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ECRI REPORT ON SLOVAKIA

(fourth monitoring cycle)

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Adopted on 19 December 2008

Published on 26 May 2009



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FOREWORD

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country-by-country monitoring work, which analyses the situation in each of the member States regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country-by-country monitoring deals with all member States of the Council of Europe on an equal footing. The work is taking place in 5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, and those of the third round at the end of the year 2007. Work on the fourth round reports started in January 2008.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The fourth round country-by-country reports focus on implementation and evaluation. They examine the extent to which ECRI's main recommendations from previous reports have been followed and include an evaluation of policies adopted and measures taken. These reports also contain an analysis of new developments in the country in question.

Priority implementation is requested for a number of specific recommendations chosen from those made in the new report of the fourth round. No later than two years following the publication of this report, ECRI will implement a process of interim follow-up concerning these specific recommendations.

The following report was drawn up by ECRI under its own and full responsibility. It covers the situation up to 19 December 2008 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.

SUMMARY

Since the publication of ECRI's third report on Slovakia on 27 January 2004, progress has been made in a number of fields covered by that report.

One area of progress as far as ECRI's mandate is concerned, is the adoption of a new Criminal Code in January 2006 which contains several provisions on racially-motivated crimes, including incitement to racial hatred. The Code also provides that the racist motivation of a crime is considered to be an aggravating circumstance. Another noteworthy step is the passing on 1 July 2004, of the Anti-Discrimination Act. This Act prohibits discrimination based on, among others, race, religion or belief, national or ethnic origin, colour and language and covers the areas of employment, social security, healthcare, the provision of goods and services as well as education. The Act also provides for positive measures to be adopted for, among others, persons who are socially disadvantaged. ECRI thus notes that this Act is broadly in keeping with international and European standards concerning the protection against racial discrimination. The Slovak National Centre for Human Rights is the body entrusted with monitoring the implementation of this Act.

The Slovak authorities adopted, in May 2008, a new School Act which prohibits discrimination and segregation in education. They have also adopted a Concept of Education and Training of Roma Children and Pupils, including the Development of High School and University Education. One of the objectives of this concept is to decrease the number of Roma children attending Special Elementary Schools for disabled children and to integrate them into mainstream education. In the area of housing, the Slovak authorities have built social housing to improve the conditions in which Roma live. They have also adopted detailed guidelines for the police on the manner in which forced evictions ought to be carried out in order to reduce the possibility of past human rights violations being repeated in this regard.

As concerns the situation of Roma in various fields, the Slovak authorities have adopted the Basic Theses of the Government's Policy Concept for the Integration of Roma Communities for 2003. This concept contains a number of tasks in areas such as human rights, education, employment, housing and health for resolving problems faced by Roma in these areas. In March 2008, the Slovak authorities adopted a Medium-term Concept of the Development of the Roma National Minority in the Slovak Republic for the Period 2008-2013 which incorporates the current defined issues and proposes solutions in the fields of, inter alia, education, health, healthcare and the media. The Employment Services Act also contains measures designed to assist members of this group in integrating into the labour market. Thus, it provides that private entities or public companies should have a workforce comprising 30% long-term unemployed. The majority of long-term unemployed are Roma.

A number of Roma community officers have been recruited in the police since ECRI's third report and Roma health workers are currently working in Roma communities to improve the health situation of the persons who live therein. These measures are a positive step in better involving Roma in implementing measures taken to address issues of concern to their communities. Following allegations of sterilisations of Roma women without their full and informed consent, the Slovak authorities have made some legislative changes concerning sterilisations, by including the crime of "illegal sterilisation" in the Criminal Code. Several safeguards concerning sterilisations were also added in the Law on Healthcare including the provision that this procedure may only be carried out following a written request and informed consent. There has been an increased Roma presence on the Slovak political scene, with 19 mayors having been elected in the 2006 municipal elections.

In July 2007, the Slovak legislation was amended to provide subsidiary protection for asylum seekers and conditions are reported to have improved in detention centres for non-citizens.

ECRI welcomes these positive developments in Slovakia. However, despite the progress achieved, some issues continue to give rise to concern.

In 2000, Slovakia signed Protocol No. 12 to the European Convention on Human Rights which provides for a general prohibition to discrimination, but it has not yet ratified this instrument which came into force on 1 April 2005. The provisions of the Criminal Code regarding racially-motivated crimes are seldom implemented and few cases have been tried although an increase in racially-motivated violence against ethnic minorities including Roma, Hungarians, Jews as well as non-nationals from Africa, Asia and Latin America has been observed in the last few years. The Anti-Discrimination Act is also not implemented as vigorously as it could be, partly because judges have not yet received the type of training in this Act and in discrimination issues in general including on the principle of shifting the burden of proof in discrimination cases, which they require. As the body empowered to monitor the implementation of the Anti-Discrimination Act, the Slovak National Centre for Human Rights is not at present sufficiently equipped to fully fulfil its role because it does not, for instance have the power to represent victims in court. Furthermore, doubts have been raised as to whether this body is sufficiently independent in practice.

The Office of the Plenipotentiary for Roma which has, among others, been entrusted with managing funds allocated to programmes and projects dealing with Roma issues, does not currently have the necessary tools, including human and financial resources, to carry out this task. The various programmes adopted by the authorities to improve the situation of Roma in various areas such as education, housing, employment and health are not implemented as vigorously as they should be. For the moment, most of the initiatives taken in those areas are in the context of NGO, Council of Europe or European Union projects. Roma civil society actors and NGOs are further not sufficiently consulted and involved in the planning, execution and monitoring process where these programmes are concerned. Moreover, some of the programmes were only adopted by the authorities relatively recently. For example, the Concept of Education and Training of Roma Children and Pupils, including the Development of High School and University Education has among its objectives, reducing the number of Roma children placed in Special Elementary Schools for disabled children and integrating them in mainstream schools, but it was only adopted in April 2008.

In the area of education, Roma children remain disproportionately represented in Special Elementary Schools for disabled children and the problem of many of them facing de facto segregation in this field remains. As concerns housing, although as mentioned above, new social housing has been built to improve the living conditions of many Roma who continue to live in isolated settlements with no water, electricity and no or little access to public transport, this type of housing continues to be largely built in the same segregated areas where Roma previously lived. Roma continue to suffer from a higher unemployment rate than the national average.

As allegations of sterilisations of Roma woman without their full and informed consent were investigated under the crime of genocide, which requires a high standard of proof, most cases have been closed and few victims have been able to obtain redress through the courts.

A rise in racist political discourse by some politicians targeting primarily Hungarians as well as Roma and Jewish people has been noted since the coalition government comprising the Slovak National Party took power in 2006. Few measures have been taken to address this problem by, among others, implementing relevant provisions of the Criminal Code. An Action Plan for the Prevention of All Forms of Discrimination,

Racism, Xenophobia, Anti-Semitism and Other Expressions of Intolerance which has been periodically renewed since its adoption in 2000 exists in Slovakia. However, little appears to have been done in the framework of this plan to combat incitement to racial hatred, including by political figures, as a complementary measure to the implementation of the relevant provisions of the Criminal Code. Cases of antisemitic attacks against Jewish persons or memorials and synagogues have been brought to court. However, although the above-mentioned Action Plan for the Prevention of All Forms of Discrimination, Racism, Xenophobia, Anti-Semitism and Other Expressions of Intolerance contains a goal on monitoring antisemitism as well as education and awareness-raising of this problem, no specific measures in that regard appear to have been taken.

Other problems highlighted in this report include the lack of an integration strategy for refugees, although it appears that one may be ready by the end of 2008. An independent body to investigate allegations of police misconduct against minority groups in general, and Roma in particular has not yet been established, despite reports of the existence of this type of problem. A system for collecting ethnic data in various areas in order to assess the situation of minority groups in general and Roma in particular does not exist yet, although Section 9 of the Act on Personal Data allows the collection of this type of data with the written consent of the person in question. ECRI is of the view that ethnic data collection can assist the authorities in monitoring the impact of the various programmes they have adopted for this group and adjusting them where necessary.

In this report, ECRI requests that the Slovak authorities take further action in a number of areas; in this context, it makes a series of recommendations including the following.

As Slovakia signed Protocol No. 12 to the European Convention in 2000, ECRI urges it to ratify this instrument which it considers important to the fight against racism and racial discrimination. In view of the above-mentioned rise in racially-motivated crimes, ECRI recommends that the Slovak authorities implement more actively the relevant provisions of the Criminal Code in order to punish those who commit these types of crimes. It also recommends that they raise awareness of the seriousness of these crimes and the fact that they will be punished.

ECRI also recommends that judges be provided with initial and on-going training in the Anti-Discrimination Act in order to improve their understanding of discrimination issues and to ensure a more vigorous implementation of this piece of legislation. ECRI recommends that the same type of training be offered to lawyers.

