



Submission to the UN Special Rapporteur on violence against women concerning violations of reproductive rights of women belonging to Roma ethnic minority in Slovakia

Poradňa pre občianske a ľudské práva (Center for Civil and Human Rights), Slovakia

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I. Introduction

This is the submission of the Center for Civil and Human Rights (Poradňa pre občianske a ľudské práva) - Slovak non-governmental organization focusing on the protection of rights of ethnic minorities and protection from discrimination. From our establishment in 2002 we have actively pursued reproductive rights of women belonging to Roma ethnic minority in Slovakia by conducting human rights field monitoring, strategic litigation in domestic and international courts as well as advocacy activities towards Slovak government authorities and international human rights institutions and bodies.

We welcome UN Special Rapporteur`s call for submissions concerning mistreatment and violence against women during reproductive health care with a focus on childbirth. In our submission, we seek to provide information responding questions 1-3 raised by the call specifically in the context of women belonging to Roma ethnic minority in Slovakia.

II. Occurrence of cases of mistreatment and violence against Roma women during reproductive health care, particularly facility-based childbirth in Slovakia and their nature

Roma ethnic minority remains one of the most marginalized groups in Slovakia, experiencing various forms of social exclusion and discrimination.¹ A significant number of Roma live in socially disadvantaged conditions of segregated communities. Roma women are particularly marginalized and are at risk of multiple, and intersecting, forms of gender and racial discrimination. The specific forms of discrimination they face are especially widespread and pronounced in the area of reproductive health care. For many years, international human rights bodies have repeatedly expressed concern about the persistent discrimination and human rights violations Roma face, including in health care, and have called on Slovak authorities to take effective measures to address and prevent such violations.²

In November 2017 our NGO in cooperation with an international NGO Center for Reproductive Rights published an advocacy report titled *Vakeras Zorales – Speaking Out: Roma Women’s Experiences in Reproductive Health Care in Slovakia*. The report was based on in-depth interviews with 38 Roma women from marginalized communities and documented a wide range of human rights violations that Roma women experience in reproductive health care in Slovakia. That included practices of

¹ According to available data from 2013 there are approximately 400,000 Roma in Slovakia, which accounts for approximately 7.45 percent of the country’s population. See First results of ATLAS of Roma Communities in Slovakia 2013. Available in Slovak language at: http://www.minv.sk/?atlas_2013

² See e.g., Committee on the Elimination of Racial Discrimination, Concluding Observations: Slovakia, paras. 21-26, U.N. Doc. CERD/C/SVK/CO/11-12 (2017); Human Rights Committee, Concluding Observations: Slovakia, paras. 16-19, U.N. Doc. CCPR/C/SVK/CO/4 (2016); Committee on the Elimination of Discrimination against Women, Concluding Observations: Slovakia, paras. 11, 20-23, 26-27, U.N. Doc. CEDAW/C/SVK/CO/5-6 (2015);

segregation in maternity wards, racial harassment and humiliation, neglect, physical restraint and abuse during childbirth and failures related to informed consent and decision making with regard to medical treatment³.

In response to the published report the Slovak Government authorities so far did not adopt comprehensible policies and measures that would effectively prevent violations of Roma women's reproductive rights. From 2017 the Ministry of Health of Slovakia have supported a pilot project of Roma assistants in gynaecology, maternity and paediatrics departments in six hospitals who are tasked to raise awareness and support Roma women as well as mediate contacts between them and medical practitioners.⁴ The Government in its strategic policy documents for integration of Roma minority currently perceives this project as a measure to contribute to securing dignified and just conditions in hospitals for patients of Roma minority.⁵ However, we are convinced that - if not accompanied with a range of systemic measures - projects of this kind have only limited potential to prevent Roma women's reproductive rights violations that are deeply rooted in long term negative racist attitudes of the majority society towards Roma minority.

We believe that the Special Rapporteur should reiterate in its report particular vulnerable position of women from marginalized minority groups who face increased risk of violations of their reproductive rights due to their marginalization and minority status. In order to effectively protect their reproductive rights, the state authorities have to address behaviour and negative attitude of the medical practitioners towards these women by taking effective measures that have preventive as well as repressive character. These should particularly include effective monitoring and sanctioning of violations of Roma women's rights in reproductive health care facilities and, implementing effective awareness-raising programs for health care practitioners to eradicate stereotypes and prejudices that foster the discriminatory treatment of Roma women.

III. Administration of informed consent for reproductive health care, including childbirth care in Slovakia in the context of Roma women

In Slovakia and former Czechoslovakia (existed till 1992) the practice of forced sterilization of Roma women without acquiring informed consent has been documented. In 2003, our NGO in cooperation with the international NGO Center for Reproductive Rights published a report *Body and Soul: Forced Sterilization and Other Assaults on Roma Reproductive Freedom in Slovakia* which exposed cases of forced and coercive sterilization and other violations of Roma women's rights in reproductive health care facilities.⁶ This monitoring followed up on information concerning violations of Roma women's reproductive rights in Czechoslovakia brought forth in the 1970s by a civic initiative against the communist regime from that time.

