is "based on the need for a transition from the passive care of state and regional authorities to activating assistance, such a transition should not be made by way of restrictive measures implementing sanctions". NRIS, *supra* note 5, p 9.

## Inclusion of NGOs and Regional and Local Authorities in Policy-Making Concerning Roma

Generally, Romani and non-Romani human rights NGOs are relatively well engaged in the preparation of Government strategies pertaining to Roma. Significantly weaker is the systematic inclusion of these actors in implementation and monitoring of said strategies.

The development of the Revised Action Plan that commenced in 2009, unlike the NRIS, involved a long process as is necessary for the preparation of such important policy document. The formulation of the Revised Action Plan entailed numerous meetings of working and consultative groups throughout 2010-2011. Romani and non-Romani NGO representatives were suitably included and consulted in the process. These working groups also involved academics and representatives of the Association of Towns and Municipalities (ATaM). In the final stages, the Office of the GPRC consulted the draft document with local stakeholders in regional meetings. The final document and the scope of the State commitments were, however, significantly restricted by other ministries through their inter-ministerial commenting procedure. Yet, we evaluate the inclusion of the non-governmental sector in the preparation of Revised Action Plan as somewhat more genuine than in the case of the NRIS.

The NRIS was prepared in an unduly short period in the late fall of 2012. We believe that this affected not only the Strategy's quality but also the participation of important non-governmental actors, including Romani civil society, and their feelings of ownership of this document. NGOs were not included in the preparation of the document, but were presented with a prepared final draft in a series of roundtables across Slovakia. Regional consultations are welcome as they are well-suited to reflect the territorial, cultural and ideological diversity of Romani groups. Indeed, the roundtables were well attended by Romani civil society representatives and several municipalities. Yet, some of our interviewees had mixed feelings about the purpose of the events. Some viewed their role as merely legitimising a technocratic document without having the opportunity to have a real influence on its content. For some, the document was rather vague without clear commitments. Others have difficulties in clearly identifying its purpose, especially given that Slovakia already had numerous Government strategies since the early 1990s.

The Government has not, so far, established any formalised institutional mechanism for the participation of Romani and non-Romani civil society in the monitoring and implementation of the Revised Action Plan and the NRIS. The Office of the GPRC was supposed to prepare a monitoring report of the tasks implemented by 15 February 2013. As of 24 April 2013, the Office had not yet submitted its report for even the inter-ministerial commenting procedure that is required before submission for Government approval.<sup>15</sup> NGOs can rely on conventional advocacy tools to comment on monitoring, for example through the submission of their comments on the evaluation report.

More generally, the inclusion of Romani civil society voices in the design, implementation and monitoring of Government strategies are at the mercy of State bureaucrats' and politicians' good will. High-level officials often use the clichéd argument which alleges Romani NGOs' disorganisation and a lack of legitimate representatives as an excuse for not involving minority group members in policy-making.

At this point, we would like to draw attention to the Committee on National Minorities and Ethnic Groups (CNMEG), an advisory body to the Government, established within the ambits of the DPHR.<sup>16</sup> The CNMEG has four elected members representing the Romani national minority who are elected by an assembly of nominated individuals from any NGO committed to the promotion of Romani culture and identity. Any NGO, even one that declares itself to be non-Romani, can appoint both a member for the assembly and

15 This task stems from Government Resolution No. 1/2012 adopting the NRIS, *supra* note 5. The GPRC should submit a monitoring report by 15 February each year until 2020.

16 See: *Statute of the Committee for National Minorities and Ethnic Groups*, adopted by Resolution no. 3 of the Slovak Government Council for Human Rights, National Minorities and Gender Equality of 12 April 2011. Following the abolishment of the DPHR, this Committee moved within the ambits of the Plenipotentiary for National Minorities in 2012. See: Government Resolution No. 264/2012 of 13 June 2012.

a candidate for the Committee. Committee members are then elected in a secret ballot.<sup>17</sup> The establishment of this body in Slovakia is dramatic progress in increasing the legitimacy of minority representation, replacing the old system of selection by State officials. Arguably, elected committee members (for each of the 13 officially recognised national minorities) subjectively feel some sense of belonging to the minority since they must agree with the nomination. At the same time, they must be recognised as minority members by other minority NGOs representatives who then support their nomination.

This Committee, the only genuinely representative body for Romani NGOs, is part of State policies that address Roma as a national minority and are mostly focused on the support of minority culture. It is a consultative and an advisory body in areas concerning national minority rights. It is unfortunate that this institution is not included at all in the policy-making that takes place within other departments and ministries, including the GPRC Office.

## Co-ordination among Levels of Government

The NRIS lacks an implementation scheme at the levels of regional and local governance. Moreover, institutional transformations of the central co-ordination unit have certainly not contributed to any enhancement of co-ordination among national, regional and local levels of governance or among key sectors. By contrast, we believe that these changes have slowed down the co-ordination of implementation. Apart from the national project supporting social field work which is operated by the Social Development Fund (SDF),<sup>18</sup> we have not recorded any notable progress towards mainstreaming Roma inclusion in the National Reforms Programmes in the Europe 2020 Strategy, apart from the adoption of the NRIS.

## Mainstream and Targeted Policies

Slovakia's effort to combine both mainstream and targeted policies is contained in the Comprehensive Approach to Development of Romani Communities (CA) adopted in 2002 that was used to draw EU Structural Funds via the Horizontal Priority – Marginalised Romani Communities (HP MRC) during the programming period 2007-2013. The comprehensive approach was based on the idea of developing marginalised Romani communities as part of overarching community development. It should have targeted mainstream structures, through for example the expansion of pre-school or health care facilities, and applied targeted approaches, such as the development of infrastructure directly benefiting a Romani settlement or the opening of a community centre. One of the salient advantages of the programme was its flexibility towards vast differences among municipalities and Romani communities. As we describe below, Slovakia has failed to successfully implement this approach.

Existing evaluations of ESF programmes prepared by the United Nations Development Programme (UNDP)<sup>19</sup> in the area of employment indicate the need to maintain complex approaches at municipal level. Evaluation authors argue for the strategic need to sensitively combine a mainstreaming with a targeted approach. While there is a need to target segregated communities, steering all funds to the worst off communities may be viewed as punishment for municipalities that opted for integration as opposed to segregation in the past.<sup>20</sup> They suggest tackling this dilemma by developing a "tailor made funding schemes for different types of Roma beneficiaries. While a programme for the inhabitants of highly segregated communities (whose chances to become integrated on the regular labour market are the lowest) could

17 *Ibid.* See also: Jarmila Lajčáková, "Minority Participation Rights" in *Minority Policy in Slovakia in 2011. Annual Report*, ed. Jarmila Lajčáková (Bratislava: CVEK, 2012), 47-52. Available at: [http://cvek.sk/uploaded/files/Minority%20policy%20in%20Slovakia%20in%202011\\_Annual%20Report.pdf](http://cvek.sk/uploaded/files/Minority%20policy%20in%20Slovakia%20in%202011_Annual%20Report.pdf).

18 See the project on p. 63 below.

19 Jakob Hurre, Andrey Ivanov, Jan Grill, Jaroslav Kling and Daniel Škobla, *Uncertain Impact: Have the Roma in Slovakia Benefited from the European Social Fund?* (UNDP: Bratislava, 2012), 104.

20 *Ibid.*

create employment through activities linked to the upgrading of the segregated settlement (upgrading of housing, paving of streets, water supply), the programmes for inhabitants of less segregated locations could be ethnically mixed and aim for the inclusion of the Roma in the regular economy.<sup>21</sup>

While respecting the need to acknowledge differences between various sectors (i.e. employment, housing, education and health), drawing on our work in the area of education we are sceptical about Slovakia's ability to blend mainstream and targeted approaches. The experience in education<sup>22</sup> suggests that a successful mixture of policies requires the transformation of the mainstream institution to create a space for inclusion. As the example of preparatory or zero classes that we discuss in turn indicates, failing to target mainstream policies and approach and relying merely on "work with Romani children" may in fact encourage segregation.

CVEK's qualitative study of 10 elementary schools in Slovakia in 2012<sup>23</sup> suggested that schools generally perceive Romani children as a problem that should be "solved or addressed"; certainly not as equal members of the educational setting, leaving out the study of Romani history from general State curriculum, for instance. There are almost no efforts to tackle the barriers that Romani children from marginalised communities face in accessing education. These include, for instance, tests of school readiness that are biased towards children whose mother tongue is Romani, without pre-school education and/or from impoverished communities who have difficulties meeting the standard criteria for entering elementary education. Moreover, curriculum oriented towards achieving encyclopaedic knowledge presupposes parents heavily substituting teachers' roles with demanding homeworks, rather than developing the potential of each child. This paradigm remains unchallenged. Among the numerous other barriers one can also count the inability of schools to teach Slovak as a second language for Romani-speaking children with the lack of simultaneous support for Romani language education. The burden of inclusion, or more accurately of assimilation, is shifted to Romani children.<sup>24</sup>

While Slovakia notoriously fails to ensure accessible pre-school education for all children, including the most vulnerable Romani children, it relies on preparatory or zero classes.<sup>25</sup> Zero classes were introduced as a pilot project in 1991 and legally sanctioned in 2002.<sup>26</sup> According to the current legislation, these classes are intended for 6-year-old children who have not reached "school maturity". Children who, "given their social and economic background, are likely to have difficulties in successfully completing the first year" should be placed in the preparatory grade.<sup>27</sup> Placement can be requested by parents, the kindergarten or recommended by the child's paediatrician and requires the informed consent of the parent.<sup>28</sup>

In 2003 there were 61 elementary schools with 85 zero classes attended by 1,057 Romani children.<sup>29</sup> By September 2011, the number of zero classes more than tripled to 256.<sup>30</sup> Zero classes tend to correspond with the clearly misunderstood idea of a targeted but not exclusive approach: The concentration of zero

21 *Ibid.*

22 However, this does not mean that we extend this argument in relation to education to other sectors such as employment.

23 Elena Gallová Kriglerová and Tina Gažovičová (eds.) *Škola pre všetkých? Inkluzívnosť opatrení vo vzťahu k rómskym deťom [School for All?]* (Bratislava: CVEK, 2012).

24 *Ibid.*

25 Advocates of the zero class suggest that this policy was invented in the early 1990s to respond to a decreasing number of kindergartens as a result of economic and social transformations. They rightly argued that Romani children were disproportionately suffering from the cuts in available spaces in pre-school education. Yet, one should note that the zero class concept appears only one school year after the revolution. Given the general chaos in Slovak society and the bureaucratic process, it is unlikely that the Ministry of Education would have flexibly reacted to these upcoming reforms so quickly. A more convincing explanation implies that zero classes appeared when the teachers of Romani children suddenly lost their tool – Gypsy classes to prepare what they viewed as backward children for State schooling. Moreover, proposals to set up a preparatory special class for Romani children have circulated among teachers working with Romani children for a while, since at least the 1980s. Authors of that time suggested that Romani children should be psychologically tested after attending the preparatory class and placed in either regular first grade, in a Gypsy class or in a special school. See: Ladislav Horňák, *Rómsky žiak v škole* (Prešov: Pedagogická fakulta Prešovskej univerzity v Prešove, 2005), 125.

26 *Act No. 408/2002 Coll. on Public Services*, Article IV.

27 *Ibid.*

28 *Act No. 245/2008 Coll. on Upbringing and Education (Schooling Act)*, as amended.

29 *Iveta Radičová, Hic Sunt Romales* (Bratislava: Interlingua, 2001), 137.

30 Annual Statistics in Education 2011/2012.

classes directly corresponds to the areas with the highest number of Romani settlements.<sup>31</sup> Indeed, within the EU 2020 process Slovakia relies on this policy to address the low accessibility of pre-school facilities by poor Romani children.

Preparatory classes have never been tested by State authorities as a tool to promote inclusion. Rather, their efficiency has been quantified by looking at the increase in the mental capacities of affected children. A research team led by Daniela Valachová and Miron Zelina, who tested zero classes in 2000-2001, used what they called an R-test of educational maturity. The R-test was essentially an I.Q. test given to Romani children before and after completing the zero class. According to their findings, some children gained very little mentally and others gained enormously.<sup>32</sup> Still, they concluded that the “mental achievements of studied Romani children had, due to specific educational impact of the preparatory classes, increased significantly.”<sup>33</sup> On average, the I.Q. of a Romani child had increased from 75.1 points to 81.2 points within a single school year.<sup>34</sup> However, an earlier study from 1995 indicated that Romani children following a regular education path (i.e. entering the first grade) progressed at the same pace as those first placed in a preparatory class.<sup>35</sup>

NGOs have criticised zero classes as promoting segregation.<sup>36</sup> The CVEK study also indicated that schools that practised ethnic divisions within schools also included zero classes. That means zero classes were physically located in buildings reserved for the education of Romani children only. Zero classes intended for essentially “healthy” children were physically located in pavilions where the majority of classes were to cater to “mentally disadvantaged children”. The practice confirmed that despite the neutral labels, the true beneficiaries of zero classes are impoverished Romani children who were never transferred to the buildings reserved for children from the dominant ethnic group. The Centre’s study furthermore revealed that zero classes were largely viewed by teachers as a tool to civilise backwards Romani children. Perceived civilisation effects were hypothesized not only through the changes in hygienic habits and social skills, but importantly through language. The Romani language which is the mother tongue of approximately by half of all Romani children in Slovakia is viewed as a major sign of their backwardness.<sup>37</sup>

Zero classes rank among the most popular of policies among teachers in Slovakia. The vast majority of teachers not only welcomed the idea of the zero class, but some even suggested that they should be compulsory for all Romani children. The low number of children in one class in their view ensures that Romani children from poor communities can catch up with their more affluent non-Romani peers. This view is often translated into practice. Often it is the school that suggests the placement of Romani children in a preparatory class, not parents. The effect of zero class on the integration or inclusion of Romani children have not been examined in quantitative terms. Qualitative data indicate that zero classes certainly do not promote inclusion. Given the fact that the educational system as such remains unaffected by systemic changes, it is not surprising that this targeted but not exclusive policy is more conducive to segregation.

## Monitoring and Evaluation of the NRIS and of the Revised Action Plan

Although the NRIS draws distinction between policy co-ordination and monitoring, we have recorded no initiative to create a robust mechanism for monitoring and evaluation of policy implementation. We believe that the creation of such a mechanism, drawing on indicators included in the NRIS, is central also for

31 The distribution of zero classes matches the areas of concentrated Romani communities in central and especially eastern Slovakia.

Office of the Government Plenipotentiary for Romani Communities/IVO/KCpR0/S.P.A.C.E., *Sociographic Mapping of Romani Communities*, (Bratislava, 2003/2004). [Atlas of Romani Communities].

32 Daniela Valachová and Miron Zelina, “Pedagogický monitoring, meranie efektívnosti vzdelávania v nultých a prípravných ročníkoch,” in *Edukácia rómskych detí v európskom kontexte*, ed. Anna Butašová and Zuzana Kadlečíková (Bratislava: Comenius, Štátny pedagogický ústav, 2002), 101.

33 *Ibid.*, 101-102.

34 *Ibid.*, 101.

35 Horňák, *supra* note 25, 127.

36 CVEK, *School For All?*, *supra* note 23.

37 *Ibid.*



reporting on Roma socio-economic inclusion of the Europe 2020 process. We think that reporting would greatly benefit from willingness by the Government to gather ethnically sensitive data. In addition, an enhanced co-ordination between ministries (and their departments vested with responsibilities under the Europe 2020 process) and the GPRC Office on this issue could contribute to the reporting processes.

## Budget Allocation for the Implementation of the NRIS and the Revised Action Plan

### *Budget and the NRIS and Revised Action Plan*

The State budget does not envisage a separate category for the Revised Action Plan or the NRIS. Budgets allocated to various ministries and departments contain lines for tasks arising from the Revised Action Plan. The financing required to implement the Revised Action Plan is planned as follows:

*Summary of the impact of the Revised Action Plan for the Decade of Roma Inclusion 2005-2015 for the period of 2011-2015 on State budget<sup>38</sup>*

	Impact on public administration's budget (in EUR)				
	2011	2012	2013	2014	2015
Total of public administration's expenses					
In that: separately for each subject of public administration/programme	0	0	0	0	
Government Office of the Slovak Republic	833,878	833,878	833,878	833,878	833,878
Ministry of Education, Science and Sports	7,923,170	10,023,170	11,023,170	13,023,170	15,023,170
Ministry of Health	3,000	1,680,000	1,790,000	2,075,000	2,425,000
Ministry of Labour, Social Affairs and Family	8,020,000	12,730,000	12,635,000	12,625,000	12,625,000
Total financing required	16,784,070	28,276,886	29,442,179	31,874,986	34,386,653
Financing secured within the State budget	16,784,070	28,276,886	29,442,179	31,874,986	
Financing not secured within the State budget			4,100,000	7,100,000	

We were unable to confirm whether items allocated for 2012 matched the actual budget allocation for 2012. During data gathering for this report the budget was debated in the Parliament. We were also unable to confirm with ministries their planned spending for 2013 as reflected Revised Action Plan projects. As mentioned in section 6, funding for health mediators is not presently available.

### *Territorial Targeting*

There is no systematic policy targeting less developed regions. This approach that considers regional and local disparities in drawing EU Structural Funds was reflected in Horizontal Priority – Marginalised Romani Communities (HP MRC) in the programming period 2007-2013. The basic objective of HP MRC was to territorially target the allocation of Structural Funds from six operational programmes in four priority areas: employment, education, health and housing in one locality. Based on the 2004 *Atlas of Romani communities*,<sup>39</sup> the target group was defined as “marginalised Romani communities”, but programmes aimed to contribute to the development of the municipality as a whole. One of the salient advantages was the implementation of a comprehensive approach via local strategies that respected the specific context of individual localities. Moreover, the preparation of Local Strategies of Comprehensive Approach (LSCA) was supposed to ensure participation of the target group.

Implementation of this comprehensive approach encountered serious administrative difficulties that delayed the start of individual projects towards the end of the programming period. We believe that several major complications led to the failure of this approach: fluctuating personnel and changes in the position of the GPRC; insufficient administrative resources and executive powers of the Coordination Body vis-à-vis other executive and intermediary bodies (such as the Office of the GPRC); overly general objectives of the

38 NRIS, *supra* note 5, appendix 2, 75. Sources include EU Structural Funds.

39 *Atlas of Romani Communities*, *supra* note 31.

HP MRC missing the conceptualisation of inclusive policies; unclear definition of the target group; and finally, no *ex ante* analysis carried out to allow for baseline data and progressive comparison. It appears that technical and formal aspects of the applications took precedence over content and urgency.

No financing from the ESF or any other source in the current programming period has been directly allocated to strengthen the capacities of Romani organisations.

### *Planning of the Upcoming Programming Period of Drawing EU Structural Funds*

Currently, the GPRC is participating in the planning of the upcoming programming period within the organisational structure of the MI, seeking to establish its position in relation to the use of funds for MRCs. The GPRC informally consults with several NGOs and independent experts. The GPRC consults also with the Roma Institute, n.o., which is the national co-ordinator of the Open Society Institute's Making the Most of EU Funds for Roma programme on structural funds planning for the upcoming period. The process does not yet include any formalised opportunity for the participation of non-governmental organisations.

The GPRC aims to avoid a set back from the scenario of the 2007-2013 period. Yet, the role of the GPRC in the use of Structural Funds is unclear due to its position within the MI. A currently debated proposal evolves around creating two priority axes (for the ESF and the ERDF) within the operational programme Human Resources to be managed by MLSAF. The final decision is still the subject of negotiation.

## **Commitment to Sustained Implementation of the NRIS and Revised Action Plan**

Given that the Revised Action Plan and the NRIS were adopted by the previous administration of Iveta Radičová, commitment by the newly elected Government to implement these strategic documents is critical. Indeed, in its Programme Statement the newly elected administration pledged to create "conditions for inclusion of marginalised Romani communities to the society utilizing comprehensive projects and approaches."<sup>40</sup> The Government furthermore declared it would draw on "the relevant strategic documents, especially the EU Strategy on Roma Inclusion that we developed in the context of Slovakia into the Strategy of Roma Integration until 2020."<sup>41</sup>

However, the actual rhetoric and acts of the current Government are far from showing a commitment to the implementation or financing of the NRIS. As we describe in section related to anti-discrimination, the Interior Minister and the GPRC who are vested with this agenda started introducing their plans for "Roma Reform" that conflict with the NRIS in some aspects. There have been no signs of a political commitment to ensure financing of these measures until 2020. According to available information gathered through interviews with State bureaucrats, the administration largely relies on EU Structural Funds in the upcoming programming period to fund policies for Roma inclusion. Past experiences with respect to, for instance, flagship policies such as health mediators or social field workers indicate that ensuring financial sustainability is one of the major challenges of EU-funded developments that may significantly curtail integration processes.

## **Accessibility of EU Funds for Small Projects and NGOs**

The former Government planned to address this issue in its preparation of the national project of community centres operated within the SDF. The project was to be based on the principle of partnership with NGOs: the MLSAF would be vested with administration and NGOs with execution of local community centre projects. However, this plan did not materialise due to early elections. The national project of social field workers operated within the SDF dropped the 5% co-financing requirement for municipalities which was welcomed by the beneficiaries.<sup>42</sup>

40 *Programme Statement of the Government of the Slovak Republic*, May 2012. Available at: [http://www.vlada.gov.sk/data/files/2008\\_programove-vyhlasenie-vlady.pdf](http://www.vlada.gov.sk/data/files/2008_programove-vyhlasenie-vlady.pdf).

41 *Ibid.*

42 See details of the programme in section on p. 63 below.

## 2. ANTI-DISCRIMINATION<sup>43</sup>

### Anti-Discrimination and Anti-Racism Measures

#### *Strategic Plans and Steps of the Former Administration from late 2010 to early 2011*

While Slovakia has over time amended its anti-discrimination legislation<sup>44</sup> to follow the *acquis communautaire*, the law lacks institutional structures for its implementation. This inadequacy is one element of a broader challenge that Slovakia faces: *the inability to create a solid and lasting institutional framework for the implementation of anti-discrimination policies backed up by political commitment from governing parties. During the reporting period this area was most negatively affected by political changes following the early parliamentary elections.*

The former administration strengthened the office of the Deputy Prime Minister for Human Rights and National Minorities by increasing the number of employees, human rights experts with experience in the non-governmental and governmental sectors. In addition, the DPHR's powers were strengthened, among others, in the area of minority cultures and education. In a relatively short time Rudolf Chmel's particularly skilled expert team in the Human Rights Section prepared a plan for much needed institutional changes in the human rights area and commenced its implementation.

First, Chmel initiated the establishment of the Government Council for Human Rights, National Minorities and Gender Equality (GCHR). This Government advisory body became an umbrella organisation for numerous committees, including those concerned with curbing discrimination and representing the voice of Romani NGOs (CNMEG). A notable feature of these bodies was the strong involvement of non-governmental organisations which had voting rights equal to those of State officials. For the first time, members of the CNMEG were elected by minority NGOs rather than appointed and chosen by Slovak officials.<sup>45</sup> The CNMEG also has four Roma minority representatives.

Second, the DPHR proposed a transformation to make the SNHRC a strong equality body.<sup>46</sup> It also proposed the adoption of a comprehensive national human rights strategy<sup>47</sup> that would cover institutional and substantive issues relating to the implementation and enforcement of human rights. The strategy would replace, among others, the Action Plan for Combating All Forms of Discrimination, Racism, Xenophobia, Anti-Semitism and Other Forms of Intolerance that has been in place since 2001.<sup>48</sup> The Action Plan, renewed every other year, expired in 2011. Implementation of the final 2009-2011 phase has not yet been

43 We have not discussed the lack of registration documents since this is no longer a problem in Slovakia.

44 Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and on Protection against Discrimination and Amendment of Act No. 308/1993 on the Establishment of the Slovak National Centre for Human Rights.

45 Minority representatives are elected by an assembly that is composed of representatives of any NGO that has a mission to promote minority culture and identity. In a secret ballot the assembly elects from a list of candidates nominated by any NGO declaring an interest in promoting minority culture and identity. See: *CNMEG Statute*, *supra* note 16. See also Lajčáková, "Minority Participation Rights", *supra* note 17, 47-52.

46 See pp. 34-35 below.

47 Government Resolution No. 717/2011 of 16 November 2011 on the Proposal to Devise a National Strategy for Protection and Support of Human Rights in the Slovak Republic.

48 Our review of the evaluations of these Action Plans suggests that systemic human rights education was interpreted by departments as one- to two-day trainings and irregular conferences. The Ministry of Education also held educational trainings focused on anti-discrimination, human rights and tolerance for teachers for about 20-40 hours per year. The quality and impact of these trainings have never been evaluated.

evaluated. The plan's main activities focused on human rights trainings of relevant professional groups and awareness-raising campaigns. In the period 2000-2008 the trainings comprised mainly day-long events or conferences rather than systematically embedding the human rights agenda in all relevant areas. Moreover, no evaluation of the impact of the trainings is available. The Action Plan also assigned a small amount of funding to non-governmental cultural or sport activities to promote human rights. The sum allocated for these activities totalled 149,373 EUR in 2007 and since 2008 it has been 315,342 EUR annually.<sup>49</sup>

In 2011 this modest funding for non-governmental human rights activities was replaced by a more generous grant scheme with a budget of 2,250,000 EUR. In 2012 the budget was reduced to 1,900,000 EUR. It is intended to support three objectives: a) support and protection of fundamental human rights and human rights education; b) prevention of all forms of discrimination, racism and other forms of intolerance; and c) creation and support of inter-ethnic and inter-cultural dialogue between the majority and national minorities and ethnic groups. In 2011, as the administrator of the grant scheme the Office of DPHR supported 19 projects aiming to curb discrimination with an overall budget of approximately 280,000 EUR.

Although we have not been able to access a detailed examination of the activities undertaken, we generally support this approach of outsourcing a portion of anti-discrimination activities to human rights NGOs. Based on our anecdotal evidence, NGOs undertook well-prepared and executed awareness-raising activities to curb anti-Roma myths (e.g. People against Racism and their campaign *Syndróm Róm* [Syndrome Roma])<sup>50</sup> or implemented activities to promote inclusive education in schools attended by Romani children.

The Office of DPHR has furthermore applied for EU funds under the PROGRESS programme in partnership with two well recognised human rights NGOs – Citizen, Democracy, and Responsibility and CCHR. The PROGRESS project is entitled *Equality in the Slovak Reality – Surmounting Institutional Barriers in Implementing the Principle of Equal Treatment through Increasing the Potential for Mainstreaming Equality*. The project, totalling 251,571 EUR, aims to improve implementation of anti-discrimination legislation, facilitate the adoption of relevant public policy to curb discrimination and raise awareness about anti-discrimination legislation. Along with a series of short movies about anti-discrimination broadcasted by the Slovak public television, we welcome two activities in particular. First is the effort to open discussion about gathering equality data key for the implementation of effective anti-discrimination policies. The debate has curtailed several myths about the illegality of ethnic data collection. Second is a rather groundbreaking study by the CCHR about enforcement of anti-discrimination legislation in Slovakia.<sup>51</sup> If reflected and taken up by the current administration these activities can help tackle discrimination against Roma.

### *Institutional Changes Brought by Early Parliamentary Elections*

Unfortunately, the above-mentioned and welcome strategic plans of the DPHR were significantly curtailed by the early elections in March 2012. One of the first steps of the new Government was to abolish the DPHR. This decision was strongly opposed by human rights and pro-Roma NGOs. Public calls by NGOs for a meeting and discussion with the newly appointed Prime Minister were largely ignored.<sup>52</sup>

The DPHR Office's agenda was consequently dispersed in a rather unclear manner among several ministries, specifically the Ministry of Foreign and European Affairs (MFA), the Ministry of Justice (MJ), the Ministry of Culture (MC) and the Ministry of Labour, Social Affairs and Family (MLSAF). The human rights grant scheme was transferred to the MFA and responsibility for anti-discrimination legislation was transferred to the MJ which was also been tasked to initiate the transformation of the SNCHR. The transformation was delayed by the elections. It is unclear which department will be in charge of raising awareness about anti-discrimination.