ECRI recommends that the Slovak authorities take steps to strengthen the role of the Slovak National Centre for Human Rights as an anti-discrimination body by ensuring that it is perceived as being fully independent in practice, that it has the power to represent victims of racial discrimination in court and that it receives sufficient human and financial resources. In line with its General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, ECRI further recommends that the strengthening of the Slovak National Centre for Human Rights include more active research on its part on issues pertaining to racism and racial discrimination as well as on the situation of minority groups, and widespread awareness-raising campaigns on these questions.*

ECRI commends the Slovak authorities for making issues pertaining to Roma a horizontal priority and urges them to increase the capacity of the Office of the Plenipotentiary for Roma to manage funds allocated to that end by increasing the

* The recommendation in this paragraph will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

human and financial resources available to this Office. ECRI further recommends wide-ranging consultations and involvement of Roma communities leaders in decisions on the manner in which these funds are spent as well as the regular monitoring and assessment of the impact of measures taken.*

ECRI recommends that measures be taken to remove from Special Elementary Schools Roma children who should not have been placed therein and to integrate them into mainstream education as they are still disproportionately represented in these types of schools.

ECRI recommends that in order to combat the de facto segregation of Roma children Slovak authorities provide incentives, including financial ones, to local authorities to draw up and implement action plans to desegregate schools in their areas.*

Tackling the problem of the rise in racist political discourse targeting primarily Hungarians as well as Roma and Jews is one of the issues that ECRI considers to be of prime importance in Slovakia. That is why it urges the Slovak authorities to ensure that the provisions of the Criminal Code against incitement to racial hatred are implemented as concerns politicians who make racist statements or speeches.

ECRI also recommends that the Slovak authorities take steps to combat all forms of antisemitism, as outlined in its General Policy Recommendation No.9 on the fight against antisemitism.

In view of the allegations of sterilisations of Roma women without their full and informed consent, ECRI recommends that the Slovak authorities monitor all facilities which perform sterilisations to ensure that the above-mentioned legislative safeguards concerning this procedure are respected. It also recommends that the authorities take steps to ensure that complaints filed by Roma women alleging sterilisations without their full and informed consent are duly investigated and that the victims receive proper redress.

ECRI also makes a number of recommendations concerning the police which are drawn from its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, particularly the setting up of an independent complaints mechanism and investigating and punishing police misconduct against, inter alia, members of minority groups. ECRI also highlights in this report, the importance of collecting ethnic data and provides guidelines to that end.

* The recommendation in this paragraph will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

FINDINGS AND RECOMMENDATIONS

I. Existence and Implementation of Legal Provisions

International legal instruments

1. In its third report, ECRI urged Slovakia to ratify Protocol No. 12 to the European Convention on Human Rights.
2. Slovakia signed Protocol No. 12 to the European Convention on Human Rights on 4 November 2000. However, Slovakia has not yet ratified this Protocol. ECRI is not aware of any particular objections Slovakia may have to the ratification of this Protocol. It thus wishes to draw Slovakia's attention to the importance of this instrument, which entered into force on 1 April 2005, in the fight against racism and racial discrimination. ECRI considers that this Protocol will enable Slovakia to combat these phenomena more effectively at national level.
3. ECRI again urges Slovakia to ratify Protocol No. 12 to the European Convention on Human Rights.
4. In its third report, ECRI recommended that Slovakia ratify without delay the Revised Social Charter and the Convention on the Participation of Foreigners in Public Life at Local Level. ECRI also recommended that Slovakia ratify the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist or xenophobic nature committed through computer systems.
5. The Revised Social Charter, the Convention on the Participation of Foreigners in Public Life at Local Level and the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist or xenophobic nature committed through computer systems have not yet been ratified by Slovakia. Slovakia has indicated that it is preparing to sign the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist or xenophobic nature committed through computer systems.
6. Slovakia has not yet ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
7. ECRI reiterates its recommendation that Slovakia ratify, as soon as possible, the Revised Social Charter, the Convention on the Participation of Foreigners in Public Life at Local Level and the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist or xenophobic nature committed through computer systems.
8. ECRI also recommends that Slovakia ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Law on the Use of National Minority Languages

9. In its third report, ECRI recommended that further steps be taken to ensure that the Law on the Use of Minority Languages was implemented for all minority groups wishing to use their mother tongue in their contacts with the authorities. It urged the authorities to take the necessary legislative and other steps to allow for the full implementation of the European Charter for Regional or Minority Languages.

10. Since the publication of ECRI's third report, the Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities (Office of the Plenipotentiary)¹ has played a key role in the standardisation of the Romani language. The authorities have informed ECRI that this body has contributed to the preparation of the Declaration on the Standardisation of the Romani Language. According to the Office of the Plenipotentiary, the standardisation of the Romani language will be an important step in ensuring that Roma are able to better benefit from the Law on the Use of Minority Languages.
11. ECRI notes that on 21 February 2007, the Committee of Ministers of the Council of Europe adopted a recommendation on the implementation of the European Charter for Regional or Minority Languages by Slovakia². The Committee recommended that Slovakia take account of all the observations of the Committee of Experts on the Charter for Regional or Minority Languages and as a matter of priority, inter alia, review the requirement that regional or minority language speakers should represent at least 20% of the municipal population for the undertakings in the field of administration to be operational and remove the restrictions on the use of regional or minority languages in court.³ On the latter point, the authorities have informed ECRI that everyone has a right to interpretation in civil and criminal proceedings. However, reports indicate that Roma languages are rarely used in official communication as there are very few civil servants who speak them.⁴ ECRI also notes information provided by the authorities that the Ombudsman encountered cases when the complainant raised objections about the use of their mother-tongue in criminal proceedings.
12. ECRI encourages the Slovak authorities in their standardisation of the Romani language and recommends that they ensure the popularisation thereof.
13. ECRI recommends again that the Slovak authorities ensure that members of minority groups who so wish are able to use their mother tongue in their contacts with the authorities. ECRI also recommends that the Slovak authorities amend the Law on the Use of National Minority Languages by taking into consideration the recommendations made by the Committee of Experts on the European Charter for Regional or Minority Languages.

Criminal law provisions against racism

14. In its third report, ECRI was of the opinion that further steps were needed in order to increase the effectiveness of criminal law protection against racist crimes.
15. On 1 January 2006, a new Criminal Code entered into force in Slovakia. The authorities have informed ECRI that this Code forbids the menacing of an individual or a group of persons with restricting their rights and freedoms for reasons of their belonging to a national minority, a race, or an ethnic group, or because of their skin colour; the Criminal Code also prohibits inciting restriction on the rights and freedoms of a nation, a national minority, a race or an ethnic group (Sections 421-423). Section 140(d) of the Code provides that the fact that certain crimes are committed because of national, ethnic or racial hatred or hatred based on skin colour is considered to be an aggravating circumstance.

¹ For a more in-depth discussion of the work of this body, see "Anti-discrimination bodies and other institutions" below.

² Recommendation RecChL(2007)1 of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Slovakia, 21 February 2007.

³ *Ibid.*

⁴ See: Working Paper 23, Language policy and language rights in Slovakia, Gizella Szabó Mihály Gramma, Gramma Language Office, Dunajská Streda/Dunaszerdahely, 2006, p. 29.

The authorities have informed ECRI that the provision on aggravating circumstances applies, among others, to murder, manslaughter, grievous bodily harm and actual bodily harm, threats as well as the desecration of cemeteries. The new Criminal Code also punishes, inter alia, supporting and promoting groups leading to the suppression of fundamental rights and freedoms of individuals through violence, threat of violence or threat of other serious harm (Sections 421 and 422). It provides for the punishment of anyone who publicly manifests their sympathy, especially by means of banners, badges, uniforms or slogans, for movements leading to the suppression of fundamental rights and freedoms by violence, the threat of violence, or the threat of other serious harm.

16. ECRI, therefore, notes with interest that the Criminal Code has been amended in order to provide for better protection against racist crimes. The authorities have informed ECRI that a further amendment to the Criminal Code is currently being prepared in order to extend its scope. However, whilst recognizing that the new Code entered into force relatively recently, ECRI considers that more measures should be taken to ensure its implementation, primarily by arresting and trying those who commit racially-motivated crimes.⁵
17. ECRI strongly recommends that the Slovak authorities take all the necessary measures to combat racially-motivated crimes by ensuring that the relevant provisions of the Criminal Code are duly implemented.