The report's findings were based on 230 interviews conducted with Roma women from marginalized communities throughout eastern Slovakia and provided evidence to suggest that most of them have been sterilized without prior and informed consent. The report called on Slovak authorities to investigate these incidents of forced or coercive sterilization, provide effective remedies to affected women, and adopt legislative and other measures to prevent this practice.

³ The report is available in English at: <https://www.poradna-prava.sk/en/documents/vakeras-zorales-speaking-out-roma-womens-experiences-in-reproductive-health-care-in-slovakia/>

⁴ The comprehensible information about this pilot project in English are available at: <https://epha.org/health-awareness-raising-assistants-in-action-in-slovak-hospitals/>

⁵ Updated action plans of the Strategy of Slovak republic for integration of Roma till 2020 for years 2019 – 2020. Attachment n. 5: D.2.3 Area oh Health. Adopted by the Government of the Slovak republic on 17 January 2019. Available in Slovak language at: <https://rokovania.gov.sk/RVL/Negotiation/963>

⁶ The report is available in English at: <https://www.poradna-prava.sk/en/documents/body-and-soul-forced-sterilization-and-other-assaults-on-roma-reproductive-freedom-in-slovakia/>

As a result, in 2004 new legislation was adopted in Slovakia introducing informed consent procedures, including a specific provision on informed consent prior to sterilization.⁷ Pursuant to the law, sterilization can only be performed upon an initial written request once informed consent has been provided after receiving all relevant information and following a 30-day waiting period that begins once informed consent has been provided. A woman must be provided with information on alternative contraception and family planning methods, possible changes in life circumstances that led to the request for sterilization, medical consequences of sterilization, including irreversible deprivation of fertility as well as information on the possible failure of sterilization. In 2014, requirements to acquire informed consent prior to sterilization were further standardized by a Ministry of Health regulation that introduced templates for informed consent forms in national minority languages, including Romani.⁸

However, although the current legal framework in this area formally provides sufficient legal safeguards, Slovakia does not properly monitor the implementation of this legislation by medical practitioners and thus any failures in implementation go largely unnoticed. Our continuous human rights monitoring from recent years based on documenting experience of Roma women from maternity health care facilities shows that in practice the way medical personnel acquire informed consent frequently remains formal and insufficient. The Slovak authorities fall short to improve communication of the medical practitioners with Roma women when acquiring informed consent in everyday practice, which is very essence of obtaining informed consent and crucial for preventing any risk of illegal sterilization or other medical interventions.⁹

We believe that the Special Rapporteur should reiterate the key importance to secure respectful and active verbal communication of medical practitioners with women when acquiring informed consent. Such communication has to guarantee that women fully understand the provided information while considering specific position of women with minority status who may e.g. experience language and communication barriers or may generally have insufficient access to information. The medical practitioners should have detailed guidelines in this respect and quality of acquiring informed consent should be monitored.

IV. Accountability mechanisms within the health facilities in Slovakia to ensure redress for victims of mistreatment and violence in the context of Roma women

a.) Access to justice for forcibly sterilized Roma women in Slovakia

While referring to the above mentioned cases of forced sterilization of Roma women documented in 2003, the Slovak authorities have continuously failed to conduct an effective investigation, to establish an accessible and appropriate reparations programme to provide compensation and satisfaction to the survivors, including through an apology and acknowledgment of responsibility. As a result, Roma women seeking remedies and recognition of harm suffered initiated and pursued individual civil claims, but domestic courts either dismissed their petitions altogether or awarded them inadequate financial compensation. Between 2011 - 2013 a few Roma women achieved justice in the European Court of Human Rights that recognized they were forcibly sterilized without

⁷ Act No. 576/2004 Coll. of Laws on Healthcare, Healthcare-related Services and on Amending and Supplementing Certain Acts, as amended, secs. 6, 18, 40.

⁸ Regulation of the Ministry of Health of the Slovak Republic No. 56/2014 Coll. of Laws, which establishes details on the instruction provided prior to informed consent preceding the performance of sterilization on a person and template forms for informed consent prior to sterilization in the state language and national minority languages.

⁹ For testimonies of Roma women on providing information from medical practitioners to them see particularly p. 20 of the above referred report Vakeras Zorales – Speaking Out: Roma Women’s Experiences in Reproductive Health Care in Slovakia.

informed consent and financially compensated them.¹⁰ Although lately in a small number of these cases Slovak courts (while recognizing the judgements of the European court) have found violations of the women's rights under Slovak law and awarded financial compensation to the survivors, in large part these proceedings have not resulted in effective remedies. Often the length of the proceedings rendered the process ineffective.