49 *Government Resolution No. 357/2009 of 13 May 2009 on the Action Plan of Combating all Forms of Discrimination, Racism, Xenophobia, Anti-Semitism and Other Forms of Intolerance for 2009-2011*. Available at: [http://www.vlada.gov.sk/data/files/340\\_rozpocet-ura-du-vlady-na-rok-2010.pdf](http://www.vlada.gov.sk/data/files/340_rozpocet-ura-du-vlady-na-rok-2010.pdf).

50 Details available at: <http://www.syndromrom.sk/>.

51 Survey data are included in section 3.3 below.

52 The full text of the call is available at: <http://www.cvek.sk/uploaded/files/vyzvanapodkracovanieLP.pdf>.

These changes also brought a reduction in the number of executive personnel in the area of human and minority rights. A limited number of staff members (an estimated 3 employees) were moved from the DPHR Office to the ministries vested with the new human rights agenda. Human rights experts are generally scarce in the public administration which rendered their dismissal very unfortunate.

The post of DPHR was partially replaced by a newly created institution – the Government Plenipotentiary for National Minorities (GPNM). The Government appointed as the first plenipotentiary Mr. László A. Nagy, a member of the opposition multi-ethnic party Most/Híd. The powers of the GPNM in comparison to the DPHR have been curtailed. The GPNM is not a member of the Government. He relies on the head of the Government Office (from the governing party SMER-SD) or another member of the Government to submit materials to Government debates. In addition, the GPNMs capacity to co-ordinate and intervene in areas that are key for the protection of minorities, for example education, have been restricted to a merely consultative, not policy-making, body. Finally, the preparation of the national human rights strategy which should have been prepared by the Office of DPHR in partnership with the GCHR and its committees has been vested with the MFA. It is unclear whether the MFA has a capacity to prepare such strategic document and whether non-governmental human rights NGOs will be involved in the preparation.

### *Inclusion of Affirmative Action in Anti-Discrimination Legislation*

A much welcome development has been the amendment of the Anti-Discrimination Act approved by the parliament in February 2013 that allows affirmative action (temporary equalising measures) on the grounds of ethnicity and national affiliation.<sup>53</sup> The legal status of affirmative action has been much disputed in Slovakia. The dispute reaches back to 2003 when the Government adopted its strategy on Roma integration based on the idea of affirmative action in all key areas. In the following year, the parliament, thanks to a last minute and not very carefully drafted proposal, approved a provision in the Anti-Discrimination Act allowing for the adoption of equalising measures on the basis of ethnic and national background to remedy economic and social disadvantages. In the same year, the Government motioned the Constitutional Court arguing that the provision of the Anti-Discrimination Act was unconstitutional. The Government argued that the provision did not meet requirements of legal certainty as it was not sufficiently clear in terms of longevity, the subject or the object of equalising measures. Sadly, the Constitutional Court considered the provision unconstitutional in 2005.<sup>54</sup> The reasoning was criticised as suffering from conceptual misunderstandings by the Court, confusing affirmative action with permanent differential treatment, which had a negative impact on policy-making concerning Roma.<sup>55</sup> Ministries, in particular the ME and the MLSAF, have been unwilling to devise policies targeting Roma. The newly adopted provision arguably clarifies deficiencies of the previously challenged provision. Overall, clarification of the legal status of affirmative action could provide an enormous opportunity for Slovakia to embark upon policies ensuring equal opportunities in accessing education and employment for Roma, among others. However, the policy is not politically supported with none of the key high ranking officials committed to implementing it.

### *Public Discourse on Roma*

The former DPHR, Rudolf Chmel, was the only politician and high ranking official in Slovakia who made public speeches and issued statements about the need to respect Roma and their rights on various occasions. His most notable speech concerned a rejection of the practice of involuntary sterilisation of Romani

<sup>53</sup> Draft of the Anti-discrimination Amendment Bill, adopted by Government Resolution No. 598/2012 on 31 October 2012.

<sup>54</sup> Constitutional Court Finding US 539/2005 Coll. of 18 October 2005.

<sup>55</sup> See a critique of the ruling e.g. in Jarmila Lajčáková, *On the Legality of Affirmative Action in Slovakia*. Policy analysis prepared for the Milan Šimečka Foundation and the Slovak Ministry of Foreign Affairs (2007).

women. He was the only high ranking official who openly rejected the segregation of Romani children in education and praised the CCHR for their strategic litigation case in early 2012.<sup>56</sup>

However, Chmel's voice was overrun by significantly more dominant and worrying rhetoric addressing Roma as a security issue. First of all, right wing extremist ideas have been penetrating the mainstream political rhetoric. The campaign before the early elections in March 2012 and current public debates are virtually a competition of populist proposals on how to "solve the maladjusted minority". Over the last year, Slovakia has witnessed right-wing extremist rallies, protests and petitions for the rights of "well-behaved" citizens organised by mayors.<sup>57</sup> Proposals by mainstream politicians keep emerging on how to make sterilisation more accessible to *de facto* poor Romani women, how to reduce social welfare support or how to speed up the process of demolishing poor Romani homes.<sup>58</sup>

Security is also the premise of the newly introduced Government policy, the so-called "Roma Reform". This reform of disputable quality was prepared and jointly presented by the newly appointed GPRC, Peter Pollák, and the Interior Minister, Róbert Kaliňák. In late 2012, the administration introduced their plans for highly restrictive measures in education and the so-called law enforcement area. This redefinition of Roma issues is highly dangerous. It builds on feelings shared by majority group members of being economically, demographically or even physically threatened by the minority perceived to be problematic. This constructed state of fear prevents any meaningful discussion about positive measures that could in fact support processes of inclusion and social cohesion.<sup>59</sup> Instead, the majority demands measures of "protection". Mainstream politicians with populist proposals have been both responding to and reinforcing intolerance and racism shared by a significant proportion of the Slovak population. Not surprisingly, recent surveys of public attitudes towards right-wing extremism warn that the risk of extremists gaining the support of substantial part of the electorate is rather high. Moreover, none of the parties is willing to take a strong stand against, for instance, practices of segregation or discriminatory proposals for welfare cuts.<sup>60</sup> Although the majority of population despise right wing extremist' movements *per se*, they identify with many of their radical ideas.<sup>61</sup>

At this point, we also raise concern about the overt use of economic arguments appealing to the interests of the majority, which points out the benefits of Roma inclusion by calculating the costs of the group's exclusion. Such reasoning strengthens the dichotomy between 'we' and 'the other' ("we" the tax payers and

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- 56 The DPHR issued statements in relation to right wing extremist Marián Kotleba, biased media reporting on a conflict between a non-Romani and Romani family in Malacký and on the biased pre-election campaign of the Slovak Nationalist Party. The statements are available at: <http://www.aktuality.sk/clanok/182431/chmel-kotlebove-vyroky-boli-v-prikrom-rozpore-s-moralkou-a-zakonmi/>; <http://www.vicpremier.sk/vyhlasenie-k-susedskemu-konfliktu-v-malackach/>; and <http://www.vicpremier.sk/vyhlasenie-podpredsedu-vlady-sr-pre-ludske-prava-a-narodnostne-mensiny-rudolfa-chmela-k-billboardovej-kampani-sns/>. See also the acknowledgment of the DPHR statements by the US Helsinki Committee, available at: <http://www.vicpremier.sk/uznanie-vicepremierovi-rudolfovi-chmelovi-od-helsinskeho-vyboru-kongresu-usa/>. The former GPRC issued a very carefully and rather vaguely drafted statement concerning the case on 10 January 2012 mostly describing the situation in Šarišské Michaľany. Notable is the final sentence of the statement suggesting that the office does not consider the "separation of Romani children from non-Romani pupils through unnatural administrative intervention" to be "appropriate". We do not consider the statement a solid rejection of the much troubling practice. The statement is available at: <http://www.romovia.vlada.gov.sk/26367/stanovisko-splnomocnenca-vlady-sr-pre-romske-komunitu-k-situacii-na-zakladnej-skole-v-sarisskych-michalanoch.php>. The current Plenipotentiary has not used the ruling as an opportunity to boldly and rather clearly condemn the practice of segregation. In his blog, issued several weeks after the regional court's ruling, the GPRC merely recognises that the court viewed segregation as discrimination. See: Peter Pollák, „Inkluzívne vzdelávanie = investícia do budúcnosti Slovenska“ [Inclusive Education = Investment in Future], 20 December 2012. Available at: <http://peterpollak.blog.sme.sk/c/316510/Inkluzivne-vzdelavanie-investicia-do-buducnosti-Slovenska.html>.
- 57 Jarmila Lajčáková and Elena Gallová-Kríglerová, "Newly Introduced Policy towards the Roma: Yet Another Misunderstood Integration?", *Minority Policy in Slovakia*, 3/2012. Available at: [http://www.cvek.sk/uploaded/files/Minority%20Policy%20in%20Slovakia%203\\_2012.pdf](http://www.cvek.sk/uploaded/files/Minority%20Policy%20in%20Slovakia%203_2012.pdf).
- 58 *Ibid.*, 1.
- 59 These observations are result of CVEK research drawing on the Copenhagen school of international relations. Some of our work is included in Jarmila Lajčáková et al in *Minority Policy in Slovakia in 2011: Annual Report* (CVEK 2012). Available at: [http://www.cvek.sk/uploaded/files/Minority%20policy%20in%20Slovakia%20in%202011\\_Annual%20Report.pdf](http://www.cvek.sk/uploaded/files/Minority%20policy%20in%20Slovakia%20in%202011_Annual%20Report.pdf).
- 60 See, for example: Jarmila Lajčáková, "Proposed Changes to Family Allowance and Child-Birth Allowance Seem Unconstitutional", *Minority Policy in Slovakia*, 2/2011. Available at: [http://www.cvek.sk/uploaded/files/2011\\_08\\_mensinova\\_eng\\_web.pdf](http://www.cvek.sk/uploaded/files/2011_08_mensinova_eng_web.pdf).
- 61 For instance, up to 75% of the population supports State policies regulating the birth-rate among Roma. Elena Gallová-Kríglerová and Jana Kadlečíková, *Public Opinion in the Area of Right Wing Extremism* (Bratislava, Open Society Foundation, 2012).

“them” the Roma – an item of the State budget). It creates very fertile ground for politicians to legitimise the construction of Roma as societal parasites. Indeed, the economic argumentation could have contributed to the current securitisation of Roma issues.

## Institutional Discrimination and Racism among Public Authorities and Service Providers

### Law Enforcement

Efforts to systematically address serious deficiencies in curbing racism and prejudice by key service providers have been postponed or even curtailed by failing to replace the Action Plan on the Prevention of All Forms of Discrimination, Racism, Xenophobia and other Forms of Intolerance with a human rights strategy.<sup>62</sup> The change of administration has delayed preparation and implementation of a pilot training project for professionals in law enforcement. The former office of the DPHR engaged in a rather lengthy preparation of the project in partnership with the Police Headquarters and the Open Society Foundation in 2011. Since the abolishment of the office preparatory works practically stopped.

To some extent, some State departments continued their efforts to provide such trainings for their officials. For instance, the Strategy on the Fight against Extremism for the period of 2011-2014 committed the MI to provide trainings for police corps in the area of human rights and racially-motivated violence at least once a year. In addition, the MI and Police Headquarters train their prospective personnel through specialised studies on human rights, minorities and extremism at the Police Academy and at the secondary school of police corps in Bratislava. Overall, we welcome efforts to systematically address this issue through the education of students. However, given the cases of alleged maltreatment of Romani boys by police corps that we discuss later and the shooting of several Roma by an off duty municipal police officer,<sup>63</sup> we would promote strengthen the continuous training of law enforcement personnel, including of municipal police.

### Education<sup>64</sup>

The systemic human rights education of students enrolled in educational studies has been unconvincing. The National Programme of Human Rights Education adopted in 2005<sup>65</sup> set as one of its priority target groups students of education. Interviews with current students and some teaching staff suggest that this topic is very marginal. Where courses covering human rights exist at all, they are taught in an overtly formalistic manner that provides limited opportunities for prospective teachers to acquire the needed skills. In fact, the obviously formalistic and uncritical reports of the SSI<sup>66</sup> on the implementation

62 *Government Resolution No. 717/2011, supra note 47.*

63 On 16 June 2012, an off-duty municipal police officer shot three Romani men and wounded another two in the town of Hurbanovo. The police discounted racial motives. According to the most recent developments, the shooter was found guilty of intentionally killing three persons and sentenced to nine-years imprisonment. The judge accepted emotional distress as a mitigating factor in justifying a shorter period of imprisonment than sanctioned in the criminal code. The judgment met with disapproval in NGO and Romani communities. See: Veronika Pušková, “Strelca z Hurbanova obvinili na devät rokov väzenia” SME, 27 March 2013. Available at: <http://www.sme.sk/c/6748653/strelca-z-hurbanova-odsudili-na-devat-rokov-vazenia.html>. It is noteworthy that this incident, which caused an upsurge of support and defence of the act by media commentators, prompted NGOs to issue a press release demanding high ranking State officials to reject racially-motivated violence. See the public release of the RI, CVEK and the Mediation Institute, “Open letter to government officials regarding escalating tension, violent actions against Roma, hateful reactions of the general public and alarming manifestations of ethnic intolerance in the aftermath of recent events in Hurbanovo”, press release, 17 June 2012. Available in Slovak at: <http://cvek.sk/main.php?p=akclanok&lang=sk&lange=sk&id=268> and in English at: <http://www.cvek.sk/uploaded/files/Minority%20policy%20in%20Slovakia%202012.pdf>, 12.

64 In relation to measures addressing institutional discrimination, please refer to section on education, below.

65 Ministry of Education, Science and Sports of the Slovak Republic, *Národný program výchovy k ľudským právam v SR* [National Programme of Human Rights Education in the Slovak Republic] (2005), approved at a meeting of the Education Minister on 8 February 2005 and developed by the State Pedagogical Institute in co-operation with the Department of Education and Upbringing of Romani Communities at the Ministry of Education pursuant to *Government Resolution No. 446/2004*, section 13.

66 There is no evaluation of the National Programme for Human Rights Education.

of human rights education prove our anecdotal evidence. The SSI reduces their assessment of human rights education to testing children's knowledge in human rights while failing to scrutinise the quality of human rights education. Furthermore, no attention is paid to whether the overall school environment respects human rights.<sup>67</sup>

The relevant education institutions could take advantage of numerous materials on human rights education prepared by NGOs. Among the most recent notable efforts is the Project KOMPAS including a manual for human rights education of youth prepared by IUVENTA, the Slovak Youth Institute, in partnership with numerous experts and human rights activists. The manual offers good theoretical and practical guidelines on both teaching and implementing a human rights perspective.<sup>68</sup>

### Employment

In the area of employment, the MLSAF responded to its obligation arising from the Revised Action Plan and the NRIS in 2011-2012 with a day-long training that included the topic of non-discrimination of all 48 of its new employees. This Ministry has not implemented any anti-discrimination trainings targeting labour office employees providing services to individuals (including Roma) ranging from social and parental welfare support to employment consultations.

### Health<sup>69</sup>

In the area of health, some often marginal human rights and non-discrimination education of prospective medical and health care personnel is included in official curricula of universities and secondary schools for health personnel. Continuous and systematic effort to train existing medical personnel in this area is missing.<sup>70</sup> In light of serious cases concerning involuntary sterilisations and the discriminatory and disrespectful approach of medical personnel<sup>71</sup> towards poor Roma in particular, we believe that this area should be targeted by more intense training and education.

## Slovakia's Equality Body – SNHRC

The NRIS recognises the need to improve implementation of anti-discrimination legislation, among others, through the transformation of the SNHRC, Slovakia's equality body. Since the adoption of the Anti-discrimination Act, no Slovak Government has been able to address the deficiencies that make the work of the SNHRC ineffective. The fact that SNHRC was not fulfilling its mandate was acknowledged by the previous administration of Iveta Radičová.<sup>72</sup> However, so far, there is no palpable evidence of progress towards the transformation of this body.

Although the SNHRC exists as a matter of law, in practice, it does not operate. It was established in 1993 pursuant to an agreement with the United Nations.<sup>73</sup> Following the adoption of Anti-discrimination Act in 2004, the SNHRC became the national equality body. Its main tasks include human rights and equal treatment monitoring, data collection about racism and other forms of intolerance, research and aware-

67 Štátna školská inšpekcia [State School Inspection], *Správa o stave a úrovni uplatňovania výchovy k ľudským právam v základnej škole v SR v školskom roku 2011/2012* [Report on the State and Quality of Human Rights Education in Elementary Schools in Slovakia in the school year 2011/2012] (2012). Available at: [http://www.ssiba.sk/admin/fckeditor/editor/userfiles/file/Dokumenty/124\\_TI\\_ZS\\_LP.pdf](http://www.ssiba.sk/admin/fckeditor/editor/userfiles/file/Dokumenty/124_TI_ZS_LP.pdf).

68 Information available at: <http://www.iuventa.sk/sk/Projekty/Ludske-prava/KOMPAS-manual-vychovy-a-vzdelavania-mladeze-k-ludskym-pravam.alej>.

69 See also section 6.1 on tools addressing institutional barriers in health care.

70 Resolution of the Government Council for Human Rights, National Minorities and Gender Equality No. 37 of February 20, 2012 on Cases of Unlawful Sterilizations of Women.

71 Random interviews in Romani settlements undertaken by CVEK staff throughout 2012.

72 *Government Resolution No. 347/2011* of 1 June 2011 on Analytical Report on Activities and Status of the National Centre for Human Rights in the Context of Institutional Protection of Human Rights in the Slovak Republic.

73 The international agreement between the Slovak Republic and the United Nations was published in *Statute No. 29/1995 Coll.* The National Centre for Human Rights was founded by *Act No. 308/1993* which entered into force on 1 January 1994.



ness-raising activities, the provision of legal aid to the victims of discrimination<sup>74</sup> and issuing statements concerning discrimination.<sup>75</sup> As of 1 April 2008, the SNHRC was vested, among others, with the power to conduct independent investigation of discrimination and act as a legal representative in disputes concerning the Anti-discrimination Act.<sup>76</sup>

The SNHRC is notorious for failing to undertake said tasks and for being under undue political influence. Its lack of transparency, representativeness and expertise has been criticised by the Council of Europe, Fundamental Rights Agency and UN Committees.<sup>77</sup> Moreover, an audit of the Supreme Control Office indicated non-transparency and irregularities in its operation.<sup>78</sup> In May 2012, the majority of the SNHRC's employees left or were dismissed resulting in a significant reduction of human resources. It currently has approximately five employees. Some of the former employees issued a public petition arguing wrongful termination of employment. According to the petition former employees were dismissed due to their critique of the SNHRC's inadequate functioning and undue political influence in particular. Moreover, they argued that the executive director hired five new employees, four of whom had no experience in human rights.<sup>79</sup> Furthermore, the SNHRC has been subject to critique by NGOs for being grossly ineffective.

The former DPHR prepared a report on the SNHRC pointing out serious flaws in its operation in 2011.<sup>80</sup> The report suggested that the SNHRC: (1) lacked the competency required to oversee observance of human rights and non-discrimination legislation; (2) was not sufficiently independent from undue political influence; (3) its activities retained low visibility and limited impact in the area of human rights and anti-discrimination; (4) did not have sufficient personnel and expertise to undertake its objectives which related to the irregular use of public funds; and (5) the management and supervisory boards had failed to address the above deficiencies. The DPHR's office debated possible alternatives for the SNHRC's transformation, but was unable to undertake further steps due to early parliamentary elections in March 2012.

The Ministry of Justice that was vested with this agenda after the March election has been considering two alternatives for the Centre's transformation: 1. the establishment of a simpler equality body with strong powers in the area of anti-discrimination that could even impose sanctions; and 2. creating a weaker human rights body with an anti-discrimination agenda. By 31 July 2013, the Justice Minister is to produce a legal analysis for transferring some of the SNHRC's competencies to the Office of the Public Defender of Rights (OPDR) while preserving SNHRC and its competencies in safeguarding equal treatment.<sup>81</sup> In any case, according to the MJ the transformation is likely to be prolonged due to the need to reach an agreement with the United Nations. For the time being, the GCHR obliged the Justice Minister to initiate and co-ordinate a complex audit of the SNHRC.<sup>82</sup>

The factual non-existence of a national equality body in Slovakia significantly limits putting anti-discrimination legislation into practice. In fact, one of the major barriers that this body should address is the availability of information on how to seek legal redress when one feels discriminated against. A recent study of the CCHR confirmed that lack of information about the anti-discrimination law and the opportunities to seek legal redress pose serious barriers for people living in MRCs in seeking legal remedies to discrimination. As much as 26% of interviewed individuals who had been discriminated against did not seek solution due to

74 The SNHRC can act as the legal representative of alleged victims of discrimination but it has failed to deliver this assistance.

75 *Anti-discrimination Act, supra* note 44, para 2.

76 *Ibid.* para 3.

77 See Transcript of the 7th meeting of the Council for Human Rights and National Minorities of 17 October 2012. Available at: [http://www.radavladyp.gov.sk/data/att/10161\\_subor.pdf](http://www.radavladyp.gov.sk/data/att/10161_subor.pdf).

78 Ján Glovičko, "Strážcovia ľudských práv obchádzali zákony [Human Rights Guardians Circumvented Laws]", *SME Daily*, 10 November 2011. Available at: <http://www.sme.sk/c/6135388/strazcovia-ludskych-prav-obchadzali-zakony.html>.

79 "Stredisko pre ľudské práva tvrdí, že bývalá vláda ho atakovala [Human Rights Centre felt Attacked by the Former Government]", 15 May 2012. Available at: [http://spravy.pravda.sk/stredisko-pre-ludske-prava-tvrdi-ze-byvala-vlada-ho-atakovala-ptk-sk\\_domace.asp?c=A120515\\_102519\\_sk\\_domace\\_p09](http://spravy.pravda.sk/stredisko-pre-ludske-prava-tvrdi-ze-byvala-vlada-ho-atakovala-ptk-sk_domace.asp?c=A120515_102519_sk_domace_p09).

80 See the analytical report, *supra* note 72.

81 *Ibid.*

82 *Resolution No. 54 of 17 October 2012 on the Information on Activities of the Slovak National Centre for Human Rights in 2011*. At the time this report was prepared, the results were not available yet.

the lack of information on where to access aid.<sup>83</sup> Another 25% did not trust the courts, police or other State institutions. Only 33.3% of the interviewed individuals with the experience of discrimination were aware of anti-discrimination legislation and only 18% were aware of availability of free legal aid.<sup>84</sup>

Despite the urgent need to transform the SNHRC we recognise that this administrative task may be protracted. In the meantime we therefore suggest strengthening other existing mechanisms that could help victims of discrimination. Particularly, regional offices of the Legal Aid Centre providing free legal aid to those in material need could more intensely target people in MRCs. The regional offices could more closely cooperate with social field workers and other agents active in MRCs to provide adequate information on accessing legal aid in cases of discrimination. Moreover, the MJ, as the founder of the Legal Aid Centre, could increase the administrative and staff capacities of offices in poorer regions, particularly in those with a higher share of MRCs.

## Decisions of the European Court of Human Rights in Slovakia

### *Involuntary Sterilisations and Ethnic Violence*

In the reporting period, i.e. from August 2011, the European Court of Human Rights issued three judgments in cases concerning the involuntary sterilisation of young Romani women in public hospitals taking place around the year 2000 (*V.C. v. Slovakia, N.B. v. Slovakia and I.G. and Others v. Slovakia*).<sup>85</sup> The ECHR found violations of the Romani female applicants' right to be free from degrading and inhuman treatment (Article 3) and the right to private and family life (Article 8). In the most recent judgment, *I.G. and Others v. Slovakia* the ECHR found violation of procedural guarantees of Article 3 of the *Convention for the Protection of Human Rights and Fundamental Freedoms* emphasising failure of the State to carry out prompt and reasonable criminal investigation into the allegations of torture, inhuman and /or degrading treatment or punishment and ineffectiveness of civil proceedings.<sup>86</sup>

The ECHR did not find it necessary to address the discrimination aspect of the involuntary sterilisation of Romani women or the existence of a State-tolerated practice targeting Romani women. Yet, having three such judgments within a year should prompt State officials to pay due attention to the issue of forced sterilisation, recognise it as a human rights violation, ensure adequate compensation for the victims and put in place effective measures to prevent such violations from reoccurring.<sup>87</sup> Still, State officials consistently claim that all cases were individual failures of the medical personnel.<sup>88</sup>

Rather notable is the resolution of the GCHR expressing regret over involuntary sterilisations of women. Still, it should be noted that it took almost an hour long discussion to agree whether the resolution should refer to 'women' generally or 'Romani women' as suggested by NGO members of the Council. The final compromise was reached to include only 'women' in the title and 'Romani women' in the resolution's text. The Council also advised the Government to take measures to ensure better implementation of the relevant legislation con-

83 The study surveyed 95 respondents in Romani settlements in eastern Slovakia. The sample was not representative of the overall Romani population as it focused on people living in MRCs. *Hľadanie bariér v prístupe k účinnej právnej ochrane pred diskrimináciou* [Searching for Barriers in Accessing Effective Legal Protection from Discrimination] (Košice: Poradňa pre občianske a ľudské práva, 2012), 31.

84 *Ibid.*, 36 and 43.

85 *V.C. v. Slovakia*, Application no. 18968/07, 8 November 2011; *N.B. v. Slovakia*, Application no. 29518/10, 12 June 2012; and *I.G. and Others v. Slovakia*, Application no. 15966/04, 13 November 2012.

86 *I.G. and Others v. Slovakia*, para 133.

87 The court issued 31,000 EUR to V.C. in respect to non-pecuniary damages (and 12,000 EUR in costs and expenses); to N.B. 25,000 EUR in respect to non-pecuniary damages (and 5,000 EUR in costs and expenses) and to the first applicant in *I.G. and Others* 28,500 EUR and 27,000 EUR to the second applicant in respect to non-pecuniary damages (and 4,000 EUR each to cover costs and expenses). The State has, so far, issued compensation to V.C. and N.B. I.G.'s judgment has not yet entered into force.

88 See for example the statement of the former Minister of Justice, Lucia Žitňanská at: [http://www.webnoviny.sk/slovensko/sterilizacie-romiek-neboli-organizovan/439591-clanok.html?from=suggested\\_articles](http://www.webnoviny.sk/slovensko/sterilizacie-romiek-neboli-organizovan/439591-clanok.html?from=suggested_articles). No high ranking officials issued a statement on the most recent judgment. The newly appointed GPRC, Peter Pollák, has aligned himself with this rhetoric. Pollák has suggested that "some doctors and hospitals failed, but one cannot say that Slovakia failed. It was not organised; it was not a policy of this country." Statement on the Evening News, the Slovak Public Television (RTVS), 14 November 2012 at 19:20.

cerning informed consent.<sup>89</sup> Despite this and numerous other calls made by NGOs, State officials have not duly investigated circumstances under which Romani women gave their consent to sterilisations that took place during and after communism. The relevant high State officials, especially the previous prime Minister and the Minister of justice also refused to issue a public apology and provide fair remedies to the victims.

Furthermore, Slovakia lost the case *Koky et al v. the Slovak Republic*<sup>90</sup> revolving around a violent assault on residents of a Romani settlement. Mr. Koky along with nine other Romani complainants brought legal action against the Slovak Republic for being unable to protect them from torture and other inhuman or degrading treatment. According to the complainants, the Government was unable to assure prompt, effective and impartial investigation and adequate punishment of what had apparently been a racially-motivated attack on them. A prelude to the assault on the Romani settlement was an incident in the village of Gánovce-Filice near Poprad on 28 February 2002. It was provoked by a non-Romani waitress who refused to serve a Romani customer in the local pub.<sup>91</sup> In the evening of the same day, a group of 12 assailants wearing ski-masks and armed with baseball bats and iron bars brutally attacked several Romani families in their own homes in the nearby Romani settlement while uttering a torrent of vulgar racist curses. The victims suffered serious injuries and property damage.<sup>92</sup> After several fruitless attempts to press criminal charges and complaints objecting to Slovak law enforcement organs' inability to investigate the incident properly, Mr. Koky and nine other victims turned to the ECHR.