Anti-Discrimination Act

18. In its third report, ECRI again stressed the importance of ensuring that a comprehensive and clear legal framework against discrimination existed and urged the Slovak authorities to ensure that the draft anti-discrimination law would be passed without further delay.
19. ECRI is pleased to note that on 1 July 2004, the Anti-Discrimination Act which transposed the relevant European Union Directives⁶ entered into force in Slovakia. It has been amended several times since then, the latest amendment having been adopted in April 2008. The Act prohibits discrimination based on, among others, religion or belief, race, nationality or ethnic origin, colour, language. The Act covers employment, social security, healthcare, the provision of goods and services as well as education.⁷ It contains provisions on direct and indirect discrimination as well as on instruction to discriminate, incitement to discriminate and victimisation.⁸ It further provides that discrimination due to race, nationality or ethnic origin shall also mean discrimination due to the relationship to a person of a certain race, nationality or ethnic origin. The Anti-Discrimination Act provides that discrimination based on religion or faith shall mean discrimination due to the relationship of a person who holds a certain religion or faith, as well as discrimination of a person who holds no religious beliefs⁹ This law also contains a provision on shifting the burden of proof in discrimination cases. The Slovak National Centre for Human Rights is the body entrusted with ensuring the implementation of the Act.¹⁰

⁵ For a more in-depth analysis of the implementation of the Criminal Code as concerns racist crimes, see "Racist Violence" below.

⁶ Including Council Directive 2000/43/EC which establishes the principle of equal treatment between persons irrespective of racial or ethnic origin and Council Directive 2000/78/EC which establishes a general framework of equal treatment in employment and occupation.

⁷ Articles 3, 5-7.

⁸ Article 2 a) (1)-(10).

⁹ Article 2 a) (11).

¹⁰ For a more in-depth discussion of the tasks and powers of the Slovak National Centre for Human Rights, see "Anti-discrimination bodies and other institutions" below.

20. Section 8 of the initial Anti-Discrimination Act provided for temporary positive measures on the basis of racial and ethnic origin. In October 2004, the Ministry of Justice initiated proceedings before the Constitutional Court to establish whether this provision was in conformity with the Constitution. In 2005, the Constitutional Court decided in a close vote that the provision was unconstitutional on the grounds of vagueness and that the Constitution did not allow for the provision of positive measures on the grounds of race or ethnic origin. As a result, the Anti-Discrimination Act was amended again on 1 April 2008¹¹ and currently provides for positive measures on the grounds of, inter alia, social and economic disadvantages. ECRI wishes in this regard to bring to the Slovak authorities' attention Chapter III of its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination in which it states that the prohibition on discrimination does not prevent the maintenance or adoption of temporary special measures designed either to prevent or compensate for disadvantages suffered by persons on the grounds of their race, colour, language, religion, nationality or national or ethnic origin. ECRI therefore considers that positive measures on these grounds can also complement those taken on the grounds of social disadvantage.
21. The authorities have informed ECRI that the Anti-Discrimination Act provides for the monitoring and assessment of positive measures to establish whether their continuation is justified. To that end, reports should be submitted to the Slovak National Centre for Human Rights. ECRI is, however, not aware of whether any such monitoring has been carried out.
22. According to the Slovak National Centre for Human Rights, as the Anti-Discrimination Act is still relatively new, judges tend to take a conservative approach in discrimination cases, as regards, for example, the principle of shifting the burden of proof. On this point, the authorities have informed ECRI that since September 2004, the Judicial Academy provides training to future judges, prosecutors and other officials such as court clerks and probation officers. The authorities have indicated that human rights issues are addressed and that between 2006-2008, the Judicial Academy organised specialised seminars on racially-motivated crimes and broader discrimination issues in the context of psychology courses. Other training on this issue was provided in the framework of Council of Europe and European Union projects. However, more measures need to be taken to provide initial and on-going training to judges on racial discrimination issues in general and the Anti-Discrimination Act in particular. ECRI was also informed this law is still only seldom implemented, partly because of a lack of a strong NGO sector to assist victims in bringing cases to court.
23. As concerns measures taken to raise awareness of the Anti-Discrimination Act, the authorities have informed ECRI that the activities of the Ombudsman in the field of combating discrimination include frequent media presentations (dissemination of information on discrimination issues, possibilities for legal protection, etc.). NGOs have, however, informed ECRI that there is little knowledge among the public of this Act and of what discrimination entails. This information has been confirmed by research carried out by the Slovak National Centre which found that approximately 10% of the population does not know what the term "discrimination" means or never heard of it and that one fourth of the respondents knew more or less what discrimination was.¹² The Centre's research further noted that only 40% of the adult population knew of the adoption

¹¹ Act No. 85/2008/Coll.

¹² See: Report on the Observance of Human Rights in the Slovak Republic for the Year 2006, Slovak National Centre for Human Rights, Bratislava 2007, p. 23.

of the Anti-Discrimination Act, the remaining being either unaware of its existence or believing that it has not yet been passed.¹³

24. ECRI recommends that the Slovak authorities take measures to provide to judges and prosecutors initial and on-going training in issues pertaining to racial discrimination in general, and on the Anti-Discrimination Act in particular. ECRI further recommends that the same type of training be offered to lawyers.
25. ECRI recommends that the Slovak authorities take steps to raise public awareness of the Anti-Discrimination Act. It also recommends that they take measures specially aimed at ethnic minority groups in this regard.

Anti-discrimination bodies and other institutions

26. In its third report, ECRI recommended that as foreseen in the draft legislation on anti-discrimination, a specialised body to combat racism and discrimination be set up as quickly as possible, and called attention in this context to its General Policy Recommendation No 7 on national legislation to combat racism and racial discrimination, which advocates the setting up of such bodies, and its General Policy Recommendation No 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, which provides guidelines concerning the organisation, responsibilities and functions of such bodies.
27. The three institutions below are empowered to deal with the issues of discrimination and racism in Slovakia.
 - *Slovak National Centre for Human Rights*
28. As previously indicated, the Slovak National Centre for Human Rights (the Centre) is the body entrusted with monitoring the implementation of the Anti-Discrimination Act. The Centre is, inter alia, empowered to combat racism and racial discrimination, to advise victims and provide legal assistance to them. The Centre also has the power to issue opinions on matters relating to the principle of equal treatment. The Centre has informed ECRI that seven regional offices (staffed by one person each) were opened in 2007 and that a sharp increase in the number of complaints was noted thereafter. The authorities have indicated that the staff in these regional branches together with external experts constitute a regional advisory and monitoring network. The creation of these local branches has been hailed as a good initiative and they are globally considered to have a positive impact. However, their capacity does not appear to meet the demand and would therefore require reinforcement.
29. The Centre has informed ECRI that since the passing of the Anti-Discrimination Act, it has received a total of 3500 complaints. The second highest number of complaints concerning discrimination relate to workplace discrimination filed mainly by Roma. It has stated that many of the complaints for discrimination also concern access to goods and services and that a great number are filed by Roma. The Centre has also received complaints concerning discrimination in education, and in the areas of healthcare and social security.¹⁴ The Centre has informed ECRI that it prefers to solve cases through mediation rather than the courts. Between December 2004 and December 2005, it conducted regional seminars for secondary school students, local NGOs, representatives of local

¹³ *Ibid.*

¹⁴ For more information on these issues, see "Discrimination in Various Fields" below.

self-governments, journalists and local civil servants to raise their awareness of concrete forms of direct and indirect discrimination.¹⁵

30. Whilst welcoming the new powers given to the Slovak National Centre for Human Rights as an anti-discrimination body, ECRI considers that some issues need to be addressed in order to increase its efficiency. ECRI has received information according to which the Centre is not as active as it could be in its role as an anti-discrimination body. Civil society actors have informed ECRI that the Centre does not carry out enough of its own work and often relies on them to perform its tasks such as carrying out research on relevant discrimination issues. Moreover, the Centre does not have the power to actually represent individuals in court in discrimination cases. Civil society actors have also indicated that the Centre has not taken enough measures to raise awareness of the Anti-Discrimination Act and the above-mentioned research¹⁶ seems to indicate that more does need to be done in this area. ECRI also notes that some members of this body are not perceived as being independent. ECRI considers that the independence of the Slovak National Centre for Human Rights and the perception by the public in general and minority groups in particular that it does operate independently is crucial to its effectiveness.

31. ECRI recommends that the Slovak authorities take steps to strengthen the role of the Slovak National Centre for Human Rights as an anti-discrimination body by ensuring that it is perceived as being fully independent in practice, that it has the power to represent victims of racial discrimination in court and that it receives sufficient human and financial resources. In line with its General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, ECRI further recommends that the strengthening of the Slovak National Centre for Human Rights include more active research on its part on issues pertaining to racism and racial discrimination as well as on the situation of minority groups, and widespread awareness-raising campaigns on these questions.

- *Office of the Plenipotentiary of the Slovak Republic for Roma*

32. In its third report on Slovakia, ECRI urged the authorities to provide the Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities with the necessary budgetary allocations to work effectively, and to strengthen and clarify the powers and functions attributed to this body.