In November 2018 the existing barriers of forcibly sterilized Roma women to get justice in courts have also been highlighted by the Slovak Public Defender of Rights (Ombudswomen) who called on the Slovak Government authorities to take responsibility and secure redress for survivors.¹¹

The experience of forcibly sterilized Roma women in Slovakia clearly shows that, in cases of reproductive rights violations that appear to have far-reaching systemic character and may affect a large number of women, the courts are ineffective to provide effective access to justice. We believe that the Special Rapporteur in its report should point at the fact that executive and legislative branches of state power should not refrain from the responsibility of the state to provide access to justice in cases of human rights violations through e.g. establishing ad hoc interim independent expert body that would investigate the given practice in a complex manner and effectively provide the survivors adequate redress through established compensation scheme.¹²

b.) Access to justice for Roma women experiencing reproductive rights violations in health facilities in Slovakia

Slovak legislation prohibits discrimination and broad range of other violations of women's reproductive rights including their rights in health facilities. However - based on our first-hand experience of providing legal assistance in this area in recent years - addressing reproductive rights violations against Roma women by legal means of protection is largely ineffective due to shortcomings in the implementation of legislation as well as decision making of courts or responsible state administrative bodies.

As an example, our NGO currently litigates "actio popularis" lawsuit based on the domestic Antidiscrimination Act targeting segregation of Roma women in the maternity ward of a hospital in a town Prešov, but the court proceeding has been pending before the first instance court for more than five years without any meaningful progress. In addition, a group of Roma women we cooperate with, in April 2017 initiated a public petition by which they pointed at the segregation and humiliation of Roma women in the Prešov hospital. Petition was subsequently submitted to the Ministry of Health that assessed it as a complaint and requested the responsible Office of Self-governing Region to make an inspection in the hospital. However, the inspection of the given Office has been clearly ineffective since its results have been based solely on the statements of the medical personnel of the hospital. The Office did not conduct any inspection on the spot and rejected the

¹⁰ For more detailed information about the course of criminal and civil proceedings concerning forced sterilizations in Slovakia see a joint submission of NGOs the Center for Civil and Human Rights – Poradňa, Citizen, Democracy and Accountability, Women's Circles and the Center for Reproductive Rights to the UN Human Rights Committee, 118th session, Review of Slovakia's 4th Periodic Report, September 2016, pp. 1 – 3. Available at: <https://www.poradna-prava.sk/en/documents/together-with-partner-ngos-we-submitted-additional-information-to-the-un-human-rights-committee/>

¹¹ See the report of the Slovak Public Defender of Rights titled "Redress of victims of illegal sterilizations in Slovakia" published in November 2018. Available in Slovak language at:

http://www.vop.gov.sk/files/Stanovisko_%20VOP_2018_Odskodnenie_obeti_protipravnej_sterilizacie_fin.pdf

¹² The UN Human Rights Committee in its recent concluding observations specifically recommended Slovakia to "establish an independent body to investigate the full extent of the practice of sterilization without informed consent and to provide financial and other reparation to the victims." CCPR/C/SVK/CO/4 (2016), para. 27.

claims of Roma women without adequate examination of the situation in the hospital and without proper justification.¹³

In July 2018, the given shortcomings in the inspection procedure of the Office of Self-governing Region has also been identified by the Slovak Public Defender of Rights (Ombudswoman) based on a complaint submitted by our NGO. The Ombudswoman stated that the inspection procedure of the Office of Self-governing Region was insufficiently directed towards a complete finding of the actual state of the matter and its conformity or contradiction with the generally binding legal regulation, was formalistic and as a result violated the right for other legal protection guaranteed by the Slovak Constitution.¹⁴ The Ombudswoman recommended the Office of Self-governing Region to make an inspection in the hospital repeatedly, but even after eight months there is no response from the Office of Self-governing Region that would make clear if the repeated inspection was conducted. The segregation of Roma women in the hospital in Prešov currently still persists.

Expertise of the submitting organization:

The Center for Civil and Human Rights (Poradňa pre občianske a ľudské práva, "Poradňa") is an independent non-governmental organization based in Slovakia focused on the protection of human rights with particular emphasis on the rights of minorities and protection from discrimination. Poradňa has for a long time worked on the issue of discrimination against Roma ethnic minority in various areas of public life. It has also been active in the protection of reproductive rights of Roma women and protection from police ill-treatment. Poradňa employs strategic litigation to combat discrimination and human rights abuses against minorities. It also actively cooperates with many local Roma women activists and supports their efforts on the protection of human rights of Roma minority in Slovakia. Visit us at www.poradna-prava.sk

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¹³ Notice of the Office of Self-governing Region on investigation of a complaint of the Center for Civil and Human Rights from 11 September 2017. Available in Slovak language at: <https://www.poradna-prava.sk/sk/dokumenty/odpoved-uradu-presovskeho-samospravneho-kraja-tykajuca-sa-zle-zaobchadzanie-s-romskymi-zenami-v-nemocnici-v-presov/>

¹⁴ Notice of the Public Defender of Rights on the results of handling a complaint of the Center for Civil and Human Rights from 19 July 2018. Available in Slovak language at: <https://www.poradna-prava.sk/sk/dokumenty/upovedomenie-verejnej-ochrankyne-prav-vop-na-nas-podnet-ktorym-sme-namietali-vykonanie-kontroly-zo-strany-presovskeho/>