According to the ECHR ruling, protection in compliance with Article 3 of the Convention also applies to actions by private individuals. At the same time, State administration organs are obliged to guarantee prompt and effective investigation if there is reasonable suspicion that such actions have taken place.<sup>93</sup> Slovak law enforcement failed to examine the telephone communication or assailants' biological evidence that was secured at the scene of the crime. The ECHR established a violation of procedural guarantees spelled out in Article 3 of the Convention, emphasising that signatory States must pay extra attention to proper and impartial investigation of racially-motivated attacks on vulnerable population groups.

Similarly to the cases concerning involuntary sterilisations of Romani women, we have recorded no special recognition or measures ensuring effective protection against such fundamental human rights violations of members of Romani communities.

During the reporting period Slovak courts delivered a landmark decision banning segregation of Romani children that is discussed in section 4 on education.

### *Public Interest Litigation and Barriers in Implementing Anti-Discrimination Legislation*

Slovakia's anti-discrimination legislation implements the EU Racial Equality Directive. The Anti-discrimination Act in its paragraphs 9a and 10 permits public interest complaints filed by an NGO.<sup>94</sup> Indeed, the landmark ruling on segregation, discussed above, is a result of such strategic litigation pursued by the CCHR. This legislation truly has tremendous potential to be used to promote social change utilising the legal system. From the procedural point of view, one of the negative aspects is, for example, that NGOs litigating discrimination cases are not entitled to be awarded costs of legal representation from defendants, which puts them at a more disadvantage compared to attorneys. Perhaps this is one of the reasons why this legislation, so far, has not been used very often. The CCHR argued, for instance, that one of the reasons for not pursuing an individual complaint is the worry of victims or parents of the victims that the authorities (teachers) will somehow retaliate against them and their children.

89 *Resolution 37/2012*. Available at: <http://www.radavladyp.gov.sk/dokumenty-rady/>.

90 *Koky et al v. the Slovak Republic*, Application No. 13624/03, 12 June 2012. The court issued 10,000 EUR each to Mr Martin Kočko and Mr Rastislav Koky, in respect of non-pecuniary damages, 5,000 EUR plus any tax that may be payable each to Ms Žaneta Kokyová, Mr Milan Baláž, Ms Renáta Kokyová, Ms Ružena Kokyová, Ms Renáta Čonková, Ms Justína Lacková, and Mr Ján Koky Jr., in respect of non-pecuniary damages. The compensation has been already paid.

91 *Ibid.*, para 4.

92 *Ibid.*, para 53.

93 *Ibid.*, para 213.

94 *Anti-discrimination Act*, *supra* note 230, para 9a.

The most recent study of the CCHR in 2012 confirmed concerns about the implementation and enforcement of anti-discrimination legislation.<sup>95</sup> Their representative survey of the general population found that only 4.7% of individuals who subjectively felt discriminated sought legal remedy (with respect to all grounds for discrimination). Since 2009, out of 95 respondents more than 15% of respondents experienced subjective discrimination. The survey among members of MRCs showed that 78% of respondents subjectively felt discriminated. More than 93% of these Romani respondents felt that reasons for unequal treatment was their ethnicity, less than 3% thought it was other grounds such as marital status or socio-economic status.<sup>96</sup> Only 24% of Roma who felt discriminated “did something about it”. Their defence consisted of talking to the person that discriminated against them (37%), approaching police (32%) and seeking attention from the mass media (10.5%). Allegedly discriminated against Roma did not seek legal aid due to following reasons: 26% did not know where to seek legal help; 25% did not trust courts and police; 19% were afraid of retaliation or harassment from the person that discriminated them. Only 33% of Roma who felt discriminated were aware that they could rely on anti-discrimination legislation in seeking legal remedy.<sup>97</sup>

Drawing on analyses of existing anti-discrimination case law (90 decisions, 15 of them concerned ethnic discrimination), the study revealed that courts have difficulties to properly assess discrimination<sup>98</sup> or adequately establish a comparator and are unable to establish a causal relation between discriminatory treatment and the disadvantaged position of the victim. In addition, courts have difficulties in shifting the burden of proof. According to the CCHR, awarded remedies did not meet the requirements of effectiveness, proportionality and deterrence.<sup>99</sup>

The deficiencies in terms of enforcement of the Anti-discrimination Act in practice have been acknowledged by the UN Committee on Elimination of Racial Discrimination. The Committee stressed, among others, that the law is not fully operational, the number of complaints filed is low and the proceedings are too lengthy.<sup>100</sup> It recommended that the Government: “fully enforce the Anti-Discrimination Act and also disseminate information regarding it to the public, in particular to minorities, informing them of all legal remedies when facing racial discrimination.”<sup>101</sup>

## Romani Children

Despite the need to recognise the particularly vulnerable situation of Romani children, Slovakia has serious difficulties in addressing this issue. Neither the Revised Action Plan nor the NRIS devote specific attention to this minority within a minority.

While Roma specific policies fail to recognise the need for specific focus on children, State general policies on children’s rights are blind to the context of Romani children. The Action Plan for Children for 2009-2012, for instance, does not contain any specific measures to address failures with respect to Romani children. The only remark concerns education of children belonging to national and ethnic minorities without acknowledging the particularly challenging context in ensuring education in Romani language.<sup>102</sup> The shadow report to the Optional Report on the Convention on the Rights of the Child, prepared by the Coalition for Children in 2012, identified Romani children, especially those

95 *Searching for Barriers*, supra note 83. The research sample comprised three groups: 1) a representative sample of the general population, N=1014; 2) NGOs advocating the rights of disadvantaged groups, N=124; and 3) members of MRCs, N=95. In the case of the general population and MRCs, researchers employed standardised individual interviews while NGOs were surveyed using online version of a standardised questionnaire.

96 *Ibid.*, 34-35.

97 *Ibid.*, 43.

98 *Ibid.*, 76-100.

99 *Ibid.*, 64-100.

100 Committee on the Elimination of Racial Discrimination, *Concluding observations of the Committee on the Elimination of Racial Discrimination on the Slovak Republic (CERD/C/SVK/CO/9-10)*, March 2013, para 7. Available at: [http://www2.ohchr.org/english/bodies/cerd/docs/co/CERD-C-SVK-CO-9-10\\_en.pdf](http://www2.ohchr.org/english/bodies/cerd/docs/co/CERD-C-SVK-CO-9-10_en.pdf)

101 *Ibid.*

102 *National Action Plan for Children for 2009-2012*, Government Resolution No. 94 of 21 September 2009. Available at: <http://www.rokovania.sk/Rokovanie.aspx/BodRokovaniaDetail?idMaterial=12980>.

living in MRCs, as being at a significantly higher risk of becoming victims of child trafficking, prostitution and pornography.<sup>103</sup>

Moreover, Romani children placed in foster homes and re-education institutions are similarly at a significantly higher risk of exploitation and disrespect of their fundamental human rights.<sup>104</sup> A 2011 report by the European Roma Rights Centre (ERRC) and partners on Romani children in institutional care revealed substantial over-representation of Romani children in children's homes in Slovakia. It is estimated that Romani children represent 70-95% of all children placed in institutional care.<sup>105</sup> Child removal is most often related to poverty, lack of adequate housing and the financial problems associated with "having a large number of children". Furthermore, interviewed Romani parents reported being pressured by social workers to place their children into institutional care due to homelessness or substandard housing. They also perceived school absenteeism as a risk factor for children to be placed in institutional care. Lack of skilled social workers, however, prevents provision of adequate support to Romani families at risk of child removal.<sup>106</sup> For many children adoption is the only way out of institutional care. However, prospective adoptive parents are rarely willing to adopt a Romani child. According to interviewed professionals the rate of adoption of Romani children is at around 30%.<sup>107</sup>

Moreover, there were two reported incidents of racially-motivated physical violence by the Slovak law and enforcement officials in 2009 and 2010. Both concerned the investigation of Romani boys, who claimed that they were subjected to torture and inhuman and degrading treatment by police officers in Košice. According to the CCHR, which provided legal defence of the alleged victims of both maltreatments, the investigation into the petition against the acts of the police did not meet legal guarantee standards required by Article 3 of the ECHR. In one instance, the criminal proceedings against the police officers accused by the allegedly maltreated boys did not start. According to the investigator, the petition of the boys was dismissed as manifestly ill-founded. According to CCHR, the investigation did not even consider affidavits provided by the allegedly tortured Romani boys.<sup>108</sup> In both cases the investigation was terminated. There is another pending case against police officers who forced Romani boys to physically attack each other while the officers took pictures. The trial has been postponed several times due to non-attendance of the accused and changes made in the Senate deciding the case. The CCHR believes that criminal proceedings safeguards are not sufficient to meet international human rights standards particularly with respect to protecting rights of Roma generally and Romani children specifically.<sup>109</sup> Neither the Revised Action Plan, nor the NRIS respond to these deficiencies.

## Multiple Discrimination of Romani Women

Romani women and girls, especially those living in segregated and separated communities, belong to the most vulnerable groups in Slovakia. Existing quantitative data suggests that inequalities caused by ethnicity are further aggravated by gender, degree of social exclusion and possibly age and disability.<sup>110</sup> Moreover, qualitative

103 For more details see pp.41-42 below.

104 Coalition for Children, *Alternative Report on Implementation of the Option Protocol to the Convention on the Rights of the Child on child trafficking, prostitution and pornography* (OPSC), (Bratislava: Coalition for Children, 2012), 5.

105 ERRC, Bulgarian Helsinki Committee, Milan Šimečka Foundation, Osservazione, *Life Sentence. Romani Children in Institutional Care* (Budapest, 2011), 37. Available at: <http://www.errc.org/cms/upload/file/life-sentence-20-june-2011.pdf>.

106 *Ibid.*, 42.

107 *Ibid.*, 59-60.

108 Interview with a representative of the Centre for Civil and Human Rights: 10 December 2012.

109 The CCHR prepared a set of recommendations in 2012. *Poradňa pre občianske a ľudské práva* [Centre for Civil and Human Rights], *Kritériá pre vyšetrovanie trestnej činnosti policie s osobitným motívom národnostnej, etnickej alebo rasovej nenávisťi* [Criteria for criminal proceedings in instances of nationally, ethnically or racially motivated hatred] (2012).

110 Not all available data on Roma in Slovakia are disaggregated by gender (for instance in housing in case of single mothers). Available data are not analysed to measure the impact of disability and age. Still among the most palpable evidence of the disadvantage of Romani women is in the area of employment. The employment rate of Romani women in the age category 15-64 was at 9% according to 2011 data, Romani men at 20% and non-Romani women at 30%. See: Christian Brüggemann, *Roma Education in Comparative Perspective: Findings from the UNDP/World Bank/EC Regional Survey* (UNDP: Bratislava, 2012) [UNDP/WB/EC Survey 2011]. Similar disparities are present also in a 2010 UNDP data set that captured the impact of housing conditions. The ability of Romani women to find employment are further reduced by their housing conditions, i.e. the degree of exclusion from the labour market is higher for those living in segregated or separated housing than of those that live among the mainstream population (the share of economically active Roma in segregated housing is 11.1%, in separated housing it is 15.3% and 20.3% in integrated housing). UNDP, *Report on the Living Conditions of Romani Households in Slovakia in 2010* (Bratislava: UNDP, 2012), 119. [UNDP Survey 2012].

studies reveal that traditional gender roles and expectations shared by families and communities pose further barriers in the ability of Romani women and girls to enjoy equal rights and opportunities in numerous spheres, including education, employment and reproductive health.<sup>111</sup> Romani women in marginalised communities are furthermore at a higher risk of domestic violence and of being the victims of trafficking in human beings.<sup>112</sup>

Multiple discrimination of Romani women and girls ranks among the most complex challenges for Slovakia. This is caused not only by the difficulties to acknowledge the disadvantage of Romani women. We believe that the sources might be structural caused by, among others, an insufficient number of public officials with adequate expertise in this area. We welcome the fact that the only gender equality department within the State administration (at the MLSAF) has been since October 2011 lead by one of the leading experts on gender equality and domestic violence in Slovakia. In its annual report on gender equality in Slovakia the department included a section devoted to the specific circumstance of women living in MRCs. The department has also included concern for Romani women and girls in its activities, specifically the National Project on the Elimination and Prevention of Violence against Women for 2012-2015. Moreover, we appreciate the efforts of this department to include a provision for affirmative action on the grounds of ethnicity and gender into the amendment of the anti-discrimination law that was passed by the Parliament in February 2013.<sup>113</sup>

Recognition of multiple discrimination and the severe vulnerabilities experienced by Romani women and girls, however, is one of the most serious weaknesses of the Revised Action Plan and the NRIS. Requests from women's rights NGOs and the department of gender equality to incorporate the gender principle as a cross-cutting issue early in the process of drafting the NRIS were not heard. This is also despite the Decade of Roma Inclusion's explicit request to include gender among the cross-cutting issues in the National Action Plans. The principle of gender equality was added as one of the implementing rules for the NRIS when the strategy was already drafted.

The failure to consider gender equality during the drafting process is present in both descriptions of key areas, objectives of the strategy as well as specific measures. The only section that partially describes the experience of Romani women and girls is the chapter on anti-discrimination. The specific situation of Romani women and girls is not included in the descriptions of other areas covered by the NRIS: employment, education, housing, financial inclusion or health.<sup>114</sup> There are several vaguely drafted objectives such as those addressing domestic violence, preventing a higher drop-out rate of teenage Romani girls due to early pregnancies, creating conditions for employing mothers with small children, including the need to implement measures of work and family reconciliation, or increasing awareness about reproductive health and the use of modern methods of contraception. Neither the Revised Action Plan, nor the NRIS develops these objectives into policy measures. Furthermore, there is no recognition of the need to target the housing needs of single mothers or support for female small entrepreneurs in the area of financial inclusion – both areas are completely gender blind. The NRIS, in its section devoted to the support of Romani NGOs, misses any remark concerning support for Romani women's NGOs. Romani women's NGOs have been, however, the most visible actors in promoting and advocating for gender equality in this target group.

Furthermore, we recall that since the adoption of the Revised Action Plan, the ECHR has rendered three judgments arguing that Romani female applicants' rights to be free from degrading and inhuman treatment (Article 3) and their right to private and family lives (Article 8) were violated.<sup>115</sup> In fact, during the drafting of the NRIS, the ECHR issued its first ruling on the issue, *V.C. v. Slovakia*. The case is not even mentioned in the NRIS; not even in the debate including a brief remark on the issue of involuntary sterilisation. Furthermore, in the most recent judgments the court found violation of the procedural guarantees of Ar-

111 *Obraz rómskej ženy: kvalitatívny prieskum bariér participácie rómskych žien na verejnom živote* (Zvolen: Quo Vadis, o.z, 2012) [A Picture of Romani Woman: A Qualitative Survey of Barriers of Romani Women Participation in Public Life].

112 *Súhrnná správa o rodovej rovnosti na Slovensku v roku 2011* [Annual Report on Gender Equality in Slovakia] (Bratislava: Ministerstvo práce, sociálnych vecí a rodiny SR [MLSAF], 2012), 54-55.

113 See also section on p. 31 above.

114 The drafters of the NRIS mentioned Romani women in the context of reproductive health. The description is, however, highly disputable and, among others, fails to recognise the problem of involuntary sterilisation. NRIS, *supra* note 5.

115 See the ECHR judgments, *supra* note 85.

ticle 3 of the Convention requiring prompt and reasonable criminal investigation.<sup>116</sup> As we have discussed above, State officials have consistently denied the existence of such practices arguing that all cases were individual failures by medical personnel.

## Human Trafficking

### Overview of the Policies

Neither Revised Action Plan, nor the NRIS tackle the issue of trafficking in persons.<sup>117</sup> Yet, according to estimates 60% of all victims are members of MRCs.<sup>118</sup> Experts estimate that Roma represent up to 90% of all known victims trafficked for sexual purposes in Slovakia.<sup>119</sup> Men are most likely to be exposed to forced labour and women to street and highway prostitution.

The general policy framework for curbing human trafficking is set up by the National Programme on the Fight against Human Trafficking for the period 2011-2014 (National Programme), adopted in February 2011.<sup>120</sup> In its declarations, it draws on the principle of non-discrimination and gender equality. The National programme furthermore recognises members of MRCs as a particularly vulnerable group.<sup>121</sup> Generally, despite such high proportion of people from MRCs among trafficking victims, the programme formulates only a few concrete measures that can be seen as targeting these communities. Among them are awareness-raising activities focused on people living in MRCs, capacity building programmes for key actors working in these communities (i.e. social field workers, employees of the labour offices or local police) and identification of victims in excluded areas.<sup>122</sup> Out of 82 tasks set out by the Ministry of Interior in its task schedule for 2012 only one directly targets excluded Romani communities<sup>123</sup> while several others (approximately 12) targets them indirectly by supporting the culture of disadvantaged groups, improving the integration of excluded communities through the use of Structural Funds, training State officials, social workers and the police force and improving the quality of life of the most vulnerable group.

Generally, the State relies largely on the work of IGOs and NGOs providing support and protection of victims pursuant to the National Programme and the Programme of Support and Protection for Victims of Human Trafficking.<sup>124</sup> Available financial resources, however, limit the scope of their intervention. For instance, the Slovak Catholic Charity only received funds to care for five victims of trafficking in 2012, OZ DOTYK for ten and the International Organisation for Migration (IOM) for approximately twenty. Every additional victim they take in is “a non-eligible cost” and is not covered by the Interior Ministry. As of 31 October 2012, nonetheless, the authorities identified 20 victims and 14 joined the programme of protection and support of victims. It is, however, estimated that the number of victims is much higher. In

116 *Ibid.* I.G. and Others, para 133.

117 The NRIS only mentions once the issue in the context of health where it calls for educational activities focused on prevention, among others, of human trafficking. *NRIS*, *supra* note 5.

118 Pavel Soukop, Jozef Hlinka and Anton Tallo, *Formy obchodovania s ľuďmi za účelom nútenej práce: Správa z výskumu čiastkovej výskumnej úlohy* [Forms of Human Trafficking for the Purposes of Forced Labour] (Bratislava: Akadémia Policajného Zboru v Bratislave [Police Force Academy in Bratislava], 2010).

119 ERRC, People in Need, *Breaking the Silence. Trafficking in Romani Communities* (Budapest, 2011). Available at: <http://www.errc.org/cms/upload/file/breaking-the-silence-19-march-2011.pdf>.

120 The Programme follows up on the National Programme and its implementation in the years 2008-2010 and Government Resolution No. 96/2011.

121 For example, the annex to the final report of a research study on human trafficking related to street and highway prostitution mentions that it is often carried out by Romani women without further specification. Soukop *et al*, *supra* note 118, 85.

122 In 2011, 196 public officials (representatives of labour offices, police forces) and selected NGO representatives were trained in the identification of victims of human trafficking. In 2012 (up to June) 119 participants were trained in identification of victims of human trafficking, among them 35 social field workers serving in segregated Romani communities and 25 employees of local labour offices. However, the Ministry of Interior has not evaluated implementation of the programme for 2011 and 2012.

123 Activity 2.1.f) 1.: Prevention in socially excluded communities at risk of being victims of forced labour. In Schedule of Fulfilling the Tasks of the National Action Plan on Fight against Human Trafficking for 2011-2014.

124 Defined by the Decree of the Minister of Interior No. 47/2008 on Securing the Programme of Support and Protection of Victims of Human Trafficking.

2012 (up to 31 October) the National Hotline for Help to the Victim of Trafficking provided consultations to 901 callers.<sup>125</sup>

Despite previous reliance of the State upon IGO and NGOs,<sup>126</sup> in the past year we could identify a slight shift towards assuming more responsibility by the State, e.g. in providing accommodation for victims. The MI works in close partnerships with NGOs safeguarding identification of victims and their protection and support. Each year, the MI allocates funds to NGOs working directly with victims or potential victims of trafficking. In 2011 the Society of Community Centers received a grant for interventions in 14 Romani communities focusing primarily on prevention and identification of victims. A major initiative in 2012 has been the approval of MI's project Strengthening of Joint Measures for the Prevention of Forced Labour of Romani Communities and the Development of Referral Mechanism by the European Commission (EC) under the Programme of Prevention and Fight against Crime. The project, amounting to 212,430.64 EUR will be implemented in partnership with several NGOs including the Roma Press Agency, MECEM, People in Need and the Crossroads Youth and Community Association from the UK.

Through interviews with NGOs working in this area,<sup>127</sup> we have identified several serious deficiencies in prevention of the trafficking of some groups such as young Roma leaving foster homes or re-education institutions at the age of 18. Prevention efforts consisting of isolated lectures by NGOs are not sufficient to address such danger. Prevention targeting such vulnerable groups that sometimes suffer also from mental disabilities should take a systematic form. Failures in this area are, however, closely linked to an overall failure of the social system to provide dignified and complex services to such vulnerable groups. Furthermore, isolation that is inevitably caused by institutional care reduces ability to critically assess the risks of falling victim of various pathological phenomena. Prevention interventions should also address the problem of victims' stigmatisation which often prevents them from speaking out.

Furthermore, State authorities should more explicitly and intensively address users and their role in human trafficking. Recruiters of victims often come from the very same community. They are the more affluent members, arguably users. Neither the National Programme nor the Programme of Support and Protection of Victims focus explicitly on this issue. We have recorded, however, a large police intervention in Jarovnice, one of the largest Romani settlements in Slovakia, last year targeting recruiters and human traffickers.

### *Institutional Framework*

The fight against human trafficking is in the purview of MI and its subsidy organisations, more specifically the National Coordinator (currently the MI's State Secretary) and his advisory and co-ordination body called the Expert Group on the Fight against Human Trafficking set up 2006. The group includes representatives of ministries, the General Prosecutor's Office, the Association of Towns and Municipalities, IOM, as well as the Office of GPRC. In 2008, the National Coordinator created two inter-disciplinary teams focused on the prevention of trafficking in persons and another one specialised on the care for victims. As of 2012, these teams met on an ad hoc basis.<sup>128</sup> Generally, it appears that the Expert Group and the inter-disciplinary groups have been working in a formalised manner meeting irregularly, if at all. In 2008, the MI set up the Information Centre for the Fight against Human Trafficking and Prevention of Crime in Košice whose task is to collect and analyse statistical information. However, as identified by the 2011 GRETA report, the currently employed data collection methods do not allow for exhaustive description of human trafficking and does not gather data disaggregated by ethnicity. Slovakia also lacks qualitative information that would allow more effective intervention.<sup>129</sup>

125 Information provided by the Information Centre for the Fight against Human Trafficking and Prevention of Crime upon request: 4 December 2012.

126 IOM Bratislava and Košice, DOTYK Civic Association, Slovak Catholic Charity, Náruč Civic Association.

127 Slovak Catholic Charity.

128 Interný predpis ministra vnútra SR zo dňa 4.septembra 2008 [Internal Regulation of the Minister of Interior of September 4, 2008].

129 An annual report by the Group of Experts on Actions against Trafficking in Human Beings. Secretariat of the Council of Europe Convention on Action against Trafficking in Human Beings, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Slovak Republic. First evaluation round (Strasbourg, 2011)*. Available at: [http://ec.europa.eu/anti-trafficking/download.action;jsessionid=GBR403cCmb4XFnKLTfp40mhFbnfycQv578n0BRlnLghsZxQhPQ!2124403925?nodeId=9dc8f1d2-f0b5-4608-8b6b-113d2cf82673&fileName=GRETA+Report+Slovak+Republic+2011\\_en.pdf&fileType=pdf](http://ec.europa.eu/anti-trafficking/download.action;jsessionid=GBR403cCmb4XFnKLTfp40mhFbnfycQv578n0BRlnLghsZxQhPQ!2124403925?nodeId=9dc8f1d2-f0b5-4608-8b6b-113d2cf82673&fileName=GRETA+Report+Slovak+Republic+2011_en.pdf&fileType=pdf).



## 3. EDUCATION

### Segregation within Mainstream Education<sup>130</sup>

#### Data on Segregation

Segregation practices such as the placement of Romani children into separate classes or pavilions, divided cantinas, Roma-only schools or seating them at the back of classrooms appear to be on the rise in Slovakia. Romani children today are more likely to experience segregation in comparison to their parents or grandparents who completed their studies before 1990. According to a UNDP sample survey,<sup>131</sup> more than 55% of Romani children from segregated communities in 2010 attended schools with only Romani children. In comparison, only 11% of their parents or grandparents, who completed their studies before 1990, studied with Romani peers only. There has been increase in ethnic divides also among the dispersed or integrated Romani population. While 19% of Romani children attended Roma-only schools in 2010, before 1990 the share was at 6.6%.<sup>132</sup> According to the 2010 survey data, 36.2% of Romani children attended classes having exclusively or almost exclusively Romani pupils. Another 16% attended classes where the majority was formed by Romani children.<sup>133</sup>

*Roma children in the school system by the type of school attended and structure of classes (in%)*

	Common primary school	Special primary school	Special class in a primary school	Secondary vocational school	Total
<b>Only (or nearly) Romani children</b>	31,1	65,2	90,9	14,3	36,2
<b>More Romnia children than non-Roma</b>	16,3	15,2	0	16,7	15,4
<b>Approximately half Romani and half-non Roma children</b>	15,6	14,4	9,1	21,4	16,4
<b>More non-Romani children</b>	32,2	3	0	33,3	26
<b>Only (or nearly) non-Romani children</b>	4,7	2,3	0	14,3	6
<b>Total</b>	100	100	100	100	100

Source: UNDP 2012, 103

130 Segregation in special schooling, pp. 49-51.

131 Data published in the 2012 report were gathered by the UNDP in 2010. The sample survey focused on the comparison of different Roma living in three types of environments – segregated, separated and diffused – and a comparison of average values among Romani households and individuals with households and individuals from the general population living in close proximity to Roma. The selection and the methodology of choosing communities based on their degree of integration followed the method adopted in the sociographic mapping of Romani communities in 2004 that resulted in Slovakia's *Atlas of Romani Communities*. The Atlas identified three types of communities: those living dispersed (Roma living dispersed among the majority population); separated (Roma living on a concentrated area within the ambits of a village, inside or at its edges) and segregated (Roma living in a settlement that is distant from the village or separated by a certain barrier). A representative sample of Romani communities included 3,614 persons (35% of them living in segregated communities, 34% in separated areas and 11% living diffused). UNDP, *Report on the Living Conditions of Romani Households in Slovakia in 2010* (Bratislava: UNDP, 2012).

132 *Ibid.*, 104.

133 *Ibid.*, 103.

## Segregation Outlawed in the Case of Elementary School in Šarišské Michaľany

The State administration has been notorious for denying the existence of segregation practices<sup>134</sup> and, at best, expressing little interest in tackling the issue. A major breakthrough has been the landmark ruling of the Prešov District Court of December 2011<sup>135</sup> outlawing segregation of Romani children within mainstream education. The ruling was upheld by the Regional Court in October 2012. The CCHR, utilising the option of public interest litigation, sued the primary school in Šarišské Michaľany for discriminating against Romani children by placing them in separate classes. The school attempted to justify the segregation by the alleged need to adopt special educational methods for children from “socially disadvantaged environment” (SDE).<sup>136</sup> The school argued, in particular, that children from an SDE should be educated at a slower pace. Some of the teachers in their affidavits admitted “practical reasons” for separating the children, among them a concern that Romani children would hold back the non-Romani children. Neither the district nor the regional court accepted this as a justification of the discriminatory treatment. Moreover, the courts did not find the consent of Romani parents to segregation relevant. In his rather remarkable judgment outlining not only the negative social implications of segregation, the regional judge stressed the salience and benefits of inclusive education in considerable detail. He ordered desegregation as of the beginning of the upcoming school year, i.e. September 2013. The regional court also called onto the Government to financially support desegregation efforts at the school.