33. Since the publication of ECRI's third report, the Office of the Plenipotentiary of the Slovak Republic for Roma (Office of the Plenipotentiary) which currently employs 35 persons, has opened five regional offices¹⁷ with two staff members per office. The Office of the Plenipotentiary has informed ECRI that it is currently recruiting new staff, including for these regional offices. The authorities have indicated that these offices provide advice and guidance on the implementation of government programmes, especially in the fields of education, health, housing and social issues. They appear to have a positive impact on the situation of Roma communities at local level. However, the human and financial resources allocated to them are as yet insufficient to meet demand. ECRI is also not aware of any measures taken by the authorities to inform local Roma communities of their existence.

¹⁵ See: Slovak National Centre for Human Rights Final Technical Implementation Report, Project reference : VS/2004/0428, Project Title : Series of national awareness raising activities, Time period covered by this report : 9 December 2004-8 December 2005, p. 8

¹⁶ See "Anti-Discrimination Act" above. 30

¹⁷ Banská Bystrica, Košice, Prešov, Spišská Nová Ves and Rimavská Sobota.

34. As previously mentioned, since the publication of ECRI's third report, the Office of the Plenipotentiary has been actively involved in the standardisation of the Romani language¹⁸. In 2004, it carried out a mapping of Roma communities in Slovakia which has been considered to be a useful tool for information on their situation and for taking measures to address the problems they face. A new Plenipotentiary was appointed in May 2007 and the Office of the Plenipotentiary has indicated to ECRI that its structure has since changed. The Office of the Plenipotentiary currently comprises three sections dealing with, inter alia, horizontal priorities (education, employment, housing, health, etc.), regional development and the media. The Office of the Plenipotentiary has informed ECRI that it is working on combating Roma segregation in housing and education.¹⁹ It is also focusing on the media, especially Roma media, including the Internet and print and audiovisual media. The Office of the Plenipotentiary has informed ECRI that it cooperates with relevant ministries and government bodies in its work in these areas.
35. The authorities have informed ECRI that addressing the situation of, inter alia, marginalised Roma will be one of the horizontal priorities for European Union structural funding, and that for the period 2007-2013, approximately 200 million EUR will be available for this purpose. ECRI was informed that the Office of the Plenipotentiary has only 3 persons dealing with structural funds. Therefore, the ability of the Office of the Plenipotentiary to manage these funds needs to be greatly strengthened. This will, among others, require an increase in this Office's human and financial resources.
36. ECRI commends the Slovak authorities for making issues pertaining to Roma a horizontal priority and urges them to increase the capacity of the Office of the Plenipotentiary for Roma to manage funds allocated to that end by increasing the human and financial resources available to this Office. ECRI further recommends wide-ranging consultations and involvement of Roma community leaders in decisions on the manner in which these funds are spent as well as the regular monitoring and assessment of the impact of measures taken.
37. ECRI recommends that the Slovak authorities take awareness-raising measures among Roma communities to inform them of the existence of the Office of the Plenipotentiary for Roma's regional offices and of the latter's work on issues of concern to them.

- *Ombudsman*

38. In its third report, ECRI recommended that the Office of the Ombudsman accord special attention to the possible racist or discriminatory aspects of complaints and cases brought to its notice. ECRI also recommended special training for staff in the Ombudsman's Office in the different ways in which racism and discrimination may manifest themselves.
39. The Ombudsman has informed ECRI that in the last four years, he has received 14,000 complaints of which only 150 were related to discrimination. He stated that most of these complaints concerned incarcerated individuals. The Ombudsman has also informed ECRI that he cooperates with the judiciary, the police and prosecutors. ECRI considers, however, that the Office of the Ombudsman could take more measures as concerns issues pertaining to racism and racial discrimination by, inter alia, carrying out research on the reasons why so few complaints regarding these issues are lodged before it and by ensuring

¹⁸ See "Existence and Implementation of Legal Provisions" above.

¹⁹ For more information on these issues, see "Discrimination in Various Fields" and "Vulnerable/Target Groups" below.

that its personnel are adequately trained to recognize these types of complaints when they are faced with them.

40. ECRI recommends the training of staff in the Ombudsman's Office on matters relating to racism and racial discrimination.

II. Discrimination in Various Fields

Education

41. In its third report, ECRI recommended that immediate steps be taken to end the over-representation of Roma in Special Elementary Schools for children with disabilities, including the preparation and implementation of culturally fair assessment measures, training for teachers and other persons involved in assessment to ensure that they are making correct decisions, the integration of Roma children in Special Elementary Schools into mainstream education, and the provision of other schools in settlements where only Special Elementary Schools exist.
42. The authorities have informed ECRI that in April 2008, a Concept of Education and Training of Roma Children and Pupils, including the Development of High Schools and University Education was adopted. One of the stated objectives of this concept is to lower the percentage of Roma children attending Special Elementary Schools by, among others, maintaining and developing the "zero year" for children who are deemed not to have the requisite abilities for entering the first grade of elementary school. The authorities have indicated that the concept includes the preparation of socially and culturally independent tests on the educational abilities of six and seven year-old children. The concept also provides that these tests are to be performed solely by pedagogical and psychological advisors. On 6 August 2008, a decree²⁰ from the Ministry of Education outlining the procedure for placing children in Special Elementary Schools was issued and came into effect on 1 September 2008. Another measure taken with regard to the issue of the over-representation of Roma children in Special Elementary Schools is the adoption in May 2008, of a new School Act²¹ which prohibits discrimination and segregation in education.
43. As the above measures have only been recently adopted and/or extended, it is difficult at the present stage to assess their impact. Any such assessment is rendered all the more difficult by the fact that no official mechanisms to collect data on the situation of Roma children placed in these types of schools have been established. ECRI notes with interest that some initial positive results have been observed by civil society actors as concerns, for example the "zero year". However, the fact that most children placed in these classes are Roma has been noted as having a potentially negative impact on their integration. The authorities should also take more initiatives in addressing the problem of the over-representation of Roma children in Special Elementary Schools as it appears that many measures have been implemented at the initiative of/or by NGOs.
44. ECRI thus notes with concern that research demonstrates that Roma pupils continue to be over-represented in Special Elementary Schools. Reports indicate that they are 28 times more likely to be placed in such schools than their non-Roma counterparts, that up to 50% of Roma children are erroneously placed in Special Elementary Schools or classes and that approximately 10% could be immediately reassigned to mainstream education. Three main factors play a role

²⁰ Decree of Ministry of Education of the Slovak Republic No. 322/2006 Coll. of 6 August 2008 on Special Schools.

²¹ Act No. 245/2008 Coll. on Education and Training.

in this phenomenon: 1) the fact that the testing procedures for placing children in these types of schools do not take into account the situation of Roma children, including language barriers; 2) the fact that Special Elementary Schools are provided with three times more funding than mainstream schools in direct proportion to the number of registered children, thus providing an incentive for schools to place Roma children therein, and 3) the fact that for many Roma parents, Special Elementary Schools are an attractive alternative to mainstream education, among others, because their children will obtain higher scores in those institutions. The above-mentioned concept is meant to address some of these issues, and considering the seriousness of the problem, ECRI hopes that it will be implemented as soon as possible.

45. ECRI urges the Slovak authorities to take measures to remove from Special Elementary Schools Roma children who have no disabilities and to integrate them into mainstream education. It also strongly recommends that the measures provided for in the Concept of Education and Training of Roma Children and Pupils, including the Development of High Schools and University Education, in order to address the problem of the disproportionately high number of Roma children placed in Special Elementary Schools, be implemented as soon as possible with adequate human and financial resources.
46. ECRI recommends that the authorities assess the impact of the “zero year” to ensure that it does not have the effect of continuing the segregation of Roma children.
47. In its third report, ECRI recommended that further steps be taken to combat prejudice and discrimination in the school setting, including specific training for head teachers and teachers, who should then be responsible for countering any hostility or prejudices among majority parents.
48. Some research has been carried out on the perception of teachers and teaching assistants towards Roma pupils and on the latter’s experiences in school. Roma assistants and teachers who have experience working with Roma pupils have the most positive attitude towards these children, whilst teachers who have no experience with them or trainee teachers have the most negative perception.²² Another study of Roma and non-Roma pupils in fourth grade found that Roma children have a very positive attitude to learning and school in general, while they perceive, to a varying degree, the social environment of the school as a threat. This study also demonstrated, however, that generally they have a neutral or positive attitude towards their teachers and classmates. Further studies have demonstrated that Roma pupils are confronted with many problems when trying to integrate in their class.²³
49. The Ministry of Education has confirmed to ECRI that there are stereotypes and prejudices in the school system and it has indicated that it wishes to organize special research on the integration of Roma children therein. As mentioned above, the Anti-Discrimination Act and School Act prohibit discrimination and segregation in education. This legislation is a positive development in combating discrimination in education. However, few steps appear to have been taken to implement it by, inter alia, raising teaching and school staff’s awareness thereof and ensuring that discriminatory attitudes and practices are duly sanctioned. ECRI also notes worrying reports of an increase in prejudice among 14 to 15 year old pupils against ethnic minorities and in particular, the Hungarian minority. ECRI was informed that this new phenomenon is the result of an increase in

²² Equal Access to Quality Education for Roma, Slovakia, Monitoring report 2007, Open Society Institute, EU Monitoring and Advocacy Program, Education Support Program, Roma Participation Program, p. 509.

²³ *Ibid*, p. 510

negative public discourse on ethnic minorities in general and Hungarians in particular which is, among others, affecting pupils' perception of this group.²⁴

50. ECRI wishes to bring to the Slovak authorities' attention Chapter II of its General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education in which it recommends that Member States combat racism and racial discrimination in education by, among others, ensuring that the fight against these phenomena in schools, whether they emanate from pupils or educational staff, is part of a permanent policy. ECRI further recommends that this also be done by setting up a system to monitor racist incidents at school and compiling data on these phenomena in order to devise long-term policies to counter them; by adopting, in order to combat incidents of racism or discrimination which do not cause physical harm, educational measures such as, for example, non formal education activities in organisations dealing with victims of racism and racial discrimination. In this General Policy Recommendation, ECRI also calls on Member States to treat incitement to racial hatred in schools and any other serious racist act, including the use of violence, threats or damage to property, as acts punishable by suspension or expulsion or any other appropriate measure, and to encourage within schools the adoption of a code of conduct against racism and racial discrimination for all staff.
51. ECRI urges the Slovak authorities to investigate allegations of discriminatory practices in schools against Roma children and ensure that action is taken against persons responsible. ECRI recommends in this regard that measures be taken to raise all schools staff's awareness of the Anti-Discrimination Act and of their responsibility in preventing and combating discrimination in schools.
52. ECRI recommends that the Slovak authorities take adequate measures to fight prejudice and discrimination in education in accordance with Chapter II of its General Policy Recommendation No. 10.
53. In its third report, ECRI recommended that further measures be taken to encourage the participation of Roma children in education at the secondary and tertiary level. ECRI considered that such measures should include financial provision to ensure that children from poorer families are able to continue their studies, and awareness-raising among Roma communities of the importance of education for their children, supported by the increased provision of positive role models such as Roma assistants in classes at various levels of the school system.
54. The authorities have informed ECRI that the above-mentioned Concept of Education and Training of Roma Children and Pupils, including the Development of High Schools and University Education builds on measures adopted to improve the education of Roma children. They have indicated that this document also aims to enhance the quality of education of Roma children and students, to increase their rate of success and provide them with the necessary tools for entering the labour market. ECRI has, however, not been provided with more information on measures taken to implement this concept, especially as concerns secondary and tertiary education and on the financial and human resources allocated to that end.
55. Concerning teaching assistants, the authorities have indicated that there are currently 1000 persons occupying that position. However, they do not necessarily work with Roma pupils, but with children who are disadvantaged either socially or health wise. ECRI was informed that many school directors wish to have Roma teaching assistants, but that they do not receive the

²⁴ For more information on this issue, see "Racism in Public Discourse" below.

necessary funds and do not know how to apply for them. The authorities have also informed ECRI that a new governmental decree is being prepared to change the system for funding Roma teaching assistants.

56. ECRI recommends that the Slovak authorities take steps to implement the Concept of Education and Training of Roma Children and Pupils, including the Development of High Schools and University Education as soon as possible, especially with regard to secondary and tertiary education. It recommends in this regard that civil society actors be involved and that the necessary human and financial resources be provided.
57. ECRI recommends that the Slovak authorities take steps to increase the number of Roma teaching assistants by actively seeking to train and recruit persons for those positions from among members of this group.
58. With regard to the situation of Roma children in the education system in general, ECRI notes with concern that they continue to face de facto segregation due primarily to the fact that they often live in segregated settlements. Moreover, it is worrying that schools in Roma settlements are also still generally of a lower quality. ECRI also notes with great concern reports of discriminatory practices as serious as Roma children being placed in separate classes or eating separately. The extent of the problem of Roma segregation in education is difficult to measure as it does not appear that comprehensive data on the number of segregated schools or classes has been gathered. ECRI moreover considers that the problem of the de facto segregation of Roma children in education should also be addressed in a global manner by taking into consideration the problems this group faces in the areas of housing and health.²⁵
59. As indicated above, the School Act prohibits segregation in education. It also provides for temporary positive measures in the area of education. The authorities have informed ECRI that there are several pilot projects for integrating Roma children in school. The previously mentioned “zero year” and recruitment of Roma teaching assistants are some of the measures taken by the authorities to combat the de facto segregation of Roma children in education. Furthermore, in May 2004, the Slovak authorities adopted the Concept of Integrated Education for Roma Children. Slovakia is also party to the Decade of Roma Inclusion 2005-2015. While noting the measures taken to integrate Roma children in education, ECRI considers that a more robust approach to dealing with the de facto segregation of Roma in education is necessary.
60. ECRI strongly recommends that in order to combat the de facto segregation of Roma children in education, the Slovak authorities provide incentives, including financial ones, to local authorities to draw up and implement action plans to desegregate schools in their areas.
61. ECRI strongly recommends that the Slovak authorities take into consideration Chapter I of its General Policy Recommendation No.10. In this Chapter, ECRI calls on Member States to devise, in consultation with the parties concerned and taking into account the socio-economic dimension (employment and housing), policies to avoid, in the best interests of the child, pupils from minority groups being over-represented in certain schools. ECRI further recommends, as indicated in this General Policy Recommendation, that the Slovak authorities introduce policies to avoid placing children from minority groups in separate classes.

²⁵ For more information on these issues, see below.

62. In its third report, ECRI recommended that further measures be taken to promote the right of Roma children to education in their mother tongue. In particular, it considered that the system of Roma assistants in classes, which has proved successful, should be further expanded and developed, and that encouragement should be given to Roma to qualify as teachers.
63. ECRI has been informed that some schools teach some subjects or classes in Romani in the framework of pilot projects. The Slovak authorities have further informed ECRI that the verification of the effectiveness of the curriculum for teaching Romani language and literature at selected elementary and secondary schools will be assessed and the preparation of teachers for these subjects will begin. Furthermore, the Pedagogical Faculty of the University of Constantine the Philosopher in Nitra is also preparing courses for teaching Romani language and Roma literature, culture and history. ECRI welcomes this development as the authorities have indicated that there is a lack of Romani language and literature teachers.
64. ECRI encourages the authorities to continue providing mother tongue education to Roma children. It recommends in this regard that more measures be taken to train Romani language teachers and to ensure that more schools offer mother tongue education to Roma pupils. ECRI also recommends that further steps be taken to train and recruit a greater number of Roma teachers.

Housing

65. In its third report on Slovakia, ECRI recommended that urgent measures be taken to improve the housing situation of Roma, and particularly to ensure that Roma families who were living without access to even basic amenities were provided with a decent standard of housing and infrastructure. ECRI also stressed the need to address the problem of segregation of Roma communities from the majority community, and the attitudes on the part of the majority community which have contributed to such segregation. ECRI considered that the principle objective of housing policy should be to allow Roma communities to live as a part of majority communities.
66. Some measures have been taken in the area of housing since the publication of ECRI's third report. In 2004, the Office of the Plenipotentiary for Roma designed and financed the previously mentioned mapping of Roma communities²⁶ whose results have been used for various government policies, including in the area of housing. This office has informed ECRI that it finances social housing schemes and that since 2001, approximately 1700 social houses have been built. The Office of the Plenipotentiary for Roma has also informed ECRI that 80 percent of the social housing is funded by the authorities and that the remaining 20 percent consists of a contribution by the future tenants of the social housing who do so by working on the building sites. It appears, however, that as a result of this scheme, some of the housing is not up to standard as the construction work is not carried out by professionals.
67. ECRI notes with concern that some of the social housing is being built in the same segregated areas where Roma previously lived. Therefore, although the new social housing provides better living conditions for Roma, they continue to be de facto segregated from the rest of the population. Moreover, many Roma - up to 100,000 persons according to some estimates- continue to live in segregated settlements built without planning permission and/or involvement of relevant authorities. The living conditions in these settlements are grossly inadequate with poor or no sanitation, overcrowding, lack of running water and electricity as

²⁶ See "Anti-discrimination bodies and other institutions" above.

well as poor or no access to public transport. The authorities have indicated that an action plan for housing which is to be based on the Long-term Housing Development Concept for Marginalized Population Groups will be drawn with the aim of improving Roma housing. However, ECRI is not aware of the planned measures to implement this programme.