According to our informal sources, the school in Šarišské Michaľany is in need of both personal and financial support to successfully engage in desegregation processes. Teaching personnel are sceptical about viability of desegregation and perceive the judgment as an unfair penalty. Teachers are frustrated because they do not see any positive outcomes of their work with Romani children, for instance increasing numbers of Romani children completing a secondary education. The school is also exposed to pressure from the parents of non-Romani children who are threatening to withdraw their children from the school.

In January 2013 a small Romani NGO, EDU Roma began assisting the school in implementing the judgment<sup>137</sup> while using their own and limited private donor’s resources. Their ambition is to create a secure environment of trust and to, among others, slowly transform the school’s curriculum to meet the diverse needs of children attending the school. The NGO is fundraising for school activities to bring divided communities and their children together. The NGO has sought help from the ME. At this point, the ME has merely promised some financial assistance to the school. The promise is yet to be fulfilled. It is worth noting that neither the first nor the second instance ruling has prompted State agencies to more robustly address segregation. By contrast, the ME overseeing implementation of the Schooling Act that actually bans discrimination and segregation<sup>138</sup> has been rather silent.

134 See *Government Resolution No. UV-32346/2011* of 5 October 2011 that discussed a report of the Ministry of Foreign Affairs, which states that of 91 recommendations delivered by May 2009 by UN human rights bodies in their periodic reports, nine were rejected or viewed as irrelevant by the Slovak Republic. The rejected recommendations included calls to adopt legislative and practical measures aimed at eliminating discrimination against Romani children within the education system.

135 *Centre for Civil and Human Rights vs. Primary School with Kindergarten in Šarišské Michaľany*, Ruling No. 25 C 133/10-229, 5 December 2011.

136 In Slovak legislation the term “children from socially disadvantaged environment” is *de facto* used as a proxy category for Romani children. The National Institute for Education defines “socially disadvantaged environment” as an: “environment, which due to its social and language conditions insufficiently stimulates development of mental, will-related and emotional characteristics of a person, does not support his effective socialization and does not provide enough adequate stimuli for personal development. It causes socio-cultural deprivation, deforms intellectual, moral and emotional development of a person and from the aspect of education we consider this person as a person with special educational needs.” The Institute further stipulates that for a pupil such environment is a family “to which support in material need is provided and the income of the family is at a maximum of the ‘living minimum’ [defined by law]; in which at least one of the parents or a person appointed as a caretaker, belongs to the group of disadvantaged job-seekers; in which the highest finished education of parents is primary or at least one of the parents does not have the primary education finished; or which has non-standard housing and hygienic conditions (e.g. the pupil does not have a place to learn, does not have his/her own bed, the household is without electricity, etc.).” See: <http://www.statpedu.sk/sk/Statny-vzdelavaci-programme/Statny-vzdelavaci-programme-pre-2-stupen-zakladnych-skol-ISCED-2/Vychova-a-vzdelavanie-ziakov-so-SVVP/Vzdelavanie-ziakov-zo-socialne-znevychodneného-prostredia.alej>.

137 This newly established NGO is led by a Romani expert on education, Vlado Rafael, who, as an employee of the Open Society Foundation in Slovakia, initiated a pioneering study on desegregation in Slovakia. Vlado Rafael (ed.) *Odpovede na otázky (de)segregácie rómskych žiakov vo vzdelávacom systéme na Slovensku*, (Bratislava: OSF, 2011). Rafael’s NGO has been working with, among others, Alica Petrásová from Prešov University who is a prominent expert on education.

138 The Schooling Act, *supra* note 28, para 3(d).

## State Efforts to Tackle Segregation

The ME has engaged in several activities that somewhat address segregation issues. In its educational and organisational manual for 2012/2013, the Ministry has recommended that schools ensure implementation of anti-discrimination legislation. Schools should aim at elimination of “undesirable practices, such as spatial, organisational, physical and symbolic exclusion and separation of Romani children because of their ethnic origin (often in combination with social disadvantage)”<sup>139</sup> from their non-Romani peers. Furthermore, the ME has requested its State inspection agencies to focus on practices of segregation in schooling.<sup>140</sup> Currently, the inspection processes are underway and results should be available by the end of the school year (i.e. June 2013). However, given the previous experience with State inspection reports suffering from overt formalism we are sceptical about the impact of this initiative.

Likely as a response to the first instance ruling in the Šarišské Michaľany case, in February 2012 the ME issued a call for school project proposals that would support a positive atmosphere in multicultural classes. Projects were intended for schools in partnerships with NGOs. The call’s priority area included activities aiming at elimination of undesirable practices such as spatial, organisational or symbolic exclusion of Romani children. The overall budget allocated for this initiative amounted only to 60,000 EUR. The maximum contribution for one project was set merely at 3,000 EUR. The ME supported a total of 23 projects. There are no available reviews of the project activities that would allow us to assess the impact of this initiative. Given the limited financial resources allocated for activities, we do not anticipate major progress in this issue.

## Inclusive Education

The concept of inclusive education has over the last few years become a rather vividly discussed topic in Slovakia. The NRIS calls for a complex reform of the educational system based on inclusive education, underlining as a priority target group Romani communities.<sup>141</sup> Conclusions of the qualitative study of CVEK called *School for All?*<sup>142</sup> caution that the inclusive path may be too demanding for Slovakia’s rigid educational system. CVEK’s study based on data collected in 2010/2011 focused on the potential of primary schools to promote the inclusion of Romani children through selected policy tools: zero classes, teaching assistants, multicultural education, the use of Romani language, individual integration and financial assistance.

The authors of the study confirmed their hypothesis that unless there is an overarching change in the educational content and methods, these tools have very limited, if any, potential to advance inclusion. Educational process as well as implementation of these policy tools is strongly shaped by the overall dominant paradigm derived from a model called “problem is within the child”.<sup>143</sup> Instead of seeking alternative methods of education that would support capacities of each child, the educational scheme seeks to “adapt” children into the system that remains biased towards them. While most children are losing under this scenario, Romani children, particularly those from poor families, are the ones to suffer most substantially due to a combination of factors, including their social disadvantage, bias and often also their mother tongue.

Schools aim to “prepare” or indeed adapt Romani children most intensely through zero or preparatory classes. The study found that zero classes not only fail to promote inclusion, but may even have stigmatising effects on Romani children constructing them as backward and primitive due to their presumed deficiencies in Slovak language and in hygienic routines. Another qualitative study commissioned by OSF authored by Huttová et al. in 2012 arrived at the same conclusions. Zero classes’ positive effect is merely short-term, reducing chances that a child will need to repeat the first grade. Zero class has no impact on Romani children’s repeating higher grades or improving their educational outcomes. The most recent

139 *Pedagogicko organizačné pokyny na školský rok 2012/2013* (Bratislava: Ministerstvo školstva, 2012).

140 Information obtained from the State School Inspection on 13 December 2012.

141 *NRIS*, supra note 5, 28.

142 *CVEK study*, supra note 23.

143 For similar conclusions, see: Jana Huttová et al.: *Segregácia alebo inklúzia Rómov vo vzdelávaní: Voľba pre školy?* (Bratislava: Open Society Foundation, 2012).

study on the topic, *Zero grade and education of Roma pupils* (2013) commissioned by the Roma Education Fund, points out that the ethnically homogeneous class collectives of zero grades often remain unchanged in upper grades and separation deepens.<sup>144</sup> All above-mentioned studies confirmed earlier suspicions that zero classes in practice support segregation.<sup>145</sup>

As the CVEK's study argues, the dominant paradigm informs also the role of a teacher assistant that, unlike zero class could at least in theory promote inclusion. Studied schools viewed assistants as an aid in ensuring their smooth operation, guarding Romani children or serving as interpreters between children and teachers. The schools did not recognise them as a tool that would provide assistance to Romani children. The study furthermore found serious deficiencies in the implementation of multicultural education. Multicultural education remains misunderstood in practice as it often builds on and strengthens "positive stereotypes" about Roma associated with romantic construction of musicians and dancers. Moreover, teaching multicultural education in a segregated setting is deeply troubling.

### *Case Study – Individual Integration*

The policy of individual or school integration has been in place for a couple of decades. The current legislation defines it as the integration of children with "special education needs" into regular schools.<sup>146</sup> The policy was not openly intended to address the problem of segregation of Roma children through special schooling. However, State authorities tend to include this policy as one the measure addressing the issue. Individual integration means that children with special needs, i.e. those diagnosed with light mental, developmental or learning disorder study with their peers following their own individual plan. The school should prepare the individual plan so as to reflect the needs and capacities of each individually integrated child. The school receives 2.5 times more subsidy per individually integrated child than in the case of "healthy" children without special educational needs. The number of individually integrated children has been on rise. Since 1996 their number has increased from 7,000 to 25,000 in 2010. This growth corresponds to a rising number of children annually diagnosed with some type of learning disorder. The number of individually integrated children that are diagnosed with a light mental disorder remains steady, amounting to 3,000-4,000 per year.<sup>147</sup>

Individual integration does have some potential to include Romani children diagnosed with a light mental disorder into mainstream education. However, the CVEK study and our field work for this civil society monitoring report point to obstacles in the facilitation of inclusion. First, individually integrated children with a light mental disorder in practice often follow a special school curriculum. Consequently, even after completing regular school, they are perceived as graduates from a special school. A slightly different scenario is followed in the case of children with learning disorders that follow an adjusted regular curriculum. In both cases, however, teachers in crowded classes do not have the capacity to provide such children with a truly individual education reflecting their needs and developing their potential. Our discussions with teachers in selected localities revealed that they view them as someone who "slows down" what they view as 'normal' children. The individual plan is based on decreasing educational standards, not on adjusting it to specific capacities and potential of the child. Schools fail to sufficiently utilise the professional aid of psychologists and special teachers. Moreover, individual integration poses an undue administrative burden of already overloaded teaching personnel. Children thus often sit in the back of the classroom and their presence is merely "tolerated". They are certainly not included as equally valuable members of the school community. Moreover, in one the localities that we visited, Romani children that were not able to follow the regular curriculum were simply placed in a special school. Teachers did not consider individual integration as this appeared to be the more difficult alternative. Interestingly, in another school (in the same region) the principal sought to individually integrate all children diagnosed with light mental deficiencies instead of simply placing them in a special school. The school has become a show case of inclusive education in Slovakia.

144 Vladimír Klein et al., *Zero Grade and Education of Roma Pupils* (Roma Education Fund: Spektrum Východ, 2012). Available at: [http://www.romaeducationfund.hu/sites/default/files/publications/zero\\_grade\\_slovakia\\_research\\_study\\_final.pdf](http://www.romaeducationfund.hu/sites/default/files/publications/zero_grade_slovakia_research_study_final.pdf).

145 *Ibid.*, 69.

146 The *Schooling Act*, *supra* note 28, para 2s.

147 CVEK study, *supra* note 23, 61.

Overall, however, this policy may at best provide integration, but falls short of inclusion. If the educational system as such does not change, there is simply no room for creating a space for inclusion. Teachers were simply explaining that they divide children into more and less clever ones and treat them as such. Romani children are considered by virtue of their ethnicity as less skilled and indeed less valuable ones.<sup>148</sup> As one teacher noted “We have here only seven white children, the rest are these ones.”<sup>149</sup>

Huttová’s study also confirmed that these policies that Slovakia displays as their inclusion measures are not sufficient to promote inclusion, and fail to prevent segregation practices, including the white flight of non-Romani students from assessed schools.<sup>150</sup>

With respect to the idea of inclusive education the ME has been rather ambiguous. As mentioned above, it devoted small grants to support projects promoting inclusion. At the same time, the Minister and the Prime Minister advocated the idea of boarding schools for Romani children.<sup>151</sup> Both the Minister and the Prime Minister, in our view, understand that such proposal is not only unacceptable from a human rights perspective, but also too expensive to implement. Yet, their open and shameless support of the idea indicates little understanding of the need to support inclusive education.

As we explain in the section on anti-discrimination policies above, the most active institution in the area of inclusive education was the former office of DPHR. Within the Human Rights Council the DPHR Office established a working group specifically focused on inclusive education. The group met twice in 2011 and once in 2012 and managed to issue a set of detailed recommendations suggesting steps to implement the concept in Slovakia. It also prompted the Government to request membership in the European Agency for Development of Special Needs Education. The early elections in 2012 put further work of this group on hold.

### *Nation Wide Project Training Teachers*

The major State initiative that seeks to cover several areas relating to inclusion of Romani children in education is a nation-wide project Inclusion of Romani Communities through Education of Teachers co-financed by the ESF in OP Education. Its overall budget amounts to 25,000,000 EUR and should run for 40 months from October 2011 to 31 January 2015.<sup>152</sup>

The national project targets 200 schools in which the share of children from SDE is at least 20% of the overall number of pupils. The project includes schools that are attended by 45,084 pupils with approximately 22,000 originating from SDE. The core of the project is focused on training the teaching staff and foresees the preparation of 12 programmes of continual education for 4,200 teachers and teaching professionals. Project activities cover preparation of 40 new textbooks. The project also finances 400 teaching assistant positions for the duration of two years. An important, and much discussed, segment of this programme is the day-long education system for children from SDE.

Teacher’s trainings cover themes that are highly relevant, including inclusive and multicultural education to be commenced in spring 2013. According to our information from the Methodical Pedagogical Centre in Prešov (MEC), the central co-ordinator of the project, the implementation phase is encountering difficulties and delays in schedule. At this stage, there are no available evaluation reports that would allow us to assess the impact of the project in increasing the quality of education and promoting inclusive education. However, we are concerned that the idea of the day-long education for Romani children has very limited potential to advance inclusion as it heavily departs from the dominant paradigm “the problem is within the child”. Moreover, it is worth noting that the project co-ordinators urged the

148 CVEK study, *supra* note 23, 61–66. Also interviews with teachers in selected localities undertaken for the purposes of the civil society monitoring report.

149 Interview with a teacher at a primary school in eastern Slovakia.

150 Huttová *et al*, *supra* note 143, 22 and 65.

151 Both the current Prime Minister Robert Fico and the Education Minister made such proposals repeatedly. See for example TASR, 13 May 2012, available at: <http://www.sme.sk/c/6374074/internatne-skoly-chce-caplovic-len-za-europske-peniaze.html#ix-zz2NPTec06J>; and 19 February 2013, available at: <http://www.tyzden.sk/reportaz/fico-romovia-potrebuju-extremne-riesenia.html>.

152 Information about the project is available at: <http://web.eduk.sk/>.

schools to fill the positions of teaching assistants with Romani individuals. Yet, this has been accomplished in approximately 50 instances out of all 400 available positions.

Independently of this project, MEC offers several accredited courses focused on the work with Romani children, including human rights in educational process, multicultural education in the first four grades, prevention and addressing of bullying in primary schools, gender equality and Romani language in education.

### *Teacher Assistants*

The ME has furthermore aimed to fulfil its commitments stemming from the Revised Action Plan through preparation of Professional Standards for a Teacher Assistant and Teacher Specialist for the Education of Children from Socially Disadvantaged Environments. The standards, completed in early 2012, should be tested as pilots at 8 primary schools. Furthermore, the ME is planning to organise conferences and workshops in 2014 to discuss the standards and their introduction into the Official Catalogue of Professional Standards for schools.

### *The Use of Romani Language*

According to the UNDP survey, for the majority of Romani population in Slovakia Romani is their mother tongue (54.7%) while 33.2% of the Roma surveyed claimed Slovak to be their native language and 12% stated Hungarian. Romani native speakers are most prevalent among those living in segregated communities (74%) and the least frequent among those living as dispersed (29.9%). There has been no changes in the share of Romani native speakers in comparison to data sampling in 2005. A slight shift occurred from Slovak to Hungarian native speakers. In segregated communities the portion of Hungarian speakers increased from 8.15% to 11.2%.<sup>153</sup> Since more than 40% of Roma in Slovakia (according to the same data) belong to the age group below 15 years, we can estimate that 18-26% of children at primary schools are of Romani origin.<sup>154</sup> For approximately half of them Romani is their native language.

The UNDP data suggests that the State should take seriously the idea of Romani as a language of instruction. Currently, there is no primary school that would offer education in the Romani language although there are several private high schools educating in Romani. According to the CVEK study mentioned above, (not only) in the school setting the Romani language is constructed as one of the symbols associated with "Romani backwardness". The Romani language is predominantly viewed as a barrier on the part of Romani children that should be addressed by a Zero Class.<sup>155</sup> In fact, data show that having Romani as mother tongue is a predictor of a higher chance of drop-out.<sup>156</sup> Teachers often blame the parents for communicating with their children in Romani rather than in Slovak at home.<sup>157</sup> At the same time, teachers are not trained to educate Slovak as a foreign language and have no teaching aids to provide such education. The Romani language is certainly not viewed as equal to the Slovak language, but rather as an informal tool to teach the children Slovak. Teachers who are of Romani origin or, more likely, learned Romani often use the language informally to strengthen their authority. Some use it to build closer relations with the children. Others praised it as a tool for disciplining both children and their parents.<sup>158</sup>

The Revised Action Plan does include measures aiming to ensure the right to education in mother tongue and support of Romani identity. To this end, the State committed to develop a project of educating in Romani language and a school curriculum in Romani, including textbooks and teaching aids in Romani. Furthermore, the State pledged to support publications on Romani history, language, and culture ensuring education of teachers and students enrolled in Romani language pedagogy.

<sup>153</sup> UNDP Survey 2012, *supra* note 110, 41-42.

<sup>154</sup> Based Romani population estimates ranging between 320,000 and 450,000.

<sup>155</sup> CVEK study, *supra* note 23, 48-50.

<sup>156</sup> Romani mother tongue increases drop-out probability by 4 percentage points. UNDP Survey 2012, *supra* note 110.

<sup>157</sup> CVEK study, *supra* note 23, 50.

<sup>158</sup> *Ibid.*, 51.

According to available information, the curriculum board at the ME approved standards for education in Romani for degrees ISCED 1-3 in 2011. In the upcoming year, the ME is planning to implement a project of bilingual education for Romani children to be funded mostly through EEA Grant Schemes in the programming period 2009-2014. The project entitled Education of Roma and for Roma should be implemented in partnership with the State Pedagogical Institute and the Romani Studies Department at the University of Constantine the Philosopher in Nitra.<sup>159</sup> At the end of 2012, the ME issued a public procurement call for textbooks and teaching aids for education in Romani.

## Discrimination in Education

In addition to activities of the State agencies mentioned earlier in this section and in the section on anti-discrimination, a notable initiative has been undertaken by the Office of the Public Defender of Rights (OPDR). OPDR has set as one of her priorities from 2013 the rights of Romani children to equal access to education. She will focus particularly on their disproportionate placement in special school. With the expert guarantee of CVEK, OPDR's employees are planning several field trips after which they will prepare a legal assessment of the processes leading to placement of Romani children into this separate educational scheme. The OPDR is also preparing in-depth evaluation of the child diagnostics process.

## Segregation of Romani Children In Special School

### *Data on Segregation*

In 2009, the quantitative study entitled *School as a Ghetto* prepared by the Roma Education Fund (REF) and CVEK revealed the share of Romani children in special schools to be 60% of the overall number of children enrolled. The portion of Romani children in special classes for mentally-challenged pupils within mainstream schools reaches almost 85%.<sup>160</sup> According to the UNDP survey from 2010 almost 15% of surveyed Romani children older than 6 years of age were attending special schools and almost 4% special classes.<sup>161</sup> The regional survey data of the UNDP/World Bank/Fundamental Rights Agency of 2011 indicate the share of Romani children attending special schools at 11%.<sup>162</sup> The difference between 2010 and 2011 unfortunately cannot be ascribed to any improvements since the difference between data gathering was only approximately six months. These changes can be more likely ascribed to differences in sampling and in the methodologies. However, given the methodological complexity of these types of surveys, data are surprisingly close and likely reliable.

Not surprisingly, the UNDP survey data furthermore confirmed that the likelihood that a Romani child will attend a special school or a special class correlates with the type of settlement in which her or his family lives. While the share of Romani children from segregated settings attending special schools or classes reaches more than 23%, in case of a child from a separated community it is at 19.3% and in the case of dispersed families it is 12.1%.<sup>163</sup> The highest percentage of Romani parents (26.1%) specified their choice of special school arguing that the curriculum is easier for their child. Up to 24.5% justified the placement with their child's mental capabilities and 12% of Romani parents placed their children in special schools or classes following a recommendation from professional authorities.<sup>164</sup>

159 Information provided by the ME in February 2013.

160 Eben Friedman et al., *School as a Ghetto. Systemic Overrepresentation of Roma in Special Education in Slovakia* (Budapest: Roma Education Fund, 2009).

161 See also charter on the ethnic composition of classes in section on segregation.

162 UNDP/WB/EC, *supra* note 110, 68.

163 UNDP Survey 2012, *supra* note 110, 102.

164 *Ibid.*

Moreover, the number of children enrolled in special schooling in absolute numbers has been increasing since 1989. In 1989, in total 31,348 children attended special schools. In 1997, probably due in part to demographic decrease, the number of children enrolled into these institutions dropped to 29,222. Over the last several years, there has been a steady increase. In 2007 it was 34,351 children, in 2008 it was 35,106 children, in 2009 it was 35,449 children and in 2010 it was 36,006 children. The number of children enrolled in primary school is, however, decreasing:<sup>165</sup>

<b>Number of children enrolled in primary schools (State, private, church together)</b>	
<b>2003</b>	579,011
<b>2006</b>	508,130
<b>2009</b>	448,371
<b>2012</b>	430,130

Source: Institute for Information and Prognosis in Education, Statistical Yearbook, 2003-2012.  
Available at: <http://www.uips.sk/prehlady-skol/statisticka-rocenka-zakladne-skoly>

### *State Measures Addressing Segregation*

Both the NRIS and Revised Action Plan include several measures aimed at addressing the issue of segregation of Romani children through special schooling. What is notable is that the NRIS, unlike the Revised Action Plan, envisages the elimination of “variant A” special schooling intended for children with light mental deficiencies given that the majority of Romani children are placed into this track. The objective is to enrol children with light mental deficiencies in regular schools.<sup>166</sup> The Government is, however, committed to subscribe only to the tasks included in the Revised Action Plan. Indeed, besides several public statements by the GPRC, there is no serious discussion about implementation of this measure among State agencies. The introduction of this measure certainly requires a good communication strategy to prevent resentment among special school teachers and also regular schools that may feel threatened by an influx of presumably disadvantaged children. Yet, according to our discussions with primary school teachers, they believe that the inclusion of children from “variant A” into regular schooling is viable as long as they receive needed support from assistants and other educational personnel.

During the monitored period, relevant State agencies adopted several measures to tackle the disproportionate placement of Romani children in special education. We do not find them sufficient. For instance, the ME in their educational and organisational guidelines for 2012/1013 recommended that the schools repeat diagnostics for all children from an SDE after the first grade of their studies. In our field work we encountered that re-diagnosis is simply not performed or delayed since there is not enough psychologists. In addition, the guidelines are merely of an advisory nature. The extent to which they are followed in practice is questionable. One of the interviewed psychologists working on re-diagnostics from eastern Slovakia admitted that she has “not encountered a single case when a special school would return its child to a regular class.”<sup>167</sup>

The ME has furthermore recommended additional re-diagnostics for children enrolled in higher grades. However, older children are not referred to re-diagnostics routinely but only upon request made by a teacher, a teacher for children with special needs, the school inspection or a parent (or another legal guardian of the child). In case there is suspicion of discriminatory treatment, the State inspection should order an additional examination by an independent psychologist. We have been unable to confirm whether the State inspection has initiated any such procedure during the current school year. According to the State inspection reports there has not been any such case recorded since 2009.

<sup>165</sup> Data of SLOVSTAT. Reproduced in *ibid.*, 109.

<sup>166</sup> NRIS, *supra* note 5, 29.

<sup>167</sup> Interview with a psychologist: eastern Slovakia.



The ME has not adopted any specific measures ensuring that Romani parents can provide their fully informed consent with the placement of their child in special school. The ME relies merely on schools and other educational institutions to routinely provide information for consent to parents. We believe that this area merits significantly more targeted activity as parents are often exposed to manipulative techniques by schools to avoid an influx of Romani children into regular schools.<sup>168</sup> As one school principal observed, “there is targeted recruitment of children from settlements by special elementary schools during the summer. The school personnel explicitly convince parents to place their children into their school.”<sup>169</sup> Also, our interviewed parents confirmed the lack of full information about special schooling suggesting that “special” means better when their children receive better grades.<sup>170</sup> Furthermore, interviewed parents were not able to pinpoint the diagnosed deficiency of their child that caused the transfer into special school. They were also unaware of the fact that their child could not continue studying at a regular high school.

At this point it is worth noting that while providing education of low quality, the per-pupil funding in special education tends to be considerably higher in comparison to mainstream education. In its 2011 Country Assessment of Slovakia, the Roma Education Fund emphasised, quoting the legislation, that average per-pupil funding for special primary school was approximately 1.6 times higher than what was allocated to mainstream schools. In addition, for a child with special needs individually integrated into a mainstream class the per-pupil funding is 2.5 times higher than the standard norm. Although special educational needs represent increased costs, which need to be covered, REF warns that the Slovak normative funding system may be creating incentives for recruiting Romani children into special education regardless of their actual needs.<sup>171</sup>

The Research Institute for Child Psychology and Psychopathology has not completed the anticipated new testing kits for assessing maturity of children from SDE. The task planned for 2012 should eliminate discriminatory and unfair assessment of Romani children. The Institute has informed us that the test has not been prepared yet and its completion is not anticipated in the near future.

While the interviewed psychologists confirmed that existing testing tools used for diagnostics of children are appropriate, some teachers believed that they somewhat ignore specifics or conditions of children from MRCs.

In any event, interviewed psychologists have been using standard Stanford Binet, Raven’s and Wechsler’s tests to measure IQ – all are considered outdated and biased towards children from MRCs. Psychologists did not use/have access to what is currently believed to be the most suitable test, RR screening. They have furthermore confirmed that Romani children do not understand tests in Slovak.

Interestingly, while language barriers have been often used as the reason why Romani children fail in mainstream Slovak education, the migration of Slovak Roma to the UK shows that with adequate support Romani children can attend schools in foreign language and adapt. The REF study “From Segregation to Inclusion – Roma Pupils in the United Kingdom” is the first of its kind, exploring the experience of Slovak and Czech Romani pupils who experienced primary and/or secondary mainstream education in the UK, while previously having attended segregated and special schools in their country of origin.<sup>172</sup>

Overall, it remains troubling that State agencies are reluctant to hear opinions questioning the idea of children being tested before entering into elementary school at all.

168 Friedman et al. supra note 160, 75-79.

169 Interview with the principal of an elementary school: eastern Slovakia.

170 Interview with the mother of six children: eastern Slovakia.

171 Roma Education Fund, *Country Assessment: Slovakia (2011)*. Available at: [http://www.romaeducationfund.hu/sites/default/files/publications/ref\\_ca\\_2011\\_sk\\_english\\_screen.pdf](http://www.romaeducationfund.hu/sites/default/files/publications/ref_ca_2011_sk_english_screen.pdf).

172 *From Segregation to Inclusion: Roma Pupils in the United Kingdom, A Pilot Research Project*, (Budapest: REF, 2011). Available at: [http://www.romaeducationfund.hu/sites/default/files/publications/ref\\_uk\\_report\\_nov2011\\_screen\\_singlepages.pdf](http://www.romaeducationfund.hu/sites/default/files/publications/ref_uk_report_nov2011_screen_singlepages.pdf).

## Completion of Compulsory Education, Enrolment and Drop-out Rates

### Available Data

UNDP data captured that the issue of unfinished compulsory education among Roma remains of concern. The rate of Roma with unfinished primary education is at 18.4% (with the highest share for segregated communities at 23.3%, separated 17.3% and dispersed at 14.7%). Among these early leavers, Roma are most likely to leave the school in the sixth grade and seventh grade (31%), followed by the fifth grade (17.4%), eighth grade (11.2%), grades 1-4 (7.1%) and ninth grade (2.4%).<sup>173</sup> There was also a gender disparity – girls are more likely than boys to leave education before completing secondary education (the difference is at 9 percentage points).<sup>174</sup> Moreover, a significantly higher share of Romani women indicated family reasons as the reason for early school leaving (33.3%) in comparison to men (24.2%).<sup>175</sup>

The National Project focused on increasing the capacities of teachers, described above,<sup>176</sup> includes an activity leading to the preparation of school curriculum to allow completion of primary education for children from SDE and MRCs. This is the first time that the State aims to address the problem in a systematic manner. Until recently, pursuant to Paragraph 30 Section 5 of the Schooling Act<sup>177</sup> primary schools could organise long distance learning for those interested in completing their primary education (for those who completed at least the first four grades of their primary studies). This possibility has not been much utilised and the completion of compulsory education remains an administratively challenging task. The newly developed curriculum should allow individuals from marginalised communities who completed at least the sixth grade to finish the elementary school by taking a one-year course. The course programme integrates the curricula from grades seven to nine. After completion, the graduate should be able to enrol in secondary school.<sup>178</sup> At this stage, we have been unable to assess the implementation of this task. Also, it remains unclear how people without completing the sixth grade can finalise their compulsory education.

In the monitoring period, the ME focused primarily on the issue of absenteeism and prevention of Romani pupils having to repeat grades. In 2012, the ME prepared a document mapping absenteeism among children from SDE using the following data.

The UNDP household survey of 2012 also confirms deficiencies in the education of Romani children. UNDP data captured Romani pupils of a range of ages in a single class indicating repeated grades. While in the general population, the age distribution was about two years (three years at most), in the case of Romani pupils, it was up to eight years. The largest age distribution was among Romani children in the fifth grade, having children from the age of 9 to 16 attending the same class. UNDP data established the overall higher tendency to repeat the grade. The age shift was present also in lower grades resulting from postponed entries into schools for Romani children (the maximum is of two years). Already in the first grade, there was a broad structure of Romani children from age 6-10 years. This is a salient difference in comparison to the data representing the general population whose age structure in the first grade included exclusively children of 6 or 7 years of age.<sup>179</sup> This picture complements UNDP/WB/EC data suggesting that ethnicity and absence of pre-school education are among the strongest predictors for drop-out.<sup>180</sup>

173 UNDP Survey 2012, *supra* note 110, 90.

174 *Ibid.*, 89.

175 *Ibid.*, 94.

176 See pp. 47-48 above.

177 *The Schooling Act*, *supra* note 28.

178 *Pedagogický model školy s celodenným výchovným systémom* (Prešov: Metodicko-pedagogické centrum, 2011), 64. Available at: <http://web.eduk.sk/stahovanie/CVS0309.pdf>.



179 UNDP Survey 2012, *supra* note 110, 105.

180 UNDP/WB/EC Survey 2011, *supra* note 110, 76.

The share of absentee classes by children from SDE on the overall number of absentee classes by regions:

Region	2006	2007	2008	2009	2010	2010	Average
Bratislava	2.7%	3.1%	2.7%	1.9%	2.1%	2.1%	2.4%
Trnava	6.3%	6.4%	5.5%	5.2%	5.9%	5.9%	5.9%
Trenčín	3.3%	3.7%	2.5%	3.1%	4.1%	4.1%	3.4%
Nitra	10.2%	11.3%	11.8%	12.4%	14.0%	14.0%	12.2%
Žilina	4.9%	5.7%	4.3%	4.8%	5.6%	5.6%	5.2%
Banská Bystrica	21.9%	22.8%	23.1%	24.4%	27.6%	27.6%	24.9%
Prešov	23.5%	26.5%	28.0%	26.6%	28.7%	28.7%	27.5%
Košický kraj	29.1%	31.4%	31.6%	31.9%	33.7%	33.7%	32.1%
SR	15.1%	16.8%	17.0%	17.2%	18.6%	18.6%	17.4%

Source: Institute for School Information and Prognosis

	- low values within a region
	- high values within a region

Data measure the previous year, i.e. in 2010, means school year 2009/2010

The NRIS has the ambition to improve the incentives, school performance and school attendance of Romani children with the goal to ensure completion of compulsory education for all children. The NRIS presupposes, among others, ensuring accessibility of quality educational programmes and increase of inclusiveness of the educational system.<sup>181</sup> However, aside from the National Project with as of yet unclear results, in practice we have not observed any structural changes to ensure such objectives.

The GPRC, in his new “Roma Reform”, has the ambition, among others, to promote measures that would improve school attendance of Romani children and ensure completion of their compulsory education. The reform, however, relies on sanctions to enforce desirable behaviour. According to the reform, social welfare support to parents whose children have a certain number of absentee classes should be restricted. We believe that such approach is not only questionable from a human rights perspective,<sup>182</sup> it is also unclear whether the policy would deliver its objectives. A study on conditional cash transfers from 2009 in Slovakia proved that penalties provide no incentive for improved school attendance or educational results.<sup>183</sup> Such dire economic sanctions are more likely to deepen poverty and social exclusion and to deliver just the opposite of intended outcomes. In reality, populist politicians in Slovakia have been rather intensely abusing the issue of absenteeism among Romani children to gain political support.<sup>184</sup>

Overall, we lack data to assess whether there has been any progress in the monitoring period. However, given that the State has not taken any systemic steps to address the causes of high absenteeism, poor school performance, repeating of grades and high drop-out rates among Romani children, it is safe to say that the status quo is being maintained at best, if progress is not moving backwards.

181 NRIS, *supra* note 5, 29.

182 The Slovak Constitution guarantees a certain minimum social support for those in material need. See Act No.460/1992 Coll. as amended, Article 39(2).

183 See: *Assessing Conditional Cash Transfers as a Tool for Reducing the Gap in Educational Outcomes Between Roma and Non-Roma* (REF: Budapest, 2009).

184 For example, MP Lucia Nicholsonová of the opposition party Freedom and Solidarity, formerly a State secretary of the Ministry of Labour, Social Affairs and Family in charge of the Roma agenda, put forward two proposals. She believed that children from SDE with more than five absentee classes in a given month should lose the financial support for free lunches in the following month. “Nicholsonová navrhuje, aby deti, ktoré nechodia do školy, prišli o obedy”, *TASR*, 12 November 2012. Available at: <http://aktualne.atlas.sk/nicholsonova-navrhuje-aby-deti-ktore-nechodia-do-skoly-prišli-o-obedy/slovensko/skolstvo/>. She also proposed that driving licences should be limited only to those who complete primary education. The proposal was indirectly aimed to “motivate” Romani children. See: <http://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&MasterID=4095>.

## Pre-School Education among Romani Children

### *Data on Pre-School Attendance*

Pre-school education ranks among the most significant predictors of success at school. Attending kindergarten, for example, decreases the probability of drop-outs later in school by 16 percentage points.<sup>185</sup> It also reduces the chances of being placed in special school by seven percentage points.<sup>186</sup>

The pre-school attendance of Romani children remains low in comparison to non-Romani children. According to the 2012 UNDP survey, 53.1% of Romani children at all stages of education attended kindergarten at least in some form (e.g. the last pre-school year). Among the general population, 88% had some experience with kindergarten. Only a minimum number of Romani children attended kindergarten for all three years or more (6%). They were more likely to attend such a facility for only a year or less (35%). In addition according to the 2011 UNDP/World Bank/EC Regional Roma Survey only 11 to 12% of Romani children aged 3 attend kindergartens in Slovakia.<sup>187</sup>

The type of living environment affects the likelihood that the child will benefit from pre-schooling. According to the 2012 UNDP survey, out of 53.1% of Romani children attending kindergarten, 26.7% lived in an integrated environment whereas 13% were from segregated communities.<sup>188</sup> Data comparisons also point to a decrease in pre-school education of children from segregated communities by nearly 10 percentage points. The data is based on comparison of pre-school attendance between a group of Romani children up to 10 years of age and a group of the age of 10 and above.<sup>189</sup> By contrast, there has been an increase in the number of children enrolled in kindergartens from separated and integrated communities. There were no changes in the case of children from the general population.<sup>190</sup>

### *State Measures and Plans*

The NRIS aims to increase pre-school attendance among children from SDE/MRC and calls for increasing the capacities of kindergartens in regions with a high Romani population. Indeed, State officials tend to agree that any palpable improvement of Romani educational outcomes is contingent on providing quality pre-school education. Clearly, this statement has become a truism over the last two decades without matching it to specific measures and financial investment. During the monitoring period we did not observe any systemic steps to ensure access to quality pre-school education for children from MRCs, including no steps towards increasing financial support for municipalities to build new kindergartens or increase the capacities of the existing ones.

According to the information obtained from the ME and the GPRC, activities focused on improving accessibility of pre-schooling for Romani children are envisioned for 2014, depending on the accessibility of Structural Funds for the upcoming programming period. Furthermore, the co-ordinating body Methodical Pedagogical Centre (MPC) in Prešov is preparing a variant of the existing National Project aimed at increasing the capacities of kindergarten teachers hopefully to be launched in the upcoming months with the total budget of 7.4 million EUR. The purpose of the project is to create an inclusive curriculum for the pre-school education.<sup>191</sup>

Following the success of A Good Start Project (AGS) supported by the European Commission and implemented by the Roma Education Fund in co-operation with other partners<sup>192</sup> in number of countries including Slovakia, the GPRC adopted its methodology and started its implementation on a wider scale. While the measure is still not considered systemic, in co-operation with REF, the World Bank, the Slovak

185 UNDP/WB/EC Survey 2011, *supra* note 110, 76.

186 *Ibid.*, 80.

187 UNDP/WB/EC Survey 2011, *supra* note 110.

188 UNDP Survey 2012, *supra* note 110, 102-103.

189 *Ibid.*, 102.

190 *Ibid.*, 103.

191 Information available at: <http://old.minedu.sk/index.php?lang=sk&rootId=10640>.

192 World Bank, UNDP, International Step by Step Foundation (ISSA), Fundación Secretariado Gitano (FSG) and Slovak Governance Institute (SGI).

Governance Institute and an international group of experts on impact assessment, the GPRC will implement a two-year project targeting Romani children of pre-school age and their parents. The project should be based on the Your Tale programme and the Home School Liaison Programme, community work and home visits. After implementation of these supporting activities, the project (supported by the EC Progress programme) will continue with its impact evaluation phase which should obtain solid data on the effectiveness and efficiency of supporting measures as a tool to be scaled up and introduced into the system. We were unable to confirm the anticipated start date of the project.

It is worth noting that the “Roma Reform” envisions compulsory pre-school attendance for children from “risk-families”. The assessment of whether a family is in fact a risk-family should be based on the following criteria: Parents’ education level, parents’ income, parents’ degree of criminality, degree of long-term unemployment of parents, size of the family’s debts, school absenteeism of children and the likelihood of not speaking the language instruction (Slovak) before enrolling in the first grade.<sup>193</sup> We view these conditions as highly problematic, likely in violation of human rights. Such a scrutiny of Romani families is an unacceptable interference in their private life. The recent concluding observations of the Committee on the Elimination of All Forms of Racial Discrimination cautioned that implementation of this measure can lead to discrimination and segregation in violation of the Convention.<sup>194</sup>

In general discussion, numerous experts believe that the State should introduce compulsory pre-school education for all children from the age of three. According to our interviews with mayors in localities with high proportion of Roma, we believe that this commitment requires significant financial investments as municipalities do not have resources to ensure the required number of places in pre-school. More fundamentally, however, we are not convinced that compulsory pre-school attendance from the age of three is a desirable approach. It may merit an undue intrusion into private and family life. Moreover, among Romani parents the strongest reasons for not placing children into kindergartens (from the age of three to six) was their unwillingness to let their children out of sight believing they were too young to attend nursery, especially in the case of children between the age of three to four. Financial reasons ranked as only the third most important reason for not enrolling their children in pre-school education. However, among the parents from segregated communities, financial reasons were at the top of the reasons, followed by the perception that children are too young.<sup>195</sup> As our interviews in selected municipalities revealed parents often oppose placing their children in segregated kindergartens “where their children are placed into separate, ugly, small rooms.”<sup>196</sup> In fact, according to our evidence, segregation practices start as early as pre-school, either through creating Roma-only kindergartens or separate classes. Data on the degree of segregation at this educational stage, however, are not recorded, not even in the UNDP surveys.

To conclude, instead of introducing compulsory pre-school education for any population group, whether it is the whole population, children from SDE or children from ‘risk-families’ (both latter ones can be deemed discriminatory), we believe that it is more desirable to ensure accessible quality inclusive nurseries and kindergartens, leaving parents to choose from which age they want to enrol their children into these institutions. We suggest that policy should specifically target geographical areas with a high share of MRCs.

## Vocational Training, Teacher Training and Parental Awareness

The UNDP survey tracking the reasons for not continuing at secondary schools suggests that somewhat negative experience at primary schools may affect further studies of Romani students at secondary schools (no interest in studies 29%, lack of money 24%, help at home 14% and bad grades and results

193 Measure 1.1.1. at Section 3 on Education of the “Roma Reform”. Available at: <http://www.minv.sk/?romskareforma1>.

194 Committee on the Elimination of Racial Discrimination, *Concluding observations of the Committee on the Elimination of Racial Discrimination on the Slovak Republic* (CERD/C/SVK/CO/9-10), 1 March 2013, para 11d. Available at: [http://www2.ohchr.org/english/bodies/cerd/docs/co/CERD-C-SVK-CO-9-10\\_en.pdf](http://www2.ohchr.org/english/bodies/cerd/docs/co/CERD-C-SVK-CO-9-10_en.pdf).

195 UNDP Survey 2012, *supra* note 110, 103.

196 Interview with the mother of a 5-year-old child living in a separated Romani community: eastern Slovakia.

10.6%).<sup>197</sup> Authors of the report concluded that “the high share of responses which saw the reason for a finished low achieved education in their own attitude toward learning at the time and in the bad results at primary schools (a total of 42.8% of Romani women and men with a primary education) could indicate a failure of the system of primary education from the point of views of its ability to inspire Romani children for education, as well as in providing support and help to those children in the interest of better marks at schools.”<sup>198</sup>

### *Vocational Training*

In the reporting period there has been no State programme focused on promoting vocational training targeting Romani graduates from segregated communities. However, some secondary schools have created field offices nearby Romani settlements or recruiting Romani students to fill available places in their classes. The ME issued a call for a project within the Operational Programme Education on 31 October 2012 called Support of Education of Members of MRC through Support of Field Offices of Secondary Schools. The total sum allocated is 7 million EUR.<sup>199</sup> The policy of setting separate schools nearby Romani settlements constitutes a *de facto* extension of segregation practices from primary schools to secondary level and is unacceptable.

### *Teacher's Trainings*

The above-mentioned National Project should deliver increased capacities of teachers. In addition to the information mentioned earlier, there are training modules for teachers focused on the development of communication skills to improve communication with children from MRCs, trainings aimed at co-operation of teachers with families from such communities and at innovative approaches in teaching. Any teacher can benefit from these trainings. At this stage, there are, however, no evaluation reports about the impact of these activities or information about the number of involved teachers.

### *Work with Parents*

The National Project includes a module focused on co-operation with parents aiming to more actively engage them into education of their children. This segment of the project focuses on activities aiming to support parents' co-operation with schools and to increase their interest in their child's school attendance, school results, home preparation, and involvement in after school activities (planned as a portion of a day long education). Parents should be provided with information about the education system. The programme envisaged support for both Romani and non-Romani parents in their volunteer activities at schools. However, according to the available information this module has not been implemented in practice yet.

According to informal sources the plan for this segment of the project was prepared by community workers of a recognised NGO – the Milan Šimečka Foundation. The Foundation should also start developing the content of separate programmes. However, the co-ordinating body (MPC) offered limited resources barely covering travel costs for the required work. The Foundation has been forced to decline further participation in the project. The MPC has recently issued a call seeking lecturers to work with Romani parents. The planned implementation of this project phase is scheduled for March 2013–June 2014. We cannot assess the effectiveness of learning programmes as they are inaccessible. Moreover, it remains unclear whether learning programmes have been prepared at all.

197 UNDP Survey 2012, *supra* note 110, 91.

198 *Ibid.*, 92.

199 Information available at: <http://www.asfeu.sk/operacny-program-vzdelavanie/archiv/vyzvy/opv-20123104-soro/>.

## 4. EMPLOYMENT

The area of employment is marked by serious stagnation. UNDP surveys from 2005 and 2010 indicate no progress or regress in the employment rate of the Romani population. Given the numerous initiatives using mostly Structural Funds this conclusion is not positive.<sup>200</sup>

Chances of finding employment are significantly lower for those living in segregated communities. Within segregated communities, the share of working to unemployed was 11.1% to 88.9%, in the case of separated communities it was 15.3% to 84.7% and in dispersed communities it was 20.3% to 79.7%. There is a vast gap in economic activity between Roma and the geographically close non-Romani population where the ratio of working and unemployed was almost the opposite – 85.9% of working persons to 14.1% of unemployed.<sup>201</sup> Furthermore, gender is a salient source of inequality in the general population and even more so in Romani communities. Romani women are incomparably more often on maternal leave, at home and less likely to work.<sup>202</sup> In the general population, the share of working men was at 54.1% and working women at 36.1%.<sup>203</sup> Among Roma, the share of working women was only at 6.1%.<sup>204</sup> Among Roma men, the share of working was at 13.8%.<sup>205</sup> Moreover, Roma, particularly from segregated and separated communities, are more likely to be engaged in informal, illegal and so-called black work which puts them at higher risk of poor working conditions and exploitation.<sup>206</sup>

### Tailored Job Search Assistance and Active Policies at Labour Market

The capacities of local labour offices – the key State tool to provide assistance in job searching – appear limited particularly in the case of unemployed Roma from segregated communities who are in the greatest need of assistance. The UNDP survey showed that labour offices' performance was assessed rather poorly by Romani job seekers: in particular, unemployed Roma from segregated communities found assistance from labour offices to be not very helpful or not helpful at all (85.6%). They also felt that labour offices did not provide them with information that could help them look for work (91%). A total of 80.8% of such job seekers also found information provided by the labour office useless or totally useless. Job seekers from separated communities had similar experience with labour offices and their assistance (81.5% did not find the assistance helpful, 78.7% did not find information provided by the labour office useful, 82.4% did not find information provided by the labour offices sufficient or did not receive any information).<sup>207</sup>

Labour offices have in their competence organisation of re-qualification courses or training.<sup>208</sup> However, the impact of re-qualification courses on the situation of Roma remains questionable. According to the UNDP survey only 8.5% of Roma have had some experience with such courses (almost 86% of attended courses were organised by labour offices). After the course completion the labour office offered work to

200 UNDP Survey 2012, *supra* note 110, 118.

201 *Ibid.*, 119.

202 *Ibid.*, 122

203 *Ibid.*, 122

204 *Ibid.*, 124

205 *Ibid.*, 122

206 *Ibid.*, 133-134

207 *Ibid.*, 159.

208 Act No.5/2004 Coll. on Employment Services, as amended, para 46.

almost 15% of the Romani course participants (in the case of Roma from segregated communities only 5% of the course graduates were offered jobs). The majority of respondents deemed the courses useless in finding an employment.<sup>209</sup> However, according to the internal review of MLSAF, training and re-qualification courses have a significantly stronger impact among the general population. Approximately 73% of individuals attending training courses within Active Policies on the Labour Market (APLM) found at least one job in the two years following the completion of the intervention.<sup>210</sup>

The NRIS aims to increase employment of MRC's members through Active Policies on the Labour Market.<sup>211</sup> APLM entails various forms of financial contributions: to start a small business; to train low skilled and disadvantaged job seekers; financial assistance for employment of disadvantaged employees (in a social enterprise); assistance to support regional and local employment; contribution to the development of anti-flood protections; contribution to activation works in a form of small municipal works; contribution for volunteer work; financial support for a commute to work and moving for work; assistance in the inclusion of disadvantaged job seekers and assistance in creating new jobs.<sup>212</sup>

Roma are not specifically included in the category of disadvantaged job seekers. Even though the NRIS aims to target MRCs, the legislation remains blind to ethnic sources of inequalities. Instead, the legislation bases its disadvantage assessment on criteria such as long-term unemployment, age (job seekers below the age of 25 and above the age of 50), disability or educational level (unfinished secondary education). We believe that relevant ministries are reluctant to collect data on ethnicity since ethnicity is not listed among the grounds for disadvantage. Data on the impact of the APLM on Romani beneficiaries are not collected either.

The 2013 evaluation by the MLSAF and the Central Office of Labour, Social Affairs and Family studied the impact of APLM policies on employment rates. The study assessed the time period (in months) that participants of APLM programmes participated in the labour market during the two years after the APLM intervention, until 31 December 2009. Roma were not targeted by this study.<sup>213</sup> The study indicates that activation works were the most widely used APLM measure while the least frequent one was contributions to set up sheltered workshops employing people with disabilities.<sup>214</sup> Policies were well targeted with respect to the territorial aspects of unemployment and focused on regions with highest unemployment rate, i.e. Banská Bystrica, Prešov and Košice.<sup>215</sup>

In its Annual Reports on the Social Situation in Slovakia, the MLSAF presents information about the total amount spent on a certain policy, the number of beneficiaries according to the sources of disadvantage and partial information about the geographical distribution of the support. Anecdotal evidence suggests that along with activation works Roma are also relatively frequently hired by municipalities to work on anti-flood protection measures. To illustrate, the majority of contributions were spent in the Prešov region (36.28%) allowing for employment of 10,420 job seekers (for a total sum of almost 31 million EUR).<sup>216</sup> The contribution is for a maximum of six months. According to our experience from several municipalities, such support provides a short-term increase in income for long-term unemployed Roma who otherwise rely on minimum income subsistence benefits. Although the measure does not significantly increase one's chance to find an employment on a formal labour market, interviewed mayors thought this tool to be more effective and meaningful than more prevalent activation works scheme discussed below.

Based on the UNDP survey data we estimate that the APLM (some contributions discussed in greater length below) has had limited impact on Roma employment rates. The MLSAF itself probably recognises

209 UNDP Survey 2012, *supra* note 110, 172-173.

210 Vladimír Bořík and Matúš Caban, *Pilotné hodnotenie dopadov vybraných opatrení aktívnej politiky trhu práce, Pilotné hodnotenie dopadov vybraných opatrení aktívnej politiky trhu práce* [Pilot Evaluation of selected Active Labour Market Policies' Impact] (MPSVR SR, ÚPSVR, 2013), 6. Available at: <http://www.esf.gov.sk/new/index.php?SMC=1&id=2095>.

211 NRIS, *supra* note 5, 2.

212 Act No.5/2004, *supra* note 208, paras 49-53d).

213 Bořík and Caban, *supra* note 210, 4.

214 *Ibid.*, 2.

215 *Ibid.*, 3.

216 *Správa o sociálnej situácii obyvateľstva v Slovenskej republike v roku 2011* (Ministerstvo práce, sociálnych vecí a rodiny, 2012), 43. Available at: <http://www.employment.gov.sk/analyticke-centrum.html#spravy>.



some of programme's deficiencies as it recently proposed an amendment to the related legislation. The MLSAF's aim is to simplify administrative rules for obtaining contributions, to improve regional targeting of State support and to streamline the focus on the most vulnerable groups, i.e. long-term unemployed, youth, employees above the age of 50 and job seekers with none or very low education level. The draft legislation was expected to enter into force as of 1 May 2013.<sup>217</sup>

### *The Use of Structural Funds for Active Policies on the Labour Market*

MRCs have been the subject of one of the horizontal priorities in the use of Structural Funds in the on-going programming period 2007-2013. Hence, a portion of projects and activities that fall within this area should directly target beneficiaries from MRCs through operational programmes, including "Employment and Social Inclusion", which is administered by the Social Development Fund. Available evaluation of numerous trainings and re-qualification programmes funded through the ESF aiming to target job seekers from MRCs reveals their limited impact. A recent UNDP study with a telling title, *Uncertain Impact: Have the Roma in Slovakia Benefited from the European Social Fund?*, employed qualitative analysis focusing on Priority Axis 2 aimed at social inclusion under the Operational Programme "Employment and Social Inclusion"<sup>218</sup> and a qualitative study of implemented projects in the Prešov region.

The study reveals difficulties in ensuring territorial targeting to alleviate regional disparities. Although the largest sums of money were channelled to the three most relevant regions (Prešov, Košice and Banská Bystrica that also has the highest share of MRCs), the largest amounts of funds per capita of the Romani population were channelled to the Trenčín region that has the lowest share of Roma among all eligible regions.<sup>219</sup> In addition, localities in which projects were implemented were on average larger than the municipalities included in the Atlas of Romani Communities of 2004.<sup>220</sup> The authors suggested that mayors in small, poorer municipalities have limited personnel and administrative capacities to administer demanding ESF projects. This reduces chances of vulnerable individuals from these localities to benefit from the fund.<sup>221</sup>

Furthermore, qualitative reviews of implemented ESF projects in the Prešov region indicated that various trainings aiming to spur employment among Roma merely impacted their chance to seek employment in the informal economy rather than on the formal labour market.<sup>222</sup> Rather than learning new skills, re-trained Roma gained cultural capital of trust and social capital of connections which helped them find jobs outside the projects. However, for most of these jobs, they would be paid less than non-Roma and would not have a proper contract.<sup>223</sup> The authors concluded that the long-term impact of these activities on the ability of Roma to find employment in the formal economy was minimal.

The perspective of the final project beneficiaries, the Romani participants, provides valuable insight. They often liked the courses but felt frustrated at not finding the kind of job they had been trained for. One of the respondents trained to breed sheep described his experience: "We liked the training. They came for us every day with a van and took us to the farm where we were trained. They fed us and we learned some new things... but what shall we do after it is finished? If only someone would give us this type of job."<sup>224</sup> Furthermore, numerous courses were not reflective of previous training and possible job prospects such as IT skill trainings and computer literacy training.<sup>225</sup>

A rather striking, but not surprising, outcome of the implemented projects was that the programmes and financial resources offered by ESF reinforced existing power inequalities between Romani and non-Romani

217 Information provided by the MLSAF

218 Specifically Measure 2.2. Creation of equal opportunities in access to the labour market and support for the integration of disadvantaged groups on the labour market, with a specific focus on marginalised Romani communities.

219 Hurrle et al., *supra* note 19, 56.

220 Atlas of Romani Communities, *supra* note 31.

221 Hurrle et al., *supra* note 56, 61-52.

222 *Ibid.*, 74-75.

223 *Ibid.* at 75. Authors of the report, however, have not qualified this statement with specific data.

224 *Ibid.* at 76.

225 *Ibid.* at 76.

municipal leadership, providing extra opportunity to (re)produce divides among “deserving” and “non-deserving” Romani families.<sup>226</sup> Mayors organising these courses often endorse an informal policy of “heavy fist” under which only those willing to work hard (according to the mayor) are allowed to work. Those not meeting the mayor’s arbitrary criteria are simply excluded from the opportunity to part take in any of the job programmes.<sup>227</sup>

The study concludes that ESF-funded projects provided only a very small number of beneficiaries with employment in the formal economy. The majority of respondents assessed the experience as “a waste of time” benefiting only those who organised the courses.<sup>228</sup> Finally, the study found that ethnic discrimination, rather than low qualifications or unwillingness to work is among the key sources of Roma unemployment.<sup>229</sup>

## Public Works Schemes

The activation work scheme is the main initiative and indeed the main parcel of APLM indirectly targeting Roma, introduced in 2004. This policy is discussed as a case study in the box below.