68. ECRI notes with concern that discriminatory and intolerant attitudes on the part of some members of the majority population continue to affect Roma housing rights. In this regard, in March 2005, the United Nations Committee on the Elimination of Racial Discrimination found that Slovakia had discriminated against Roma²⁷ as state authorities did not take any measures to cancel the resolution of the local Municipal Court of Dobšina adopted at an extraordinary session on 5 August 2002, which cancelled its own prior resolution on the construction of low-cost housing for Roma. This latter decision was taken after a petition signed by some inhabitants of Dobšina. However, ECRI is not aware of any steps taken to raise public awareness of Roma's right to housing on a par with the rest of society.
69. ECRI recommends that the Slovak authorities ensure that measures taken to improve Roma housing conditions take into consideration the need to integrate members of this group with the rest of the population and the fact that social housing built for them should meet all relevant standards.
70. ECRI recommends that measures be taken to raise awareness among the general public of Roma housing rights and to promote respect thereof.
71. Since the publication of ECRI's third report, instances of forced evictions of Roma have taken place including in Nové Zámky, Košice and Sabinov. A number of factors play a role in this situation, including the inability of some Roma tenants to pay rent and the few measures being taken to assist them in this regard. ECRI also notes reports indicating, among others, that social assistance reforms²⁸ carried out in 2004 have weakened the ability of indigent tenants, and in particular Roma, to pay rent and utility costs regularly. Moreover, ECRI is worried about reports indicating that some evictions are carried out due to intolerance and prejudice against Roma.
72. ECRI has been informed by NGOs that one positive step taken by the authorities as concerns forced evictions is the issuance mid-2008, of detailed guidelines to the police on the manner in which forced evictions ought to be carried out, as it appears that this has not always been done in a manner fully respectful of human rights standards in that regard. A commission on forced evictions which includes police officers drafted these guidelines. NGOs have also indicated that currently, forced evictions can only be carried out following a court decision. While noting these positive steps, ECRI has also received information according to which few cases have been brought to court to contest the forced evictions or the conditions in which they were carried out.
73. ECRI recommends that the Slovak authorities take urgent measures to protect Roma from forced evictions by ensuring that : 1) an opportunity for genuine consultation by those affected is created; 2) adequate and reasonable notice is given; 3) information on proposed evictions is provided within a reasonable time; 4) evictions do not take place in particularly bad weather or at night; 5) legal remedies are provided, and 6) legal aid is provided to persons who are in need of it to enable them to seek redress through the courts.

²⁷ See: CERD/C/66/D/31/2003, 10 March 2005.

²⁸ For more information on this subject, see "Access to welfare" below.

74. ECRI recommends the training and awareness-raising of local authorities and all others involved regarding respect for basic rights as concerns forced evictions.

Health

75. In its third report, ECRI recommended that measures be taken to ensure that Roma communities enjoy equal access to health care, including preventive health care such as vaccination programmes. ECRI also recommended awareness-raising and training among health care personnel to combat stereotypes and prejudices which can lead to discriminatory treatment of Roma patients.

76. The Office of the Plenipotentiary for Roma has informed ECRI that a Programme for Supporting the Health of the Disadvantaged Roma Community was adopted in 2007. The goal of the programme is to raise health awareness among Roma. This is carried out through ten regional offices in which thirty workers provide health training under the supervision of public health officers. The Office of the Plenipotentiary for Roma has informed ECRI that the health workers' main task is to teach the most basic elements as concerns health issues and raise awareness among professionals such as doctors and nurses. This Office has also informed ECRI that this programme is being carried out by ensuring that the target population is in possession of relevant medical documentation such as an insurance card, and by vaccination programmes. The Office of the Plenipotentiary for Roma stated that these field workers are not recruited on the basis of their ethnic background, but that the recruitment criteria are that they enjoy respect within the Roma community and be fluent in Romani and Slovak. ECRI has been informed that there are currently forty Roma health workers.

77. The above measures are a positive initial step in tackling the problems faced by Roma in the field of health. However, the health situation of many Roma remains worryingly poorer than the majority population, with an infant mortality rate twice as high among Roma than non-Roma. Moreover, ECRI is concerned by information indicating that segregating Roma patients in health facilities remains a common practice²⁹. ECRI is not aware of measures taken to investigate this situation and take measures against those who engage in this practice.

78. ECRI encourages the Slovak authorities to continue implementing the Programme for Supporting the Health of the Disadvantaged Roma Community and recommends that the necessary human and financial resources be allocated to that end. It also encourages the authorities to continue recruiting and training health assistants from among the Roma community and recommends that campaigns be waged therein to that end.

79. ECRI urges the Slovak authorities to investigate allegations of segregation in health facilities and to take appropriate measures against all those who engage in this practice.

Employment

80. In its third report on Slovakia, ECRI recommended that further efforts be made to improve the employment situation of the Roma community. It considered that, given the long-term and endemic nature of disadvantage on the labour market for Roma, special measures to place them in a position in which they can compete on an equal footing with members of the majority population in the employment market were necessary.

²⁹ See: Committee on the Rights of the Child, Forty-fifth session, Consideration of reports submitted by state parties under Article 44 of the Convention, Concluding Observations, CRC/C/SVK/CO/2, 8 June 2007.

81. The Slovak authorities have indicated that the Employment Services Act was amended in the first quarter of 2008 and that it includes new provisions concerning the establishment of an active labour market policy. ECRI understands that the Employment Services Act provides that private entities or public companies should have a workforce comprising 30 % long-term unemployed and that 30% of their benefits should be reinvested in social enterprises. The authorities have stated that their long-term goal is to include long-term unemployed, especially Roma, into the labour market. They have launched their first round of social enterprises, which is in its pilot phase and indicated that it focused mainly on the Eastern part of the country where there is a large Roma population. As of May 2008, 8 social enterprises were launched mainly in the biological and ecological sectors, as the authorities consider that these areas do not require many qualifications, but are productive.
82. While recognizing that the above measures are an initial step in tackling the problems faced by Roma in the employment sector, ECRI notes with concern that Roma continue to suffer from a high unemployment rate and that they comprise the largest percentage of long-term unemployed. The main reasons for this situation are the low level of education among many members of this group and, unfortunately, employers' prejudice and mistrust. As indicated above,³⁰ the Slovak National Centre for Human Rights has informed ECRI that the highest number of discrimination complaints this body has received concern workplace discrimination filed mainly by Roma. In this regard, ECRI is not aware of any measures taken by the authorities to raise employers' awareness of the relevant provisions of the Anti-Discrimination Act. Furthermore, this law provides for positive measures in the employment sector³¹. However, ECRI is not aware of any measures taken by the authorities to implement the relevant provisions as concerns Roma in the employment sector.
83. ECRI recommends that the Slovak authorities continue implementing measures taken to include Roma into the labour market. It also recommends that urgent measures be taken to provide members of this group who require it with vocational training. ECRI recommends that positive measures be taken to include Roma in the employment market in accordance with the relevant provisions of the Anti-Discrimination Act.
84. ECRI recommends that the Slovak authorities ensure that discrimination against Roma in the labour market is duly tackled by, inter alia, raising employers' awareness of their responsibilities under the Anti-Discrimination Act and by taking adequate steps against any cases of discrimination.

Access to welfare

85. In its third report, ECRI recommended that an examination of the new system of allocation of welfare benefits be carried out to assess the way in which it has impacted on different groups in society, and to ensure that it is applied in a fair, objective and non-discriminatory fashion.
86. A number of changes have been made to the Slovak welfare system since the publication of ECRI's third report. ECRI notes that many Roma have been especially affected by changes to the social welfare law due to provisions cutting support for families with more than four children, as well as those linking parts of social benefit payments to evidence of legally registered housing³². As a result of these changes, in 2004 rioting broke out in some Roma settlements in central

³⁰ See "Anti-discrimination bodies and other institutions" above.

³¹ Article 8.

³² For more information on this question, see "Housing" above.

and eastern Slovakia in protest. Police raided some of Roma communities and many cases of abuse on the part of police officers were reported by NGOs. ECRI is not aware of any measures taken to investigate those allegations and punish any officers involved.³³

87. Concerning the new social welfare system, the authorities have informed ECRI that every year, on the first of September, the government recalculates the amount of social welfare allocated depending on certain factors, including the number of children the beneficiary has. The authorities have indicated that in 2008, the social welfare amount was increased to 500-700 SKK (16-23 EUR). They have also informed ECRI that a new Social Services Act is being drafted to solve the problems caused by changes in the legislation since 1988. ECRI is not aware of whether the effects of the new welfare system on Roma have been monitored. However, it hopes that the authorities will draft the new Social Services Act by taking into account the effects on Roma of past legislative changes and in close cooperation with, among others, Roma civil society actors.
88. ECRI recommends that the Slovak authorities closely monitor the effects on Roma of the changes made to the social welfare system since the publication of its third report to ensure that it has not driven Roma welfare beneficiaries into further poverty. ECRI also recommends that the authorities ensure that the new Social Services Act currently being drafted takes into consideration the results of any such monitoring and that Roma NGOs and civil society actors be involved in the drafting process.