### *Case Study: Activation Works*

The activation works scheme was introduced along with the adoption of an austerity package and welfare reforms in 2004 and replaced the former scheme of public works. The 2004 reforms included the split of the Material Subsistence Allowance (MSA) into two items: a basic one and an activation allowance based on merit, i.e. the degree of individual’s willingness to “activate” himself/herself. The activation works, arguably indirectly devised to “activate” Roma, should ensure that the long-term unemployed maintain their “working habits”.<sup>230</sup>

There are two possibilities to receive this activation allowance. First, activation works can be organised by a municipality or one of its organisations funded by the State budget. Municipalities then conclude an agreement with the labour office and can seek contributions to purchase tools, for instance. Consequently, the municipality concludes a contract with the recipients of MSA. In 2011, there were 21,374 people enrolled in activation works, the majority in regions with a high share of MRCs (5,779 in Banská Bystrica, 5,937 in Prešov and 6,243 in Košice). In 2012, the number dropped to 17,983 people, again mainly in these three regions.<sup>231</sup> Recipients of MSA who perform minor works for the municipality or the region can receive an additional 63.07 EUR per month. Recipients of the activation allowance work a maximum of 20 hours per week for at least six months.

The second alternative is that municipalities enter into contracts with recipients of the MSA to perform minor municipal works.<sup>232</sup> Recipients of the MSA can perform activation works for a minimum of 10 hours and a maximum of 20 hours per week for the duration of six months, with the possibility to extend the period to 12 months at most.<sup>233</sup> Activation works can lead to the improvement of economic, social, cultural environment of the municipality or the protection of the environment.<sup>234</sup> The minimum requirement of 10 hours work was introduced as of January 2013 to prevent “abuse” of the system.<sup>235</sup> However, in this case the performance of activation work is not under the auspices of the labour office. This form is more prevalent.

226 *Ibid.* at 77-78.

227 *Ibid.* at 79.

228 *Ibid.* at 95.

229 *Ibid.* at 95-96.

230 Act on Employment Services, *supra* note 208, para 52, sec 1.

231 Information provided by MLSAF.

232 Act on Municipal Establishment No. 369/1990 Coll., as amended, para 3, sec3; and Act No. 599/2003 on Material Need, as amended, para 12, sec 4c.

233 Act on Employment Services, *supra* note 208, para 52, sec 4.

234 *Ibid.*, para 52, sec 3.

235 Act No. 599/2003 on Material Need., para 12, sec 4c.

In 2011, the number of activation workers dropped from 54,074 in January to 39,462 in April. In 2012, the numbers ranged around 45-40,000 activation workers and in January 2013 it was 48,513 with the highest share in the Prešov region (14,579), Banská Bystrica (14,408) and Košice (13,346). In the remaining regions (with a significantly lower proportion of Roma) the range was from 624 in Trnava to 2,895 in Nitra.<sup>236</sup>

Local labour offices should continue providing job search assistance during the period of activation work. The assistance should include an option of tailored job search strategies. We believe that the activation works programme is deeply problematic. The scheme appears neutral, but in fact indirectly targets poor Roma. According to the 2012 UNDP survey, slightly less than half of the economically-active Romani population had experience with activation works (46.6%). In the case of the geographically-close general population it was merely 5.1%. In comparison to 2005 data reflected a higher representation of Roma in the scheme (in 2005, the proportion was 37.2% to 11.1%).<sup>237</sup>

The scheme is informed by the problematic presumption of Roma being “inactive” as such. The aim is to *de facto* force Roma to “activate” themselves, which often happens using dehumanising practices.<sup>238</sup> In fact, as we have witnessed in numerous localities, Roma labour is used to perform heavy manual work such as digging for 40 to 80 hours a month.<sup>239</sup> The activation allowance is far below the minimum wage. Since the MSA is rather low and its recipients often have no chance of finding employment, activation works provide the only opportunity to increase their family income. A UNDP survey confirms that Romani MSA recipients are interested in these works. Half of the Romani respondents in the survey who did not have an experience with activation programmes indicated that their application was rejected due to an insufficient number of positions.<sup>240</sup>

Based on their social circumstances, Roma are often forced to perform manual jobs in construction or cleaning services that they performed during Communism as a part of the coercive assimilation project. Activation works place them in positions associated with “Gypsy workers” from the Communist era. This time, they work for significantly less than a decent wage. As anthropologist Huub van Baar correctly observes, “due to the fact that the Roma are generally over-represented in activation works, in many cases the programmes that have been initiated to enhance the ‘employability’ and ‘maintenance of the working habits of the job seeker’... actually function as a form of ethnicity-based neo-liberal governmentality that racialises post-communist class formations, naturalizes ethnic differences and maintains, rather than reduces the habits of the majority to sub-humanize or even dehumanize the Roma.”<sup>241</sup>

Our field work in selected municipalities confirmed that the policy does not fulfil its objectives. Interviewed mayors used the scheme to ensure that people dependent on the MSA have some modest additional support. The mayor of a municipality that employs 250-300 people per year on activation works explained: “I fully utilise the policy of activation works so that people have some money, otherwise I would get rid of the system immediately ... I am 100% sure that implementation of activation works does not fulfil its declared objectives, and I think the State is aware of that.”<sup>242</sup> Moreover, the mayor pointed out that the relationship between the municipality and the employed person is not governed by a regular labour contract. That means that people performing activation works do not enjoy regular labour rights, including protection in case of accidents at work place or collective bargaining. Finally, the mayor believed that activation works have in fact a negative impact on employment opportunities in the municipality. The mayor argued that if there were no activation works the municipality would have to create at least four stable positions. He argued that “some believe that activation works reduce municipal costs, I argue that they reduce working opportunities.”<sup>243</sup> Nonetheless, the municipality utilises activation works to recruit workers for its municipal company as we discuss below.

236 Data available at :[http://www.upsvar.sk/statistiky/socialne-veci-statistiky.html?page\\_id=10826](http://www.upsvar.sk/statistiky/socialne-veci-statistiky.html?page_id=10826).

237 *Ibid.*, 167.

238 Huub van Baar, “Socio-Economic Mobility and Neo-Liberal Governmentality in Post-Socialist Europe: Activation and the Dehumanization of the Roma” *Journal of Ethnic and Migration Studies* 1 (2012).

239 According to the UNDP survey data, the majority of Roma worked on activation works between 40-80 hours per month. UNDP Survey 2012, *supra* note 110, 171.

240 *Ibid.*, 166.

241 Van Baar, *supra* note 238, 9.

242 Interview with the mayor of a mid-sized village: eastern Slovakia.

243 *Ibid.*

The practice of activation works differs from one municipality to another. While in some it is used and even abused to perform low paid manual works, in others it is purely formal. The latter scenarios have been exposed in sensationalist reports in the tabloid media<sup>244</sup> furthering the myth of a free-riding minority unwilling to work. For other municipalities, the organisation of activation works presents an administrative and organisational challenge. One of the interviewed mayors in a small village in eastern Slovakia stated: “they clean the whole village on Monday, and what are they supposed to do for the rest of the week?”

The State does not record statistics measuring the impact of the activation works scheme on unemployment rates among the MSA recipients. In 2010, only 14.5% of the Romani respondents in the UNDP survey believed that activation works increased their chance of finding employment.<sup>245</sup> Neither 2006 nor the 2012 UNDP survey recorded any progress in addressing high unemployment rates among Roma despite the introduction of activation works on a rather broad scale in 2004.<sup>246</sup> The 2013 MLSAF's report on the impact of activation works arrives at similarly sceptical conclusions. The report concludes that there is an 80% probability that a person on activation works will not be able to find an employment on the formal labour market. The authors, however, emphasise that the primary purpose of this intervention is to maintain working habits of those excluded from the labour market that face enormous challenges in finding employment.<sup>247</sup> Still, they conclude that this APLM measure is “not effective as it has no impact on decreasing the unemployment rate, or on the placement and support of beneficiaries in an open market”<sup>248</sup> and propose reduction of financial support of this measure.<sup>249</sup>

## First Work Experience Programmes

There has been no new initiative to expand the first work experience programme since the submission of the NRIS. As a component of APLM, the State financially supports school graduates until the age of 26 or any young person before completing formal education or professional training until the age of 26. The State support of graduates lasts from three to six months for the maximum of 20 hours per week.<sup>250</sup> According to information provided by MLSAF, there were 17,295 graduates supported with a total of almost 15 million EUR in 2011. In 2012, the number of supported graduates dropped to 16,442 who were provided with almost 16 million EUR. Evaluation by the Ministry suggests that the practice increases one's chance to find permanent employment on the labour market to some extent. Approximately one third of the participants were able to find employment right after completion of the experience. However, according to the evaluation the contribution is often misused to support the placement of graduates in family businesses where they actually perform no work. Alternatively, graduates are exploited to perform full-time work.<sup>251</sup> There are no studies that would evaluate impact of this policy on Romani graduates.

Since November 2012, the MLSAF has been implementing a new national programme of support of employment of young job seekers below the age of 29 through Operational Programme “Employment and Social Inclusion”, with the total financial allocation of 70 million EUR. The programme has two main projects: 1. Employment in self-governance (20 million EUR) and 2. Supporting the creation of new jobs (50 million EUR). As of 31 January 2013, there were 125 positions contracted predominantly in the Žilina and Prešov regions in relation to the first project. There were 1,511 new positions set up within the second project, mostly in eastern Slovakia, in towns with high number of Roma (Prešov, Stará Ľubovňa, Vranov nad Topľou, Rožňava and Spišská Nová Ves).<sup>252</sup> However, we were unable to obtain any information on the impact of

244 Soňa Pacherová, “Na prácu pre ľudí bez práce niet peniazi”, *Pravda Daily*, 22 October 2012. Available at: [http://spravy.pravda.sk/napracu-pre-ludi-bez-prace-niet-peniazi-dhg/-sk\\_domace.asp?c=A121022\\_083856\\_sk\\_domace\\_p70#ixzz2ADAirKzx](http://spravy.pravda.sk/napracu-pre-ludi-bez-prace-niet-peniazi-dhg/-sk_domace.asp?c=A121022_083856_sk_domace_p70#ixzz2ADAirKzx).

245 UNDP Survey 2012, *supra* note 110 169.

246 *Ibid.*,

247 Bořík and Caban, *supra* note 210, 25.

248 *Ibid.*, 26.

249 *Ibid.*,

250 *Act on Employment Services*, *supra* note 208, para 51, sec 1-4.

251 Bořík and Caban, *supra* note 210, 22.

252 Information provided by MLSAF.

these projects on Romani youth. In both cases, i.e. support of graduates and the national programme, there is not monitoring and evaluation to measure the impact on Roma.

## Measure to Tackle Discrimination on the Labour Market<sup>253</sup>

As mentioned above, APLM aim to overcome the barriers of disadvantaged and vulnerable individuals in accessing the labour market. APLM include various contributions towards wages, social and health insurance of disadvantaged job-seekers, including support of their wages in sheltered workshops and social enterprises. However, ethnicity is not listed among the sources of disadvantage and has not been targeted as such (perhaps indirectly through activation works scheme). With the exception of the above-mentioned UNDP evaluation of the ESF, there are no evaluation studies that would reveal the impact of the APLM on Roma. We are sceptical that existing policies make any significant difference for the disadvantaged job-seekers when accessing the labour market. Furthermore there has been no concrete measure addressing multiple sources of disadvantage experienced by Romani women in accessing the labour market. A new opportunity is offered by the recent amendment of Anti-discrimination Act that allows for the adoption of temporary equalising measures targeting disadvantage based on ethnicity including in combination with other grounds, i.e. gender. This legislation, that is described at greater length in section on anti-discrimination, entered into force on 1 April 2013.

At this point, we would like to draw attention also to one of the critical tools helping Roma from marginalised communities to improve their access to, among others, employment and overcome discrimination – social field work. The Social Development Fund (SDF), using EU Structural Funds, launched a National Project in 2012 covering the work of 350 social field workers in 238 localities.<sup>254</sup> Municipalities fulfilling certain criteria could have applied for the funds and employ social field workers.

While social field work has the potential to tackle some aspects of exclusion experienced by marginalised Romani communities, there is significant room for improvement in the quality and the scope of this policy tool. Our experiences from various localities suggest that social field work is effective only if performed according to working manuals. We have often witnessed that social field workers served as personal assistants to mayors without having any contacts with their clients in settlements, in fact barely visiting the communities. Moreover, our informal interviews with NGOs or religious activists working in the field indicated that the selection process suffers from serious irregularities and non-transparency and it also arguably discriminates against Romani candidates. Even if Romani candidates meet the selection criteria, they stand almost no chance of getting the position. According to our experience from a specific locality, formal controls of SDF focusing on the programme administration failed to detect serious substantive deficiencies in implementation – e.g. a field worker does not work with clients in the MRC at all. Finally, we are concerned that the State relies on the EU funds in financing the field work. EU funds are not only insufficient to cover the needed number of workers, but also are not a sustainable source for funding of this tool that should be implemented as a systemic policy.

## Self-Employment, Entrepreneurship and Micro-Credits

Since the adoption of the Revised Action Plan or the NRIS, there has been no initiative seeking to support self-employment or access to micro-credits. Indeed, micro-credits are only provided by a few NGOs on irregular basis. At this point, it is worth noting that a lack of access to loans at reasonable interest rates, particularly in separated and segregated communities, provides fertile ground for private financial institutions (including larger banks) offering credit at unreasonable interest rates. The practice aggravates the vicious circle of poverty and dependence. Borrowers are unable to pay back the amount borrowed at the high

253 Please see also p. 34.

254 National Programme of Social Field Work in Municipalities operated by the Fund of Social Development from 2012–2013. Available at: <http://www.fsr.gov.sk/sk/narodny-projekt-tsp-v-obciach/zapojene-obce>.

interest rates and consequently they are subjected to speedy execution of orders garnishing their income. The MSA is constitutionally protected from garnishment. Borrowers thus remain on welfare instead of seeking formal employment as executors would deduct the payments from their wages.

There is no specific programme to support self-employment among Romani entrepreneurs. One of the APLM measures provides the unemployed with a financial contribution to set up a small business. The beneficiary must be registered as a job-seeker with the local labour office for a minimum of three months and must pledge to operate said business for at least two years.<sup>255</sup> Although the NRIS presupposes support of small and medium enterprises through subsidies such targeting has not been included in relevant legislation.

In 2011 the related financial contribution was financed using EU sources and the State budget through national projects.<sup>256</sup> The total amount allocated for this contribution was almost 43 million EUR creating 12,271 positions in 2011 and more than 23 million EUR with 8,690 positions in 2012.<sup>257</sup> According to former MLSAF employees, it is difficult to assess whether this measure helped to address the unemployment of Roma. They estimated that approximately 60% of businesses are closed virtually one day after the required two years have passed. Hence, this measure offers a relatively effective tool to “influence” unemployment statistics. Yet, it is questionable whether this also improves the situation of the unemployed.

The Act on Employment Services allows for provision of a financial contribution for creation of jobs in so-called social enterprises.<sup>258</sup> Social enterprises are conceptualised as intermediate labour market with certain State subsidies. Their employees must have a regular employment contract (at least part-time) for an indefinite period of time. The State subsidies reach up to 50% of an employee’s wages (based on an average wage in Slovakia) for the period of one calendar year. If the employee is unable to find employment on the regular labour market, the State provides a 40% contribution towards his or her wage for another 12 months. Currently, the Central Labour Office registers 91 social enterprises in Slovakia.<sup>259</sup> The register does not gather any information on the number of supported Romani employees. There is no other available evaluation of this issue. Interviewed State officials suggested that social enterprises are not much utilised and are administratively demanding.

We believe that while the idea has tremendous potential to provide inclusion of the most vulnerable Romani job-seekers on the labour market, this has not been explored at all. The State funding of these enterprises is limited in time. There is no scheme of, for instance, inclusive labour market that would support the sustainability of their business. Moreover, the concept of social enterprise has been spoilt by several corruption scandals.<sup>260</sup> In 2011, the MLSAF planned to launch a national project in partnership with, among others, UNDP to prepare a comprehensive plan for the introduction of social economy in Slovakia, including the development of social enterprises. The new administration elected in 2012 revoked the project.

## Employment in Agriculture

The NRIS includes a commitment to create working opportunities in the sector of agriculture and forestry.<sup>261</sup> However, programmes funded through the European Regional Development Fund (ERDF) do not target MRCs, i.e. the fact that applicants would somehow create labour opportunities for MRC members

255 *Act on Employment Services, supra note 208, para 49.*

256 National Project 1-2 BSK “Podpora zamestnanosti uchádzačov o zamestnanie v BSK”; National Project 1-2\_BSR “Vybrané aktívne opatrenia trhu práce na podporu zamestnanosti”.

257 Information provided by the MLSAF.

258 *Act on Employment Services, supra note 208, para 50b.*

259 However, according to data from the Central Labour Office, during 2011 and 2012 the State withdrew registration of 32 enterprises and registration of another 9 was ceased. Cited in Gabriela Korimová, “Osvedčené sociálne podnikanie”, *PRAVDA*, 27 March 2013. Available at: <http://nazory.pravda.sk/analyzy-a-postrehy/clanok/275713-osvedcene-socialne-podnikanie/>.

260 See: <http://www.monitoringfondov.eu/article.php?socialne-podniky>. Cited in Monika Tódová, “Sociálne podniky spája Smer”, *SME*, 12 August 2008. Available at: <http://www.sme.sk/c/4016807/socialne-podniky-spaja-smer.html>.

261 *NRIS, supra note 5.*

is not taken into consideration in the evaluation procedure. According to the Ministry of Agriculture and Rural Development, recipients of support under the Measure 3.4.2. of the Regional Operational Programme entitled “Reconstruction and Development of Municipalities” included municipalities with a Romani population. The Ministry does not collect data that would allow for an assessment of the use of these funds for job-seekers from MRCs.

### *Case Study: An Example of Good Practice - Municipal Firms*

While State policies supporting Roma employment have delivered ambiguous results, more effective tools have been invented at local level. Several municipalities have set up so-called municipal firms providing opportunities for employment and skills training for long-term unemployed Roma. The most famous municipal firm is likely the one in Spišský Hrhov – a mid-size municipality in eastern Slovakia that has become Slovakia’s show case with respect to Roma inclusion, particularly in the area of employment and education. In close co-operation with an NGO People in Need, the municipality launched their social enterprise in 2000, initially with five employees. The main incentive was to increasing employment opportunities in the village – not necessarily only for its Romani population.

Similarly to other localities, their beginnings were associated with numerous re-qualification courses, often in traditional crafts. The main problem was ensuring economic sustainability and ensuring steady sales rates. The municipality thus began paying attention to the specific needs of the region and purchased their first tile-making technology.<sup>262</sup> The municipal firm slowly ventured into other enterprises, buying technology for minor road repairs, traditional local craft-making or construction tools to be rented to businesses in the region.<sup>263</sup> The municipal firm undertakes all construction and maintenance services for the municipality and also seconds its employees to other private businesses.

The municipal firm utilises its own resources and several EU funding schemes, mainly for the purchase of equipment. The firm is managed by two hired managers, one of them of Romani origin. Now, it is fully economically sustainable. Its objective is to provide long-term employment opportunities for the locals. Up to 90% of its long- or short-term employees are Roma from Spišský Hrhov or the neighbouring settlement in Roškovec. The municipal firm permanently employs three Romani employees (including the one in management). During the construction season the company temporarily hires another 10-20 Romani individuals.

The municipal firm serves as a venue for training, re-qualification and acquiring working skills for the long-term unemployed through their special tutoring programme.<sup>264</sup> The programme was developed by the municipality. Its central idea is that a new employee is tutored by an already established worker. In the initial several months the tutor helps the new employee with problems associated not only with work, but also related to living, finances or their children’s education. The mayor explained that the firm wants to make sure that its employees “serve also as motivation and role models for other community members since they could see their personal and economic progress.” Some argued that the firm has not only increased the employment rate among Roma, but also their employability.<sup>265</sup> The mayor assesses that almost 50% of Roma who were employed and trained in the municipal firm have the chance to find employment in the regular labour market. The municipal firm seeks to increase their chances in finding employment through recommendations to its business partners.

The municipal firm has been undoubtedly one of the key drivers of municipal development. As the mayor argued “the core of everything is employment. I cannot imagine life in the municipality without a municipal firm that employs people. We can address all types of issues through employment.” Teachers in the local school have confirmed significant changes in the life of the Romani community. Employment helped to improve living conditions and consequently also the education of children. Arguably, it helped create

262 Vladimír Ledecký, “... alebo názov si dajte aký chcete (Obecný podnik Spišský Hrhov)” in *Pokrízová obnova SR: Zvyšovanie zamestnanosti a inklúzia Rómov*, ed. Alexander Mušínska and Vladimír Benč (Prešov: SFPA a Prešovská univerzita, 2011), 66.

263 *Ibid.*, 69.

264 The programme is not a project, but rather an example of management and training of new employees. *Ibid.*, 67.

265 Alexander Mušínska, *Podarilo sa: Príklady úspešných aktivít na úrovni samospráv smerujúcich k zlepšeniu situácie Rómov* (Prešov: Vydavateľstvo prešovskej univerzity, 2012), 23.

employment opportunities for people with generally very limited chances to succeed in the labour market. Even more importantly, it has contributed to overcome some stereotypes shared among the ethnic majority. One of the NGO activists recalled: "It may sound strange, but it was really helpful when the majority saw Roma tiling the streets of Spišský Hrhov." It challenged the stereotype of Roma as lazy and unwilling to work. The mayor confirmed that "people see Roma really working and when they go somewhere they know they are not going to steal, but to work. When they work at their homes, they understand they are human beings that share the same problems."



## 5. HEALTH CARE

### Health Care and Basic Social Security Coverage

Slovak legislation, as a matter of law, guarantees access to health care services to all regardless of their ethnic origin or gender.<sup>266</sup> Similarly, State measures to protect people's health should equally target all citizens.<sup>267</sup> The State compensates payments for health insurance, among others, for the unemployed, people receiving the MSA or parents on their parental leave.<sup>268</sup> Health insurance also contributes towards the price of prescribed medications (excluding, for instance, oral contraception).

The general framework, however, appears insufficient to address inequalities in health and in accessing health care services between Roma, mostly from MRCs, and the general population. This inequality, that is perhaps most visible is the significantly shorter life expectancy among Roma living in MRCs, assessed at nearly 10 years shorter, and the two- to three- times higher infant mortality rates than among the general population.<sup>269</sup> This difference is caused by a complexity of factors: increased health risks due to environmental hazards disproportionately affecting these communities and substandard quality of living, often lacking basic infrastructure and necessities, such as access to drinking water.<sup>270</sup> Furthermore, the spatial segregation of Romani communities presents a major barrier in accessing health care.<sup>271</sup> Parents often walk several kilometres with their sick children to visit a paediatrician. Even relatively modest travel costs for public transportation are a major financial burden for the budget of extremely poor families.<sup>272</sup> Consequently, Romani adults, for instance, are less likely to visit a doctor if they have a health problem or to attend check-ups than adults from the general population.<sup>273</sup> Moreover, the cost of prescribed medications, even if subsidised by State, is frequently financially inaccessible for poor Roma.<sup>274</sup> The financial and spatial barriers are magnified with direct and indirect more or discrimination based on ethnicity<sup>275</sup> multiplied by other sources of disadvantage, such as gender, age or disability.<sup>276</sup>

266 Act No. 576/2004 Coll. on Health Care, as amended, para 11.

267 Act No. 355/2007 Coll. on Protection, Support and Development of Public Health, as amended.

268 Act No. 580/2004 Coll. on Health Insurance, as amended, para 11 sec 7.

269 B. Šprocha, "Úmrtnosť a zdravotný stav rómskej populácie na Slovensku, 1. časť", *Slovenská štatistika a demografia*, Vol.22, No.2 (2012), 86-101. Dotcho Mihailov, *The Health Situation of Romani Communities: Analysis of the Data from the UNDP/WB/EC survey* (UNDP: Bratislava, 2012), 10.

270 *NRIS*, supra note 2.

271 *Životná úroveň v marginalizovaných rómskych komunitách: Podrobnejší pohľad na základné aspekty* (Bratislava: UNDP, 2013), 13-16. Forthcoming, draft on the file with authors.

272 *Ibid.*, 14.

273 *Ibid.*, 11-12.

274 *Ibid.* See also UNDP Survey 2012 data on expenditures associated with seeking a doctor, supra note 4, 89. According to UNDP/WB/EC survey data of 2011, supra note 110, 45% of Roma could not afford to purchase medicine in the past 12 months. In case of non-Roma, the share was at 20%. *Mihailov*, supra note 269, 38.

275 Miroslav Popper, Petra Szeghy and Štefan Šarkozy, *Rómska populácia a zdravie: analýza situácie na Slovensku* (Bratislava: Partners for Democratic Change Slovakia, 2009), 20.

276 *Body and Soul: Forced Sterilization and Other Assaults on Roma Reproductive Freedom in Slovakia* (New York: The Center for Reproductive Rights and Centre for Civil and Human Rights [Poradňa], 2003). A recent report showed that girls and women from poor families (including Romani) face significant financial barriers in accessing contraception. Christina Zampas, Roseanne Kross, Adriana Lamačková and Janka Debrecéniová, *Vypočítaná nespravodlivosť: Zlyhávajúce Slovenskej republiky pri zabezpečovaní prístupu k antikoncepčným prostriedkom* (Bratislava: Centre for Reproductive Rights, Možnosť Volby a Občan a Demokracia, 2011).

## Case Study: Health Mediators

The NRIS acknowledges, to some extent, the existence of barriers that Roma experience in accessing health care. The central State policy is the Ministry of Health's (MH) Programme of Support of Health of Disadvantaged Communities in Slovakia for 2007-2015. The programme draws on previous good experience with a pilot PHARE project increasing accessibility of health care services for Romani communities in Slovakia from 2004-2006 and a couple of NGO initiatives such as assistant to a paediatrician of the Regional Association of Romani Initiatives (Krajská Asociácia Rómskych Iniciatív).

The programme of support relies on the work of health mediators serving as intermediates between excluded Romani communities and the health care system. Workers should co-operate with other key actors, such as social field workers, community centre employees, schools, NGOs and regional health offices as well as regional employees of the GPRC office. Their primary role is to provide basic information about health and health services, and ensure that people from segregated communities obtain their health insurance cards and children get vaccinated. Mediators also provide basic information about early child care, reproductive and sexual health, food and environmental safety and basic hygiene.<sup>277</sup> Indeed, one of the interviewed doctors admitted that parents from MRCs often lack basic information about treatment of their children in cases of common illnesses, e.g. fever reduction and the use of medicines. They viewed the work of field health mediators as critical in both prevention and treatment.<sup>278</sup> Also, interviewed Romani women positively evaluated the work of health mediators appreciating that Romani female health mediators used to visit them in their homes. One of them explained: "I would not be able to explain to my daughter about the period as she did... also our children like the tale about bacteria, children were drawing and listening... it was nice."<sup>279</sup>

Interviewed mediators stressed their role in ensuring that children are vaccinated. In fact, health mediators significantly helped to, among others, increase vaccination rates among Romani children. For instance, the number of vaccinated individuals from targeted communities increased from 6,855 people to 10,743 in the period 2006-2010.<sup>280</sup> Yet, intervention in this area through 30 mediators appears insufficient to address low vaccination rates among Romani children. UNDP/WB/EC regional survey data indicated that vaccination cards were by about 50% more prevalent among non-Roma in comparison to their Romani neighbours.<sup>281</sup> Furthermore, health mediators helped to address the problem of people lacking health insurance cards. In 2007, with the aid of these professionals almost 2,000 individuals from MRCs received their health insurance cards. In 2010 it was 1,498 persons.<sup>282</sup> Health mediators also assisted in emergency cases of infectious diseases such as hepatitis. In one of the studied localities the mediators helped to set up a hygiene centre with drinking water since the community relied on water from the local creek.

The work of health mediators was co-ordinated by co-ordinators that were required to have a completed secondary education in health care services. Mediators were required to have completed primary school. Preference was given to candidates speaking Romani and being from Romani communities. In the period 2003-2011, the programme included 30, predominantly female, Romani mediators, out of whom 20 were co-ordinators. In 2009, the 30 mediators covered 117 settlements and in 2010, the number of settlements covered increased to 122 locations.<sup>283</sup> Their territorial targeting was aimed at regions with the highest share of MRCs, i.e. Prešov, Košice and Banská Bystrica.

However, the programme was originally envisaged to expand the number of health mediators. This has never materialised due to persistent reluctance of the State to secure stable funding of the programme. In 2007-2008 the programme was funded by the State budget through the Ministry of Health (MH)'s chapter

277 *Informatívna správa o efektívnosti výsledkov získaných plnením 2. Etapy Programu podpory zdravia znevýhodnených rómskych komunít na Slovensku na roky 2009-2015.* (Bratislava: Úrad verejného zdravotníctva, marec 2011), 10/12.

278 Interview with a paediatrician working in a mid-sized town whose patients are predominantly Romani from a segregated community: central Slovakia.

279 Interview with a middle-aged Romani woman living in a segregated community in a mid-sized town: central Slovakia.

280 *Informatívna správa*, *supra* note 277, 14.

281 Mihailov, *supra* note 269, 63.

282 *Informatívna správa*, *supra* note 277, 14.

283 *Ibid.*, 4-7.

and later through the Office of Public Health. In 2009 and 2010, programme costs amounted to 300,380 EUR.<sup>284</sup> According to official information from the MH, from 2012-2015 programme funding should have been secured also through other sources, including the budget chapter of the Government office. Other interviewed State officials, however, claim that the MH failed to plan the project in the 2012 budget. This is despite several interventions from the Office of the GPRC. Indeed, the Office prepared a budget for the programme and asked the MH to plan the programme in its budget for the upcoming year. The MH has failed to request funds and consequently the programme was stopped in 2012. According to information obtained from the Office of Public Health there are ongoing negotiations between the MH, the Ministry of Finance and the GPRC on how to ensure inter-sectoral financing on a sustainable basis and administration of the programme. It is unclear when the programme will resume and it remains highly questionable whether the programme will be in operation in 2013. There were some speculations during interviews with State officials that the programme would be increased to include 120 health mediators. At this stage, this does not appear as a realistic goal.

While health mediators rank among the most effective State tools in addressing exclusion of Roma in Slovakia, financial instability of the programme and failure to include the programme in the regular system health care provision have seriously curtailed its effectiveness. Moreover, the number of health mediators was insufficient given the number of MRCs. In localities that are not targeted by this policy, the role of mediators is partially fulfilled by social field workers.

The position of a health mediator has not been included in the official catalogue of occupations which has, among others, curtailed their sustainable employment through regular employment contracts. Instead, they were hired through a contract of mandate. This solution, initially conceived as temporary, remained a permanent one until the termination of the project in 2011. These administrative problems with the implementation of the programme have been acknowledged by the Office of Public Health in its internal evaluation report.<sup>285</sup> Still the State failed to even continue to implement the project.

As suggested earlier, interviews with doctors, mediators and with several Romani women revealed that this policy was very welcome among these groups but not necessarily by the State authorities. Health mediators viewed the lack of financial sustainability and insecurity as the major obstacle in their work. They have simply never known whether the programme would continue as it was renewed, often with delays, on an annual basis. Along with administrative inadequacies, there was also a problem with ensuring regular training of health assistants. Their individual skills depended on the support provided or not by the Regional Office of Public Health. Moreover, our discussions showed that the programme benefited from having Romani women in the position of health mediators as they were, among other, better perceived in Romani communities. Those mediators, who were simultaneously employed as health assistants in NGO-driven projects typically benefited from additional trainings and practice.

## Health Insurance Cards

The lack of health insurance cards provides a formal barrier in accessing health care services with the exception of emergency health care services. Emergency health care services are provided also to persons that do not hold valid health insurance cards.<sup>286</sup> There is no available accurate information on the situation among MRCs. UNDP/WB/EC regional survey data from 2011 indicate that there is no significant disparity in health insurance coverage between Roma and non-Roma (the coverage is assessed to be at 97% for Roma and 98% for non-Roma).<sup>287</sup>

Anecdotal evidence indicates that individuals from MRCs often have several health insurance cards, and they do not really know which one is valid. The main State tool that should target this issue, also included

284 *Ibid.*, 13.

285 *Ibid.*, 2-3.

286 *Act No. 576/2004 Coll. on Health Care, supra note 267, para 2 sec 3.*

287 Mihailov, *supra note 269, 36.*

in the Revised Action Plan and the NRIS, has been the support programme for health in MRCs, described above. The programme has addressed and eliminated these deficiencies to some extent, at least in targeted communities. However, due to a lack of funding the programme was terminated in 2012. In 2013, the MH in partnership with the GPRC is to submit a proposal for financial stability of the support programme for the health of disadvantaged communities for 2013-2015.

## Access to Basic, Emergency and Specialised Services

Please refer to the case study above that discusses the support programme for health in MRCs, which that is the only State policy aiming to improve access of this population to health care, and particularly to its basic services. There is no measure that aims to improve access to emergency and specialised services. The only available overview of its interventions was prepared by the Office of Public Health in 2011. It tracks the following indicators, suggesting an increase particularly in vaccination and health education activities from 2007-2010.

Overview of the programme's interventions carried out from 2007-2010

Activities initiated by health workers	Number of targeted individuals/clients			
	2007	2008	2009	2010
1. Preventative check-ups	4,399	4,018	4,971	4,884
2. Vaccinations	6,855	9,840	10,161	10,743
3. Blood work	1,200	1,137	1,668	1,798
4. Paediatric consultations	2,625	2,571	2,607	3,534
5. Medical treatments	1,556	1,213	1,585	1,612
6. Check-ups	1,515	1,193	1,244	1,451
7. Obtaining health insurance cards	2,001	1,269	888	1,498
8. Monitoring health and life style	3,947	1,717	2,074	3,690
9. Health education	26,882	38,687	39,707	39,672

Source: MH, Informatívna správa 2011, at 15

We have not recorded any specific measures addressing the vulnerable situation of Romani women, especially in the area of reproductive rights. It is highly disturbing that since 2003 the Slovak Government has failed to adopt a national reproductive health programme that would specifically address the vulnerability of Romani women.<sup>288</sup> Adoption of the programme has been delayed, arguably due to the intervention by the Roman Catholic Church and the Conference of Bishops that expressed strong opposition to such programme. Most recently, implementation of this measure that also stems from the NRIS has been delayed until 31 October 2013.<sup>289</sup> The recent study on accessibility of contraception signalled that this area deserves significantly more attention as even basic sexual and reproductive health education is missing from Slovak schools.<sup>290</sup> This may have a disproportionately negative impact on Romani girls.

Furthermore, another reason for concern is the absence of harm reduction services for drug users, in particular given the serious impact of drug abuse, especially volatile solvents, among Romani youth and children below the age of 10 from MRCs. An Open Society Foundation survey reports a rather worrying degree of abuse of this extremely toxic, but freely available form of drug among youth in poor settlements in eastern Slovakia, which has a detrimental effect on children's health.<sup>291</sup> This problem has been addressed in neither the Revised Action Plan, nor the NRIS.

288 Adoption of measure was for the first time included in: *Basic Theses in the Integration of Romani Communities*, adopted by Government Resolution No. 278/2003 of 23 April 2003.

289 Information provided by the Ministry of Health.

290 Zampas et al, *supra* note 276.

291 Miroslav Popper et al, *Iná realita: chudoba, deprivácia a zneužívanie inhalantov v rómskych osídleniach na východnom Slovensku* (Bratislava: Nadácia otvorenej spoločnosti – OSF, 2011).

## Discrimination in Health Care, Free Consent and a Complaint Mechanism

There is no comprehensive study mapping discrimination against Roma in health care.<sup>292</sup> Data gathered by the UNDP 2010 indicate that the majority of Romani respondents viewed their most recent treatment by medical personnel as regular (57%), 12% evaluated it as excellent and 19% saw it as unsatisfactory.<sup>293</sup> There were several instances when respondents felt they were treated less favourably because of their ethnic belonging: “doctors treated us badly the moment they saw we were Gypsies.”<sup>294</sup> An intriguing view was offered by numerous respondents who believed that they were treated well because they “were clean and dressed orderly.”<sup>295</sup> Authors analysing these statements saw a direct link with the processes of stigmatisation that are taking place in the health care setting. Indeed, CCHR, which monitors the treatment of Romani women in the area of reproductive rights noted an ongoing problem with segregation in maternity and gynaecological wards in hospitals located in Prešov, Krompachy, Spišská Nová Ves and several others areas. The segregation was justified on “hygienic grounds.”<sup>296</sup>

Moreover, as explained at greater length in the section relating to anti-discrimination, the Slovak Government has lost three court cases where the free consent of Romani women to a sterilisation procedure was violated. In 2004, Slovakia amended the legislation banning sterilisation that was until then allowed as a life-saving procedure. The country also adopted measures to ensure that the free and informed consent of the patient is respected. However, obtaining truly free and fully informed consent with such an intrusive procedure remains a question, particularly with respect to Romani women. In addition, as we discussed in the anti-discrimination section of this report, until today Slovakia has been refused to accept responsibility for this practice, arguing that these cases were individual failures on the part of medical personnel rather than a State tolerated practice.

As a matter of law, each person suspecting that he or she has not been treated properly by health care personnel can file his or her complaint with the medical facility. In case the facility does not respond to the complaint within 30 days or the patient is not satisfied with the response, he or she can appeal to the Health Care Surveillance Authority.<sup>297</sup> The authority investigates individual complaints on alleged medical malpractice that can be later subjected to judicial review. The authority is vested with monitoring of patients’ rights and should respect<sup>298</sup> anti-discrimination legislation.<sup>299</sup> We have been unable to access information on the extent to which this mechanism is efficient in providing remedies for Romani patients. The authority does not record the ethnicity of complaining patients.

## Patient’s Rights and Corruption in Health Care

In 2001, the Slovak Government adopted the Charter of Patient’s Rights. The charter guarantees, among others, respect of informed consent, confidentiality with regard to patient data and medical record and the right to complain and seek remedy for mistreatment on behalf of health care personnel.<sup>300</sup> Patients’ rights were later included in paragraph 11 of the Health Care Act. The legislation guarantees, among others, that everyone has the right to access health care and that this right should be guaranteed on a non-discriminatory basis. The act also ensures respect of human dignity, including physical and psychological integrity, access to information regarding one’s health status and confidentiality of such information.<sup>301</sup> Independent

292 See also p. 34 above.

293 Životná úroveň, supra note 271, 27.

294 *Ibid.*, 29.

295 *Ibid.*, 28.

296 *Written Comments Concerning the Ninth and Tenth Periodic Reports of the Slovak Republic under the Convention on the Elimination of Racial Discrimination*, jointly submitted by the Centre for Civil and Reproductive Rights and People in Need, January 2013, 8. Available at: <http://poradna-prava.sk/wp-content/uploads/2013/03/PDF-236-KB1.pdf>.

297 *Act No. 576/2004 Coll. on Health Care*, supra note 267, para 17.

298 The legislation does not require, however, enforcement of the Anti-discrimination Act.

299 *Ibid.* para 11.

300 Adopted by Government Resolution No. 326/2001 on 11 April 2001.

301 *Act No. 576/2004 Coll. on Health Care*, supra note 267, para 11 sec.1, 2 and 8.

monitoring of health care, including patients' rights, is vested with the Health Care Surveillance Authority.<sup>302</sup> There are no available studies that would provide in-depth evaluation of awareness efforts about the patient's rights among medical personnel or the general public. Such effort is beyond the ambition of this report.

Bribery in health care undoubtedly presents another significant barrier in accessing health care for the poor, including MRC's members, who are unable to compete with the bribes offered by more affluent patients for doctors' attention. Indeed, health care ranks among the most corrupt sectors according to perception-based evaluations. According to the quantitative representative study of Transparency International Slovakia of January 2012, people viewed health care as a sector most affected by bribery (61%). Health care was followed by the judiciary (52%) and ministries in general (51%). Over the last couple of years, 26% of interviewed respondents gave a gift or a bribe to health care personnel, often expressing gratitude (19%) or to ensure timely treatment (14%).<sup>303</sup>

The State does acknowledge the problem of corruption in health care.<sup>304</sup> On 10 August 2011, the Government adopted its Strategic Plan for Fighting Corruption in the Slovak Republic.<sup>305</sup> According to the plan, one of the main issues concerning corruption in health care is insufficient capacity to provide specialised health care services. Questionable relations between doctors and pharmaceutical companies pose another risk for non-transparency.<sup>306</sup> In its plan for tackling corruption the Government proposed measures pursuing increase of linked to increased transparency, such as including ensuring public availability of contracts between pharmaceutical companies and doctors.

## Targeted Awareness-Raising Activities

In the reporting period, the MH together with the Office of Public Health and the Party of Roma Union prepared an awareness-raising campaign focused on the vaccination of children. The campaign consisted of the targeted distribution of leaflets in Romani language in MRCs.

## Inter-sectoral Coordination in the Area of Health

Since the adoption of the Revised Action Plan and the NRIS, we have not recorded any concrete measures meant to increase inter-sectoral co-ordination of efforts to comprehensively address exclusion of Roma and ensure any palpable improvement of Roma health. At this point, we are unable to assess whether the efforts of the MH to adopt a common plan for ensuring the financial stability of the programme of community health care workers is a step towards increased co-ordination, or an effort to shift responsibility to another actor. At a more general level, the area of health most intensely suffers from the lack of co-ordination and perhaps unwillingness of the MH and other ministries and municipalities to employ an integrated approach in addressing environmental risks, lack of access to drinking water and lack of basic infrastructure, which that have profound impact on the quality of health.

302 Act No. 581/2004 Coll. on Health Insurance Companies and Surveillance in Health Care, as amended.

303 *Percepcia korupcie na Slovensku, Prieskum verejnej mienky pre Transparency International Slovensko* (január 2012). Available at: [http://www.transparency.sk/wp-content/uploads/2010/01/FOCUS\\_Sprava-pre-TIS\\_jan20121.pdf](http://www.transparency.sk/wp-content/uploads/2010/01/FOCUS_Sprava-pre-TIS_jan20121.pdf).

304 *Strategic Plan for Fighting Corruption in the Slovak Republic*, 8. Available at: [http://www.vlada.gov.sk/data/files/2240\\_8518.pdf](http://www.vlada.gov.sk/data/files/2240_8518.pdf).

305 Adopted by the Government Resolution No. 517/2011.

306 *Strategic Plan for Fighting Corruption in the Slovak Republic*, *supra* note 304, 12-13.

## 6. HOUSING

Housing ranks among the most palpable evidence of vast inequalities encountered by the Romani minority.<sup>307</sup> A trend characteristic of the last twenty years involves migration from integrated urban residential areas to urban ghettos and rural settlements, particularly in segregated areas. Lack of basic infrastructure and decent housing conditions being among the major factors of exclusion, further physical barriers such as walls, roads, creeks or railway lines also serve to segregate symbolically. Moreover, existing quantitative data suggests growing gaps between the majority and MRCs,<sup>308</sup> which has an immensely negative impact on their chances of being included in other sectors, particularly education, employment, political and societal life.

### Desegregation and Non-Discriminatory Access to Housing

Discrimination against Roma in access to housing can take various forms. As suggested by the 2012 UNDP report<sup>309</sup> selection criteria when allocating social housing at the local level are often discriminatory, requiring applicants to meet strict criteria regarding employment or education levels. Funds for public housing development are disbursed centrally to final beneficiaries, i.e. municipalities, regional self-governments and/or housing associations which are then responsible for construction. Final beneficiaries are also in charge of housing allocation at the very local level. Due to their social exclusion and lack of formal education, many Roma are often unaware of their housing rights and opportunities to apply for public housing.<sup>310</sup> Indirectly, Roma also face significant discrimination in the field of housing due to their inadequate participation in decision-making processes.<sup>311</sup> Currently, about four in 10 Romani households live in a settlement where the dominant ethnicity is Romani. In central Slovakia the ratio is nearly six in ten.<sup>312</sup>

State authorities refuse to collect ethnically sensitive data arguing that it conflicts law guaranteeing personal data protection.<sup>313</sup> Alternative studies rely on a territorial approach to gathering data on Roma. Currently, the only baseline data on spatial segregation of Roma dates back to 2004 and are contained in the so-called Atlas of Romani Communities.<sup>314</sup>

307 See, for example, Jarmila Filadelfiová, Daniel Gerbery, and Daniel Škobla, *Správa o životných podmienkach rómskych domácností na Slovensku* (Bratislava: UNDP, 2006) and UNDP Survey 2012, *supra* note 110.

308 For example, up to 32% of Roma do not have access to housing compared to 3% of the non-Romani population and up to 38% of Roma have no access to potable water compared to 17% of the non-Romani population. For more details see: UNDP, *Data on Vulnerability of Roma* (2011). Available at: <http://europeandcis.undp.org/ourwork/roma/show/D69F01FE-F203-1EE9-B45121B12A557E-1B#ROMAexplore>. Data from the UNDP surveys of 2002, 2006, 2010 does not indicate a significant improvement in this area. Comprehensive data that would allow comparison between 2004 on the bases of the Atlas of Romani Communities, *supra* note 31, and the current situation will probably be available in mid 2013 with the revision of the Atlas that is being prepared.

309 UNDP/WB/EC Survey, *supra* note 110, 46.

310 A sub-category of public housing is social housing. Roma may be eligible for public housing as well. Social housing is earmarked for those who are for objective reasons unable to secure decent housing with their own effort. Social housing can be standard or sub-standard.

311 UNDP/WB/EC survey, *supra* note 110, 46.

312 World Bank, *Diagnostics and Policy Advice on the Integration of Roma in the Slovak Republic* (2012), 118.

313 However, under some circumstances personal ethnic data can be collected such as when the data are anonymous and therefore not identifiable. See Act No. 428/2002 Coll. on Protection of Personal Data, as amended.

314 Atlas of Romani Communities, *supra* note 31.

Slovakia's Roma live in various types of settlements. The Sociographic Mapping of Romani Communities (the Atlas) researched a total of 1,575 Romani settlements of which 772 were so-called integrated settlements, i.e. Roma were not concentrated on a specific territory within the municipality or completely segregated from the majority population. In the remaining 787 settlements, the residents lived concentrated in a specific part of the town or village, often on the outskirts; sometimes, their settlements were even located outside the municipality or separated by a natural or artificial barrier.

*Absolute figures on particular types of Romani settlements and their inhabitants*

Type of settlement	Number of settlements	Number of inhabitants
Municipal concentration	168	32,281
Settlements on the outskirts of municipality	338	64,661
Settlements remote from the municipality or separated by barriers	281	49,586
<b>Total</b>	<b>787</b>	<b>146,528</b>

Source: Office of the Government Plenipotentiary for Romani Communities/IVO/KCpRO/S.P.A.C.E., Sociographic Mapping of Romani Communities (2003/2004)

Currently, the UNDP is updating the Atlas of Romani Communities and will release the results in the second half of 2013.<sup>315</sup>

The most recent available data on Roma housing conditions are included in UNDP surveys of Romani households gathered in 2005 and 2010. The 2010 report surveyed 723 Romani households (3,614 individuals) and 360 households of geographically-close non-Roma. Romani households by the type of settlement are presented below.

*Romani households by the type of settlement*

	Romani population			
	Segregated	Separated	Dispersed	Total
Number of households	240	244	239	723
Share of households in%	33.2	33.7	33.1	100
Number of individuals	1,277	1,232	1,105	3614
Share of individuals in%	35.3	34.1	30.6	100
Number of families	263	272	268	803
Share of families in%	32.8	33.9		100

Source: UNDP, Report on the Living Conditions of Romani Households in Slovakia in 2010 (Bratislava: UNDP, 2012), 22

Data indicate a deepening of spatial segregation.<sup>316</sup> The report purports a deterioration of living conditions among Roma and an increase of their segregation. Up to 54.3% of the Romani respondents who had moved to a segregated area reported their previous residence to be within town or village boundaries. Only 18.1% of respondents indicated an improvement of housing towards greater integration. Changing one's residence from integrated to segregated is therefore much more prevalent than vice versa.<sup>317</sup>

The only State policy that specifically mentions the objective of desegregation and inclusive housing policies targeting Roma resulted from modification of Article 7 of Regulation No. 437/2010 of the European Parliament and the European Council of May 2010. Pursuant to this regulation, the Government approved in 2011 its Proposal of Implementation Mechanism for Pilot Approach to Using EU Structural Funds for Housing Infrastructure.<sup>318</sup> The document foresees implementation through two main pillars: 1. improve-

315 Information provided by the Office of GPRC upon request on 29 January 2013.

316 UNDP Survey 2012, *supra* note 110, 48 and 49.

317 UNDP Survey 2012, *supra* note 110, 48 and 49.

318 Government Resolution No. 392/2011.



ment of energy efficiency of existing housing via the initiative JESSICA; and 2. construction of rental apartments for marginalised population groups.

The document was proposed by the Minister of Agriculture and Rural Development and the Minister of Transportation, Construction and Regional Development. The GPRC participated in defining the objectives. In accordance with the Plan of Economic Recovery of Europe, the plan foresees usage of the ERDF for housing interventions. New possibilities for housing support include housing of marginalised population groups. The construction of rental flats for marginalised groups will be funded partly using EU Structural Funds and partly using the State Fund for Housing Development. The budget allocated for the construction of housing units for marginalised population groups for the period of 2011-2015 is 7 million EUR (5.95 million EUR should be drawn from EU funds and 700,000 EUR from the State budget; final beneficiaries should contribute 350,000 EUR). The proposal targets marginalised communities and, in particular, MRCs as 80% of all tenants should be members of MRCs. The housing units are to be constructed from 2013-2015. The document implicitly acknowledges the problem of spatial segregation of MRCs.<sup>319</sup> The document stipulates that the dwellings should be built (or dispersed) within the ambits of the village so as to avoid spatial segregation. Furthermore, it acknowledges the potential to intertwine housing infrastructure interventions with measures within the Operational Programme Employment and Social Inclusion and Operational Programme Competitiveness and Economic Growth, although no specifics are given.

Yet, the document sets extraordinarily strict criteria for assigning the flats. Rental agreement with new tenants should include “visiting hours” and sanctions for disturbing silent hours. Such requirements are not included in any legislation regulating social and low income housing. There are additional requirements that provide room for rather arbitrary decision-making of relevant officials who will review the applications. Specifically, social field workers will prepare assessment of flawless school attendance of applicant’s children, i.e. no absentee classes at the time of application submission. In addition, the social workers will prepare each applicant family’s casuistry and their ability to cope with moving into a new environment.

Further criteria require that the family’s income is no more than 3.5 times the subsistence minimum. At least one adult family member should be employed for a minimum of 12 months during the two years prior to submitting the application for housing. Employment can include activation works and various labour contracts. Applicants should have no criminal record, no outstanding balances concerning their energy and municipal payments and a positive evaluation of the applicant family supplied by the former or current employer (municipality in case of activation works). Only a limited number of family members can live in the flat (i.e. husband and wife/common law partners and their children without any further relatives). Future tenants may be also asked to pay a deposit amounting to six months worth of rent.

Implementation of the proposal was, for the time being, terminated and therefore, it is not possible to assess its impact or number of households affected.

### *Mainstream Housing Policies*

The housing situation of Roma is partially addressed by what has become State’s flagship policy – the Housing Development Programme.<sup>320</sup> In 2006 the programme replaced the previous one that had been adopted in 2004. Although we believe that the programme indirectly targets mostly MRCs, it defines beneficiaries in social, not ethnic terms. The programme thus regulates procurement of rental flats and infrastructure for population groups in dire socio-economic situations, i.e. persons in material need or people at risk of social exclusion. However, it specifies Romani settlements as target groups of its infrastructure interventions. The Housing Development Programme thus can fund the initial construction of infrastructure for the purposes of improving the socio-cultural level of those Romani settlements that are listed in the statistical survey of the Government Office or the GPRC. Each year the State allocates a certain amount for development of social housing of lower-standard that is then redistributed as State subsidies by the Min-

319 *Ibid.*

320 *Government Resolution No. 752/2006 of 13 September 2006.*

istry of Transportation, Construction and Regional Development. In 2010, the Ministry redistributed 40.36 million EUR and in 2011 it was 31.83 million EUR. The budget planned for 2012 and 2013 totalled 16.83 million EUR per year.<sup>321</sup> The programme provides only framework rules, such as the size of the ministry's contribution (70% in the case of procurement of a low-standard flats), eligible costs and eligible beneficiaries. More detailed rules of municipal flats' allocation are adopted by self-governments that may also specify further criteria, e.g. preference of younger families.

Social housing is currently regulated by *Law No. 443/2010 Coll. on Subsidies for Housing Development and Social Housing*. The law regulates funding of municipal rental housing and technical infrastructure to improve social and cultural quality of living in Romani settlements (programme of support of municipal low income housing described below). Social housing is defined as housing procured with the use of public funds in order to provide adequate and dignified housing for those who cannot secure their housing with their own efforts. A social flat of regular standard must not exceed 80 m<sup>2</sup> whereas a social flat of lower-standard must not exceed 60m<sup>2</sup>.<sup>322</sup>

The effect of State support is conditional upon the willingness and ability of municipalities to settle property rights underneath the settlements or ideally find an alternative, not segregated, land for housing development. Consequently, implementation of the programme has facilitated limited inclusion of segregated Romani communities. More often, even if it provides a better quality of municipal housing, it is *located in a segregated or/and isolated setting*.<sup>323</sup> An evaluation of the State-funded programmes in Slovakia that provided municipal flats to address the housing needs of socially excluded Roma found that most of the flats built within this programme did not address segregation: in 39 out of 57 examined localities (68%) the level of segregation was kept at the level before construction – the new construction was about the same distance from the non-Romani part of the municipality (or the municipality as such) compared to the original settlement. In 13 cases (23%) the new construction was even further removed in comparison to the original housing of Roma. Only in 5 cases (9%) did the new construction reach its integration objective and bring Romani and non-Romani dwellings closer to each other. In 91% of the examined cases the declared objective – to contribute to the integration of Roma by constructing new housing units – was not achieved.<sup>324</sup>

Apart from construction of housing units the State provides a so-called housing allowance that was designed to help people in material need partially cover their housing expenses. The provision, however, often indirectly discriminates people who are the worst off in terms of housing; a significant proportion of these people are Roma living in segregated Romani settlements. Eligibility for the allowance is regulated by *Law No. 599/2003 Coll. on Assistance in Material Need*, as amended. The allowance can only be received if the applicants in a situation of material need are able to document ownership or another formal relation (e.g. tenancy) to the real estate they inhabit and are not late with the rent or other housing related charges. This in practice means that Roma living in informal and often illegal dwellings in Romani settlements are not eligible to receive the allowance. The housing allowance amounts to 55.80 EUR for an individual or to 89.20 EUR if more than one person is jointly assessed.<sup>325</sup> As the 2011 UNDP/WB/EC report indicates the housing allowance is received by approximately every third Roma family (roughly 24,000 households). In segregated areas only about 48% of households receiving the MSA also receive the housing allowance due to informal and often illegal nature of their dwellings. In mixed neighbourhoods the share of housing allowance recipients increases to about 77%. Overall, 58% of all surveyed Romani households claimed housing allowance.<sup>326</sup>

321 Elena Szolgayová, *Možnosti podpory sociálneho bývania* [Support of social housing] (presentation at the High Level Event on the Structural Funds Contribution to Roma Integration in Slovakia, Bratislava, 23 May 2011).

322 *Act No. 443/2010 Coll. on Subsidies for Housing Development and Social Housing*, paras 21 and 22.