III. Racist Violence

89. In its third report on Slovakia, ECRI considered that the authorities should continue to closely monitor and combat the activities of the skinhead movement in Slovakia, and to ensure that persons involved in illegal activities in this context are brought to justice, particularly when racially motivated crimes against other persons were committed.
90. The authorities have informed ECRI that when the above-mentioned new Criminal Code was adopted³⁴, a new system for gathering statistics on racist crimes was introduced. As concerns these types of crimes, the authorities have noted that a high number of them are committed by unknown perpetrators who, for example write graffiti on walls. They have also noted cases of verbal attacks at sports events and in stadiums. The authorities have indicated to ECRI that in 2006, 180 racially-motivated crimes were registered, in 2007, 155 such crimes were registered and as at July 2008, 157 racist crimes were registered. The authorities informed ECRI that between January 2008 and September 2008, there were 10 prosecutions in Košice and Prešov (areas with a high number of Roma), some under Article 424 of the Criminal Code (incitement to racial hatred) and others under Article 422 (1) (supporting and promoting groups leading to the suppression of fundamental rights and freedoms). At the time of writing, ECRI had no information on the outcomes of these cases.
91. ECRI notes that racially-motivated crimes are investigated by the police³⁵ under the umbrella of extremism and the authorities have indicated that on 1 June 2008, a Department on Extremism and Youth Criminality was created within the Ministry of Interior. Four offices of this department have been established in regional offices. On 1 August 2008, a new order of the Ministry of Interior redefined all notions which should be included under the term extremism, and

³³ For more information on the police, see "Conduct of law enforcement officials" below.

³⁴ See "Criminal law provisions against racism" above.

³⁵ For more information about the police, see "Conduct of law enforcement officials" below.

this includes racism, xenophobia and intolerance. The order also defines police duties and procedures to be followed when combating these phenomena. The authorities have informed ECRI that a handbook has been published to enable the police to identify insignia and symbols used by racist groups. It appears, however, that although some NGOs have been formally included in some of the steps taken by the police to combat racist crimes, they are not apprised of these new developments and do not have clear information on responsibilities and measures taken.

92. ECRI is concerned by the rise, noted in the last few years, in racially-motivated physical and verbal attacks against members of ethnic minorities such as Roma, Hungarian and Jewish minorities, as well as against foreigners such as Africans, Asians and persons from Latin America. The perpetrators of these acts are usually members of skinhead or neo-Nazi groups and reports indicate that the authorities' reaction to these crimes vary. It has been reported that it is not uncommon for prosecutors to charge the offenders under the more easy to prove simple assault charge to increase the likelihood of conviction. This results in the perpetrators avoiding the heavier sentence which they would incur under the relevant provisions of the Criminal Code. On this point, the authorities have indicated to ECRI that proving the racist motivation of a crime is difficult. As Slovakia has amended the Criminal Code to include racially motivated crimes, ECRI considers that the relevant provisions of this Code should be applied to all such crimes and that other provisions should not be relied upon to prosecute these types of crimes. The authorities have indicated in this regard that the Criminal Code will be amended to cover a broader range of crimes. ECRI thus hopes that this amendment will fill any remaining lacunae in the Criminal Code which are impeding the prosecution of racially-motivated crimes. As concerns evidence gathering, the Slovak authorities have also indicated that they wish to amend the Police Act to enable the police to use video recordings as evidence in cases of racially-motivated crimes.
93. ECRI notes that intensifying the fight against extremism by drafting and applying legislation, improving the efficiency of detecting, investigating, proving and punishing racially-motivated crimes is one the objectives of the 2006-2008 Action Plan for the Prevention of All Forms of Discrimination, Racism, Xenophobia, Anti-Semitism and Other Expressions of Intolerance. However, it is not aware of any specific measures taken to implement this goal.³⁶
94. ECRI strongly recommends that the Slovak authorities ensure that the police and prosecutors carry out investigations and prosecutions of racially-motivated crimes and that the perpetrators of this type of crimes are punished in accordance with the relevant provisions of the Criminal Code.
95. ECRI recommends that the authorities ensure that more efforts are made to involve NGOs as concerns steps taken by the police to combat racist crimes and to ensure that they are regularly informed about new policy measures. ECRI also recommends that awareness-raising campaigns be conducted regarding the seriousness of racist crimes and to inform members of the public that the perpetrators of such crimes will be punished.

IV. Racism in Public Discourse

96. ECRI notes a worrying increase, since the coalition government comprising the Slovak National Party took power in 2006, in racist political discourse chiefly against the Hungarian minority as well as against, inter alia, Roma and Jewish

³⁶ For more information on this action plan, see "Racism in Public Discourse" and "Antisemitism" below.

people³⁷. As discussed in other parts of this report³⁸, this discourse has resulted in, among others, an increase in negative attitudes by youngsters, as well as the public in general, against minority groups and, in particular against Hungarians. However, no measures appear to have been taken to sanction this type of discourse or to apply the relevant provisions of the Criminal Code to politicians who engage in it.

97. The authorities have informed ECRI that the above-mentioned³⁹ Action Plan for the Prevention of All Forms of Discrimination, Racism, Xenophobia, Anti-Semitism and Other Expressions of Intolerance endeavours, among others, to increase tolerance among all inhabitants of Slovakia, and that the priorities for the 2006-2008 Action Plan include education and training of professional groups who, while discharging their duties, have an impact on the prevention of, among others, discrimination, racism, antisemitism⁴⁰ and xenophobia. The authorities have indicated that the implementation of the Action Plan, which is created and implemented under the auspices of the Office of the Deputy Prime Minister for a Knowledge-Based Society, European Affairs, Human Rights and Minorities, is regularly evaluated. They have also indicated that interim reports are discussed by the Slovak government and that the non-governmental sector plays an important role in implementing its goals. However, ECRI has not received more detailed and specific information on the manner in which the Action Plan in general and this objective in particular have been implemented. In the light of the current political discourse against ethnic minorities, ECRI considers that the implementation of this Action Plan should place a special emphasis on fighting incitement to racial hatred.
98. ECRI wishes to highlight the principles set out in the Charter of European Parties for a Non-Racist Society and in its Declaration on the use of racist, antisemitic and xenophobic elements in political discourse. In this Declaration, ECRI deplores the fact that as the result of the use of racist, antisemitic and xenophobic political discourse: 1) ill-considered measures which impact disproportionately on particular groups or affect the latter's effective enjoyment of human rights are being adopted; 2) the long-term cohesion of society is damaged; 3) racial discrimination gains ground, and 4) racist violence is encouraged. These points as well as all the other principles laid out in the Charter and the Declaration can serve as references for a responsible attitude to political discourse on the part of political parties and the authorities.
99. ECRI urges the Slovak authorities to ensure that the provisions of the Criminal Code against incitement to racial hatred are implemented as concerns all politicians who make racist statements or speeches.
100. ECRI also calls on the Slovak authorities to take into account the principles and recommendations contained in the Charter of European Parties for a Non-Racist Society and its Declaration on the use of racist, antisemitic and xenophobic elements in political discourse.

³⁷ For more information on the situation of these groups, see "Vulnerable/Target Groups" below.

³⁸ See "Education" and "Vulnerable/Target Groups".

³⁹ See "Racist Violence".

⁴⁰ For more information on this problem, see "Antisemitism" below.

V. Vulnerable/Target Groups

Roma

- *Empowerment*

101. In its third report, ECRI recommended that further emphasis be placed on ensuring that the Roma community was involved at all stages of the planning and implementation of measures which concern them, at as local a level as possible. In particular, the preparation and appointment of persons who can act as mediators between Roma communities and the authorities could be most opportune. ECRI stressed the importance of encouraging projects and initiatives which emanate from the Roma community itself, through the on-going provision of funding and the widening of successful projects to other areas.

102. ECRI notes with interest that in the 2006 municipal elections, more Roma mayors were elected in municipalities and as town mayors than in previous elections. ECRI was informed that there are currently 19 Roma mayors in Slovakia. In the village of Žehra, ECRI was able to note in situ the positive effect that a Roma mayor can have on, among others, community relations between non-Roma and Roma and on the latter's situation.

103. ECRI encourages the Slovak authorities to continue ensuring better Roma participation in the political process by encouraging civic education schemes and endeavouring to strengthen the capacity of civil society organisations working on the ground in this field.

- *Implementation of programmes designed to assist Roma*

104. In its third report, while welcoming the new approach contained in the "Basic Positions of the Slovak Government's Roma Communities Integration Policy" as a positive step forward, ECRI urged the authorities to ensure that the detailed proposals contained therein were implemented rapidly, with sufficient and on-going allocation of human and financial resources. ECRI considered that it should be ensured that all parts of the administration – at national, regional and local level - responsible for the different sectors covered, were fully-committed to implementing the proposals. In this respect, the co-ordinating role played by the Plenipotentiary of the Government of the Slovak Republic for Roma Communities should be further developed and strengthened to give the Plenipotentiary real powers to guide and influence action in the different ministries.