323 See Marek F. Hojsík, *Evaluácia programu obecných nájomných bytov v rómskych osídleniach* [Evaluation of the Programme of Municipal Housing in Romani settlements] (Bratislava: Nadácia Milana Šimečku, 2008) and our preliminary review of the programme to date.

324 ERRC, *Standards do not Apply: Inadequate Housing in Romani Communities* (Budapest, 2010).

325 European Union Agency of Fundamental Rights, *Housing Conditions of Roma and Travellers* (Vienna, 2009).

326 UNDP Survey 2012, *supra* note 110, 179.

## Targeted Housing Policies

In 2001, the Government adopted the *Programme of Support of Municipal Apartments of Lower Standard*.<sup>327</sup> The programme aims to improve the quality of housing in Romani settlements by constructing municipal rental flats of a lower-standard and infrastructure for people in material need. Only municipalities with a Romani settlement in their vicinity are eligible to apply for contribution. Under this scheme the Ministry of Transport, Construction and Regional Development contributes up to 80% of the eligible costs for the construction of low-standard flats. One criteria for the housing interventions' implementation was participation of the local Roma community in the construction. The share of Roma among labourers had to reach 20%. According to available information, until 2010, the State funded approximately 2,900 apartments through this programme.<sup>328</sup> In 2011, the ministry contributed to the construction of flats for Roma in the amount of 2,862,680 EUR. Furthermore, construction of infrastructure was supported with 159,780 EUR.<sup>329</sup>

In 2005, the *Long-Term Strategy of Housing for Marginalised Population Groups and its Funding Model* estimated that 4,327 low-standard rental flats were needed for members of socially-excluded Romani settlements. The total costs would amount to roughly 93 million EUR.<sup>330</sup> A thorough evaluation of the programme from 2008 captured the main advantages and disadvantages of this programme. First, it has increased the living standard of the inhabitants of Romani settlements. It has also provided an opportunity to increase the participation of MRC members in housing construction within this strategy. Future tenants are required to work off part of construction costs. At the same time, it is also an opportunity to encourage and mobilise a group of families to whom flats are allotted. These families may subsequently motivate other members of the given community. Finally, residents of lower-standard flats are entitled to apply for a housing allowance.

However, when the amount and period of work that future tenants are required to contribute is set against its value, they work for less than minimum wage. Furthermore, 20% of labour is quite a large amount and it would have to include expert tasks which the future tenants have no qualification for. It is therefore rather difficult to meet the criteria of participant labour amounting to 20% of work. In addition, municipalities are vested with rather excessive power in deciding on the locality where new lower-standard flats will be built. As a result, even the construction of new flats may not reduce the segregation of Roma from the majority. Municipalities often do not conceive any plans of community development beyond construction of the housing. Moreover, there is an inadequate system of supervising and monitoring construction and maintenance of existing lower-standard flats. Finally, municipalities have been pursuing the process of construction rather selectively.<sup>331</sup> Anecdotal evidence suggests that rent levels are still quite high, almost comparable to those for standard housing. Each municipality can set out its own rental fee. For instance, Roma tenants in Sabinov pay 70-80 EUR per month for a low-standard, two-room flat. Adding utilities the tenants may have to pay as much as 130 EUR per month. In comparison, Spišský Hrhov municipality set the rent for a one-room flat at 10 EUR per month and 16 EUR per month for a two-room flat.<sup>332</sup>

The above mentioned policies have delivered ambiguous results over the years. First of all, they are not sufficient for solving the housing issues of marginalised Romani communities since they are *not grounded in the principles of inclusion*. Slovakia introduced one model (the construction of lower-standard flats and infrastructure) but practically abandoned seeking other innovative options. The process of decentralising the public administration in 2004 transferred a significant portion of responsibility for tackling the housing situation of Roma to self-governments. Unfortunately, many of them lack adequate funding and are unable to cope with this responsibility. There are several tools that can be used by self-governments, e.g. building the lower-standard flats, the idea of a special recipient of social allowances in localities with high numbers

327 *Program podpory výstavby obecných nájomných bytov odlišného štandardu určených pre bývanie občanov v hmotnej núdzi ako i technickej vybavenosti v rómskych osadách* [Programme of Supporting Construction of Municipal Rental Flats of Different Standards for Citizens in Material Need and Technical Infrastructure for Romani settlements], adopted by Government Resolution No. 335/2001.

328 *NRIS*, *supra* note 5, 38.

329 Information provided by the Ministry of Transport, Construction and Regional Development upon request on 16 October 2012.

330 *Dlhodobá koncepcia bývania pre marginalizované skupiny obyvateľstva a model jej financovania*, adopted by Government Resolution No. 63/2005.

331 See in *Housing Conditions*, *supra* note 325.

332 Information provided by representatives of the Sabinov and Spišský Hrhov municipalities.

of defaulters and other social services (community social workers). Furthermore, State funds allocated for the Housing Development Programme are insufficient to address inadequate housing conditions experienced by hundreds of MRC<sup>333</sup> and are reduced each year due to their re-allocation to the State Fund of Housing Development which is not primarily concerned with housing of socially-excluded communities. Additionally, the currently prevalent approach does not appear to be flexible enough to accommodate the needs of diverse MRCs. Given the negative interethnic relations on the local level and particularly prejudice shared by the more affluent ethnic majority, municipalities are either unwilling or unable to promote an integrated or inclusive approach.

### *Case Study: Construction of Low-Standard Flats; Two Scenarios*

The case studies confirmed that municipalities mostly use State funded schemes for housing interventions; the use of Structural Funds has been rather limited. However, the approach and actual utilisation of funds (not only their drawing) differs from municipality to municipality.

The most frequent strategy is construction of low-standard rental flats within the State Housing Development Programme or the programme of construction of low-standard flats (described above). Most municipalities implement this mechanism as an isolated tool without any other interventions, as we have seen in Sabinov. In 2005, the municipality procured the construction of low-standard flats (49m<sup>2</sup>) in one locality where all Roma from the town centre were eventually moved. The flats were literally bare. Some flats had no gas connection and had to use electricity or wood for heating. Needless to say, using electricity for heating is extremely costly. In the period of 2005-2006 48 low-standard units were constructed in the amount of 50.5 million. SKK (approximately 1.7 million EUR). The future tenants were required to work off a part of labour in the amount of roughly 50,000 EUR. In 2007, 12 more low-standard flats were constructed. The new locality is about three times further from the previous one and the town centre which makes it more difficult to access services. There is no regular bus service to the locality apart from the one taking children to and from school. Four Romani families were also placed in a newly constructed blocks of rental flats in a different locality (500 metres from the town centre). The rental agreements are concluded annually and rent amounts to between 70 and 80 EUR per month. To avoid failing to pay rent many tenants have their rent automatically deducted from their welfare benefit.

Officially, these flats were designated for “maladjusted persons and defaulters.” Unofficially, they were labelled as “Roma flats” and only Roma were moved into the new locality even though many were not indebted. As the town mayor stated, when choosing the locality the municipality had to consider the preference of the majority population who protested against having Romani neighbours. It took 2-3 years to find a ‘suitable’ area for construction of low-standards flats earmarked for the Roma. Interestingly, even though the housing intervention targeted Roma none of them had ever been consulted or invited to participate in decision-making. Quite the contrary, only majority members were allowed to influence the municipality’s decision. As a result, eight tenants filed a complaint against segregation in housing which was confirmed by the Prešov District Court.<sup>334</sup>

While using the same mechanism, a rather different approach was employed in Spišský Hrhov. The main difference is that the mayor in Spišský Hrhov used a strategy that aimed to improve the living conditions not only of the local Roma, but of the community as a whole. Importantly, local Roma are included in the community and, more importantly, they participate in decision-making processes. Housing interventions are complemented by employment and educational (inclusive education in the local elementary school) interventions. The municipality established a so-called municipal firm (a kind of social enterprise, see the section on employment above) which employs about 20-30 local Roma each year. The firm is used to construct local low-standard housing thus reducing the costs to a minimum when compared to contracting a standard construction company. In 2005, four low-standard flats (50m<sup>2</sup>) were constructed for local Romani families who lived in trailers. The flats were partially-funded by the Ministry of Transportation, Construction and Regional Development and partly by municipality’s own resources. Apart from such standard mechanisms for housing

333 In 2011 it was 140,628,785.36 EUR according to the *Report on Activities of the State Fund of Housing Development*. Available at: <http://www.sfrb.sk/sites/default/files/sprava%20o%20cinnosti%202011.pdf>.

334 *Ruling No. 25 C 197/2007 – 585* of 15 June 2009. Available at: [http://www.oad.sk/sites/default/files/downloads/Telek\\_rozsudok\\_SK.pdf](http://www.oad.sk/sites/default/files/downloads/Telek_rozsudok_SK.pdf).

interventions, Spišský Hrhov also uses innovative schemes, such as construction of low-cost and low-energy (thus environmentally friendly) wooden houses (60m<sup>2</sup>) that are built by their future tenants. The municipality used its own waste wood thus utilising all available resources. In 2012, the first such house was finished. The overall cost of construction totalled 17,000 EUR and the future tenants contributed 97% of the overall labour. After twenty years of paying renting the family will be entitled to buy it from the municipality.<sup>335</sup>

As seen from the case studies described above, the same mechanism can be used in vastly different ways and with significantly different impact. While in Spišský Hrhov local Roma are included in the decision-making processes and thus feel a sense of belonging, in Sabinov local Roma are merely objects of municipal policies. Furthermore, the Sabinov case proves that housing interventions entailing merely environmental aspects without enforcing inclusion in other areas through, for instance, inclusive education, labour market or social field work, are largely not sufficient to promote positive change; even less so if they are combined with furthering spatial segregation. On the other hand, the case of Spišský Hrhov proves that municipalities have numerous options and autonomy when it comes to employing various (not only) housing interventions even within the rather rigid State schemes. As the mayor of Spišský Hrhov indicated, "housing programmes should be more flexible and there should be more than one...programmes should ensue from local contexts as every locality has its own problems. What works here does not work in the nearby Rožkovce." Although the system is perceived to be inflexible, there are obviously ways to get around that. We believe that the underlying factor determining success of any policy is the municipality's willingness and commitment. This is hardly present in most municipalities. The mayor of Spišský Hrhov feels no appreciation from his fellow mayors. On the contrary, at regular meetings of mayors he is mockingly called "the Roma king."

### *Informal Settlements and Legalisation of Property Titles*

Informal settlements that are home to a significant proportion of Slovakia's Romani population cause a number of problems that are related not only to security of tenure but also to the availability of infrastructure and public services and the unacceptably low quality of housing. Furthermore, the issue of unclear property titles complicates the use of EU Structural Funds for housing interventions. Unsettled land ownership has direct negative effects on improving the quality of housing because available funds earmarked for improving the quality of housing or building infrastructure cannot be channelled into informal settlements. Roma who live in informal settlements are not eligible to receive housing allowance because one of the eligibility conditions is that the recipient "is an owner of a flat or a family house, a tenant in a flat or a family house or a habitable room in a facility designed for permanent housing, has paid all housing-related costs and is able to document payment of such costs." Municipal self-governments play a key role in the process of settling land ownership and legalising dwellings. The existence of informal housing is often a direct result of municipalities' lack of funding or settled land that would be suitable for construction or simply their unwillingness to tackle the situation.<sup>336</sup> Also, an important problem that lingers on is reluctance by land owners to sell their land for the purpose of building homes or blocks of flats for Roma.

Furthermore, illegally built, poor Romani settlements are increasingly becoming sites of political contest. Without providing any alternative housing opportunities, municipalities have been shamelessly demolishing these areas pushing Romani families even further to the margins. In the period from August 2011-February 2013 alone, we recorded 21 cases of forced evictions or settlement liquidation. In some cases, the municipality failed to provide alternative housing even to families with small children.<sup>337</sup> There is an ongoing debate about the eviction of residents of an (integrated) apartment block in Trebišov. Town authorities are arguing that the block does not meet safety requirements. The residents, by contrast, believe that the building is fine and that the authorities' claim merely serves as an excuse to move them to a local Romani (segregated) settlement.<sup>338</sup> At the same time, poor Romani homes

335 Information provided by representatives of the Spišský Hrhov municipality.

336 See in Housing Conditions, *supra* note 325.

337 "Vystahovanie Rómov môže skončiť na súde", *TV Markíza*, 17 January 2013. Available at: <http://tvnoviny.sk/sekcia/spravy/regiony/vystahovanie-romov-v-presove-moze-skocit-na-sude.html>.

338 "Trebišov chce búrať bytovku, Rómovia odmietajú stahovanie", *TASR*, 8 February 2013. Available at: <http://trebisov.korzar.sme.sk/c/6694342/trebisov-chce-burat-bytovku-romovia-odmietaju-stahovanie.html>.

and communities are often classified as illegal waste dumps, which make their liquidation significantly easier.<sup>339</sup> A number of municipalities carried out forced evictions and demolitions of settlements on the basis of environmental law and the *Act on Waste (Act No. 223/2001 Coll.)*. The Romani settlements in question were considered a dumping ground and removed in accordance with the *Act on Waste*, which is designed to govern the rights and duties of municipalities, legal entities and individuals in relation to general refuse. Evictions carried out under this unsuitable legislation have not respected international human rights treaties, the Constitution of the Slovak Republic or the Building Act.<sup>340</sup> As a reaction to this development the European Roma Rights Centre issued two letters addressing the Prešov and Košice municipalities.<sup>341</sup> However, not all municipalities solve the issue of informal settlements by classifying them as waste dumps and evicting their residents. For instance, Raslavice, a small municipality in eastern Slovakia, legalised all parcels with illegally built houses in three phases. First, the municipality bought the land from its owners and the land was then parcelled out. Finally, new parcels were offered to their current residents for purchase.<sup>342</sup> Spišský Hrhov, another municipality in eastern Slovakia, adopted a similar approach and has legalised about 80% of the land in question.<sup>343</sup> In May 2012 the newly appointed GPRC, Peter Pollák, announced his intention to introduce an amendment to the Building Act to enable the settling of property titles for land beneath informal Romani settlements. However, he has not yet brought the proposal forward.<sup>344</sup> Another proposal to the Building Act aiming to tackle so-called “black constructions” was introduced by MPs of the Slovak Christian-Democratic Union – Democratic Party in July 2012. The press conference was held, symptomatically, in a Romani settlement in Plavecký Štvrtok. The amendment would allow for the prompt demolition of illegal constructions. The parliament rejected the proposal on 31 July 2012.

## Local Integrated Housing

Although the the NRIS recognises that lack of access to public utilities and social services is a problem in segregated Romani communities, only two specific objectives address this issue. In this respect the NRIS sets out to complete infrastructure in segregated and separated Romani settlements and expand the scope of public social services in the field of housing. As an indicator of progress the NRIS will use the number of marginalised Romani households with access to drinking water, sewage system, gas and electricity. It should be noted, however, that no ex ante analysis was done prior to setting this objective and no baseline values are indicated. It could be assumed that the update of the Atlas of Romani Communities will be used as baseline data.

The Revised Action Plan is more specific with respect to access to public utilities. Within the framework of Horizontal Priority Marginalised Romani Communities<sup>345</sup> the annual report indicates that since implementation began in 2007 there have been no new or improved services within the sphere of civic infrastructure. The annual report explains this through a longitudinal character of the contracted projects and expects

339 “Mestá demolujú osady pre odpady, ľudia nemajú kam ísť”, *SITA*, 7 January 2013. Available at <http://www.webnoviny.sk/slovensko/mesta-demoluju-osady-pre-odpady-ludi/606973-clanok.html>. ERRC, “Slovak Republic Targets Roma Homes as ‘Waste’”, press release, 19 December 2012. Available at: <http://www.errc.org/article/slovak-republic-targets-roma-homes-as-waste/4081>.

340 ERRC, *Parallel Report concerning Slovakia to CERD for consideration at the 82<sup>nd</sup> Session* (11 February to 1 March 2013). Available at: <http://www.errc.org/cms/upload/file/slovakia-cerd-submission-29-january-2013.pdf>.

341 Available at: <http://www.errc.org/cms/upload/file/slovakia-letter-presov-evictions-18-december-2012-sk.pdf> and <http://www.errc.org/cms/upload/file/slovakia-letter-kosice-evictions-18-december-2012-sk.pdf>.

342 “V Raslaviciach vysporiadali pozemky, ktoré ponúkajú Rómom na výstavbu”, *Roma Press Agency*, 5 December 2012. Available at: <http://www.mecem.sk/rpa/?id=local&show=22847>.

343 “Ledecký: Čierne stavby nevyrieši zákon”, *Pravda Daily*, 26 July 2012. Available at: <http://spravy.pravda.sk/domace/clanok/247483-ledecky-cierne-stavby-nevyriesi-zakon/>.

344 “Pollák: Štát by mal vysporiadať pozemky pod osadami”, *Aktuality.sk*, 7 May 2012. Available at: <http://www.aktuality.sk/clanok/206130/pollak-stat-by-mal-vysporiadat-pozemky-pod-osadami/>.

345 Horizontal Priority Marginalised Romani communities (HP MRC) is a way of channelling European Structural Funds through the implementation of Comprehensive Approach (CA). HP MRC’s objective was to territorially-target the allocation of Structural Funds from six operational programmes in four priority areas – employment, education, health and housing – in one locality. Based on the Atlas of Romani Communities, the CA’s target group was defined in both ethnic and social terms – as marginalised Romani communities.

to achieve 1,272 new or improved services in the end.<sup>346</sup> Nonetheless, implementation of HP MRC ends in 2013 suggesting that the end value ought to be achieved this year. It seems that no infrastructure interventions have reached Romani settlements yet.

Comprehensive and reliable data on living conditions of Roma are scarce. According to the UNDP/WB/EC report,<sup>347</sup> 30% of Romani households live in a ruined house while in the case of comparator non-Romani households it is 4%. Disaggregated by income level, Romani households in the lowest income percentile are two and a half times more likely to live in segregated settlements than Roma in higher percentiles. The latest available reliable data on the living conditions of the Romani population are contained in the latest UNDP report.<sup>348</sup> The report's findings for Slovakia are summarised in the following tables.

	Roma	Non-Roma
Waste collection at least once a week (%)	34	43
Waste collection never (%)	5	0
Ownership of power generators (%)	4	10
Average number of rooms per household member	0.54	1.7
Average number of square metres per household member	13.69	28.1
Share of families in%	32.8	33.9

Source: UNDP Survey (2012)

	Roma	Non-Roma
Share of the population not having access to secure housing*	32%	3%
Share of the population not having access to improved water source**	38%	17%
Share of the population not having access to improved sanitation*	44%	12%
Dwelling ownership*		
Own household or family	86%	97%
Private ownership (not family)	3%	1%
Municipality	9%	1%
Unknown ownership	1%	1%
Other	0%	0%
Access to various household amenities*		
Washing machine	72%	97%
Bed for each household member including infants	75%	97%
30 and more books	18%	73%
Power generator	3%	5%
EU material deprivation index**		
Material deprivation	90%	59%
Severe material deprivation	80%	46%
Neighbourhood change	25%	32%

\* Source: UNDP/WB/EC Regional Survey 2011 and FRA Pilot Survey 2011

\*\* Source: UNDP/WB/EC Regional Survey 2011

346 The Office of GPRC, *Výročná správa horizontálnej priority Marginalizované rómske komunity za rok 2011* [The Annual Report on Horizontal Priority Marginalised Romani communities in 2011] (Bratislava, 2012). Available at: <http://www.nsrr.sk/slovník-pojmov/obcianska-infrastruktúra/>. Civic infrastructure includes schools, health care facilities, socio-legal protection facilities, cultural facilities and emergency services.

347 UNDP/WB/EC Survey 2011, *supra* note 110.

348 UNDP Survey 2012, *supra* note 110.

Source of energy	For heating							
	Households		People		Households		People	
	Roma	Non-Roma	Roma	Non-Roma	Roma	Non-Roma	Roma	Non-Roma
Gas in bottles	1%	1%	1%	1%	16%	10%	17%	10%
Piped gas supply	5%	30%	5%	31%	9%	48%	8%	48%
Electricity	2%	3%	2%	3%	19%	25%	17%	25%
Coal	12%	20%	10%	19%	1%	1%	1%	1%
Wood	74%	34%	78%	35%	49%	12%	53%	11%
Petrol	0%	0%	0%	0%				
Central heating supply	4%	9%	3%	7%				
Other	2%	4%	1%	4%	6%	4%	5%	4%

Source: UNDP/WB/EC Regional Survey 2011

## Social Housing

The NRIS states that within the Housing Development Programme 2,900 housing units were built in Slovakia in the period from 1998 to 2011. It is, however, impossible to quantify the number of housing units built specifically for Roma or marginalised Romani communities as this information is not gathered on an ethnic basis.

While both documents acknowledge the need to eliminate spatial segregation they contain some contradicting objectives which can further segregation, for example the construction of municipal rental flats in segregated Romani settlements as opposed to their construction within the ambits of municipalities. The latter is in line with State policies that do not recognise the need to de-segregate, while the former (the need to eliminate spatial segregation) is in stark contrast. As a result, social housing and lower-standard rental flats earmarked for marginalised Romani communities are mainly constructed on the outskirts of municipalities, or they are even separated by a natural or artificial barrier (see above).<sup>349</sup> The only document containing (to some extent) the principle of desegregation is the *Proposal of Implementation Mechanism for Pilot Approach to Using EU Structural Funds for Housing Infrastructure* (see above).<sup>350</sup>

## Urban Planning and Rural Development

A salient complementary financial opportunity to tackle vast inequalities of MRCs in the area of housing was offered by the EU Structural Funds in the programming period 2007-2013 which provided opportunities for designing a cross-sectoral approach that is lacking in the State funded programmes. Housing, however, received only limited attention, framed predominantly in terms of declarations rather than actions. Even though defined as one of the four main priority topics of the Horizontal Priority Marginalised Romani Communities (HP MRC), housing has not been addressed even within the so-called Local Strategies of Comprehensive Approach (LSCA). This is due to the fact that resources of Regional Operational Programme (ROP – an operational programme designed for drawing funds from European Agricultural Rural Development in Slovakia (EARDF) allocated initially for HP MRC were spent on different projects not related to segregated Romani communities. In the previous programming period ROP was the only programme available for housing interventions, however limited. Initially, the ROP was planned for housing interventions in urban areas while rural areas were not eligible for support. However, modifications to the ROP design in the course of the 2007-2013 programming period led to the abandonment of even interventions in the urban areas. Eventually, the EARDF was not used for housing interventions although it is planned in the forthcoming programming period 2014-2020 as specified in the *Proposal of Implementation Mechanism for Pilot Approach to Using EU Structural Funds for Housing Infrastructure*. In 2011, the Office of

349 Marek F. Hojsík, *supra* note 323.

350 *Government Resolution No. 392/2011*. Available at: <http://www.rokovania.sk/Rokovanie.aspx/BodRokovaniaDetail?idMaterial=19825>.



GPRC identified 791 projects as targeting specifically MRC and totalling 528.2 million EUR using ROP funds within the HP MRC although it is not specified how many of these projects have been used for housing interventions of any kind (e.g. physical infrastructure). Furthermore, initially it was planned that altogether 198,230 members of MRCs would benefit from projects implemented within LSCAs. In 2011, the reported value of this indicator was 0 EUR.<sup>351</sup>

Actual funds were allocated only to promote integration (and only to a certain limited extent) through improving physical infrastructure (pavements, roads, lighting, public greenery and public sanitary facilities) in municipalities with marginalised Romani communities via the ROP. In the initial phases of ROP Priority 4- Regeneration of Settlements was designed to implement, among others, *integrated strategies of urban development and developmental projects for municipalities with Romani settlements*. The Office of the GPRC indicated that 197 projects aimed at the regeneration of settlements had been contracted totalling 145.8 million EUR.<sup>352</sup> Nevertheless, housing and regeneration of housing infrastructure could be only implemented within *the integrated strategies of urban development*, not in the Romani settlements located in rural environment. A large number of impoverished Romani settlements exist not only in urban ghettos but in a rural environment and, even worse, they are not included in the municipalities' local plans. *Developmental projects for municipalities with Romani settlements* included only a limited scope of eligible activities excluding interventions in housing infrastructure, e.g. public green area revitalisation, reconstruction of public lighting, public sanitary facilities or pavements. The ROP programme document justified the exclusion of rural segregated Romani settlements from housing interventions using the argument of unclear property titles since many of them were built illegally.

Only one call for proposals within the ROP was launched (in 2009). This, however, lacked the inclusion criterion completely. The application did require the applicant to set indicators of the project's impact on the local marginalised Romani community. Yet, neither the call itself nor any other ROP programme document or manual stipulated which criteria that project beneficiaries were to achieve in this respect. According to our preliminary review, civic and physical infrastructure interventions too often ended literally where the local Romani settlement began.

The ROP design has been modified several times in the course of current programming period so that programme would reflect the up-to-date issues of its practical application. What must be stressed here is the fact that in the area of housing for marginalised Romani communities the programme did not even come close to its own objectives as set out in the beginning of the programming period. First, housing interventions have been deemed non-eligible in rural Romani settlements due to unclear titles of the land underneath rural Romani settlements. Second, *integrated strategies of urban development* which allowed the targeting of socially-excluded Romani communities in urban areas were replaced by a measure entitled *Housing Infrastructure* in 2011. To this day *Housing Infrastructure's* definition and specification has not yet been completed and a call for proposals is expected no sooner than 2013. Based on our preliminary review Slovakia missed its chance to effectively use EU Structural Funds to foster the inclusion of segregated Romani communities through housing and civic infrastructure, at least in urban areas.

## **Involvement of Regional, Local Authorities and Local Romani and non-Romani Communities**

The process of decentralising public administration in 2004 transferred a significant portion of responsibility for tackling the housing situation of the Roma to self-governments; unfortunately, many of them are unable to cope with this responsibility and use at least those tools that are currently available within the scope of public policies.<sup>353</sup> The Office of the GPRC established co-operation with all eight regional self-governments (except for the Bratislava region), appointing regional co-ordinators of the HP MRC. The co-ordinators are employees of the regional self-governments and are paid using the Operational Programme

351 See the Annual Report, *supra* note 346.

352 *Ibid.*

353 See in Housing Conditions, *supra* note 325.

Technical Assistance.<sup>354</sup> So far, 152 municipalities have approved their Local Strategy of Comprehensive Approach, committing to comprehensively tackle problems faced by their local Romani communities. Most of them do not include housing interventions. Municipalities use mostly construction of housing units of lower-standards to tackle the housing situation of local Romani population. Some of them also successfully settled the title of property underneath local segregated or separated Romani settlements which allow them to undertake further housing interventions (e.g. construction of social housing or interventions using EU Structural Funds). Involving representatives of local Romani communities is not a mainstream trend in Slovakia although some municipalities employ this strategy and find it beneficial for the whole community. In some cases, e.g. Spišský Hrhov, participation of Roma in local-level decision-making was a result of the municipality's co-operation with an NGO. As the mayor said, the municipality would not have come up with the idea to involve local Roma but are now content with the outcomes of their co-operation.

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354 Annual Report, *supra* note 346.

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In the pilot year of 2012, the Decade Secretariat decided to support reports from civil society coalitions in seven countries (Albania, Bulgaria, Hungary, Macedonia, Romania, Slovakia and Spain) and the Roma Initiatives Office commissioned an additional report from the Czech Republic. In addition, the Decade Secretariat made a template public in order to encourage additional civil society actors to monitor the implementation of National Roma Integration Strategies (NRIS) and Decade Action Plans.

In the reports, civil society coalitions supplement or present alternative information to Decade Progress Reports submitted by Participating Governments in the Decade of Roma Inclusion and to any reports submitted by State parties to the European Commission on implementation of their NRIS. These reports are not meant to substitute quantitative monitoring and evaluation by State authorities but to channel local knowledge into national and European policy processes and reflect on the real social impact of government measures. The civil society reports provide additional data to official ones, proxy data where there is not official data, or alternative interpretation of published data.

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