105. In its third report, ECRI stressed the importance of raising awareness among persons responsible for implementing policies, and among society at large of the philosophy behind the measures taken and of the need to include Slovakia's Roma minority as an equal and integrated part of society. ECRI also stressed the need to evaluate the actual results of the new approach on a regular basis, and to closely-involve the Roma communities themselves in its further development, fine-tuning and implementation. ECRI considered that the "implementation of new approaches to furthering an integrated society" was a specific issue, because of the serious disadvantages and in most key areas of life leading to the social exclusion faced by many members of the Roma community.

106. The Slovak authorities have informed ECRI that the "Basic Theses of the Government's Policy Concept for the Integration of Roma Communities for 2003", which contains a number of defined tasks until 2010 in areas such as human rights, education, employment and social issues, housing, culture, media and health is the starting point for resolving Roma issues. The authorities have also informed ECRI that the Medium-term Concept of the Development of the Roma National Minority in the Slovak Republic for the Period 2008-2013 (Mid-Term

Concept) was approved in March 2008 with the main goal of creating a conceptual model for a positive environment for marginalised Roma communities. According to the authorities, this model will focus on the integration of part of the Roma minority into civil society, but above all on seeking a way to effect social change in the population in question through proven programmes which will be integrated into the concepts of other ministries. As previously mentioned⁴¹, since the publication of ECRI's third report, Slovakia has also joined the Decade of Roma Inclusion 2005-2015. The authorities have indicated that in January 2005, the government approved the National Action Plan of the Decade which identifies the intentions in its priority areas (education, health, employment and housing). The Office of the Plenipotentiary⁴² is one of the bodies entrusted with the task of coordinating and ensuring the implementation of these programmes.

107. As concerns the above-mentioned Mid-Term Concept, civil society actors consider it to be very general, with no concrete measures, no evaluation criteria and no funding. Moreover, it is regrettable that many of the above-mentioned programmes adopted by the authorities to solve the problems Roma face in areas such as education, employment, health and housing, have been drafted only recently and that few measures appear to have been taken to implement them. As a result, Roma continue to lag behind the rest of society in most areas including health, education, employment and housing⁴³. The fact that no systematic and widespread system for collecting ethnic data has been established also renders any type of in-depth assessment and evaluation of the programmes which have been implemented difficult. Moreover, it appears that Roma NGOs and civil society actors still need to be more involved in the decision making process as concerns issues pertaining to Roma, including the drafting and implementation of various programmes adopted in this regard.

108. ECRI calls on the Slovak authorities to take more vigorous steps to implement all the programmes adopted since the publication of its report to improve the situation of Roma. It also recommends that measures be taken to monitor the effect of programmes which have already been implemented. ECRI also recommends that the authorities ensure the continued evaluation of those programmes which are currently being implemented or which will be in the future.

109. ECRI recommends that Roma NGOs and civil society be involved in the conceptualisation, implementation as well as monitoring and evaluation of any measures taken to improve the situation of Roma in various fields.

- *Allegations of sterilisations of Roma women without their full and informed consent*

110. In its third report, ECRI was of the opinion that the possibility of sterilisations of Roma women without their full and informed consent necessitated immediate, extensive and thorough investigation. ECRI also recommended that clear, detailed and coherent regulations and instructions be issued immediately to ensure that all sterilisations were being carried out in accordance with best medical knowledge, practice and procedures, including the provision of full and comprehensible information to patients about the interventions proposed to them.

111. ECRI notes with concern that the problems as regards investigations into allegations of sterilisations of Roma women without their full and informed consent noted in its third report remained. The authorities continued to investigate these allegations under the crime of genocide rather than, for

⁴¹ See "Discrimination in Various Fields".

⁴² For more information on this body, see "Anti-discrimination bodies and other institutions" above.

⁴³ See "Discrimination in Various Fields" above.

example, under the crimes of assault or of inflicting grievous bodily harm. The angle under which these allegations were investigated thus rendered proof of a crime having been committed virtually impossible and the possibility for redress through the courts almost null. The investigations also reportedly continued to focus on the issue of consent forms being signed rather than on whether full prior information was provided. Due to these flaws, in most cases, the courts decided that the allegations were unproven. ECRI wishes to stress that at the very least, the authorities should secure legal aid to victims so that they can seek compensation through civil law.

112. Some legislative measures have been taken to provide better legal safeguards against the practice. The Criminal Code has been amended to include the crime of “illegal sterilisation” and it provides for a thirty-day waiting period from the time the patient has given her consent before the sterilisation is carried out. Section 40 of Law No. 576/2004 Coll. on Healthcare which entered into force on 1 January 2005 provides that sterilisation can only be performed following a written request and informed written consent from a person who has been previously informed and is fully legally responsible for him/herself, or from a person who legally represents them and can provide their informed consent, or on the basis of a court decision based on a request by a legal representative. The patient information session preceding consent must be carried out according to the law and must include information on alternative methods of contraception and family planning, possible changes in life circumstances which led to the request for sterilisation, the medical consequences of sterilisation and the possibility that the sterilisation may fail.
113. While welcoming these legislative developments, ECRI regrets that due to the above-mentioned problems in the investigations of allegations of sterilisations of Roma women without their full and informed consent, no redress has been possible for the majority of women involved.
114. ECRI recommends that the Slovak authorities monitor all facilities which perform sterilisations to ensure that the legislative safeguards concerning this procedure are respected. It also urges the authorities to take steps to ensure that complaints filed by Roma women alleging sterilisations without their full and informed consent are duly investigated and that the victims receive proper redress.

Hungarian minority

115. As indicated in other parts of the report⁴⁴, the rise in anti-Hungarian discourse by some political figures has created a negative public climate which has led to an increase in intolerance against the Hungarian minority in Slovakia as well as acts of racially-motivated crimes against members of this group. For example, in August 2006 an ethnic Hungarian university student Hedviga Malinová in Nitra was allegedly physically assaulted by two young men after they heard her speaking Hungarian: it appears that the case is still on-going. ECRI considers that this case illustrates the intolerance against members of the Hungarian minority created by political figures’ negative discourse, who, as indicated above⁴⁵, have not been subjected to the legal or political consequences this type of discourse warrants.
116. Another issue which has come to the attention of ECRI as concerns the Hungarian minority, is the decision of the Ministry of Education to include only in Slovak the names of places in two school textbooks which are in Hungarian.

⁴⁴ See “Racism in Public Discourse” and “Discrimination in Various Fields” above.

⁴⁵ See “Racism in Public Discourse” above.

ECRI notes reports according to which this decision has caused discontent among members of the Hungarian minority. ECRI notes that a bill has been adopted by Parliament, that envisages rendering in school textbooks, place names in minority languages and Slovak. At the time of writing, the bill had not yet been signed by the President. Moreover, the question of EU funds allocated to Slovakia for education purposes not being received by Hungarian schools also appears to have raised concern. ECRI considers that efforts should be made by the Slovak authorities to address these issues with representatives of the Hungarian minority in a constructive and positive atmosphere.

117. ECRI urges the Slovak authorities to take a more robust stance against negative political discourse against ethnic minorities in general, and the Hungarian minority in particular by, among others, ensuring the implementation of the relevant provisions of the Criminal Code.
118. ECRI recommends that the Slovak authorities take measures to resolve the above-mentioned issues with members of the Hungarian minority in a spirit of cooperation and mutual respect.

Migrants, refugees and asylum seekers

119. In its third report, ECRI recommended that further training and awareness-raising efforts be carried out among officials coming into contact with asylum seekers and other immigrants, including staff in detention centres and staff at the Migration Office. ECRI particularly stressed the need to continue training judges in district courts who would be dealing with appeals. In its third report, ECRI also recommended that the authorities put in place an integration strategy for recognised refugees, including language training, and assistance in finding housing and work.
120. The Slovak authorities have informed ECRI that in 2007, 2,642 asylum applications were filed and that 1,693 of the cases were stayed mainly on the grounds that the applicant had left the country before the completion of the procedure at first instance. The authorities have also informed ECRI that in that period, asylum was granted in 14 cases and that in 82 cases subsidiary protection was granted; this type of protection was introduced in July 2007.
121. As concerns the asylum procedure, asylum applications are processed at first instance by the Migration Office within the Ministry of Interior. ECRI has been informed that asylum seekers do not receive legal aid at the appellate stage of the proceedings and that the review of appeals against asylum decisions are made by regional courts who cannot take a decision, but send the case back to the Migration Office to re-examine them.
122. Slovak legislation entitles asylum seekers to begin legally working in Slovakia only one year after the beginning of the asylum procedure.⁴⁶ As concerns conditions in asylum facilities, ECRI notes reports of a tense situation therein, including attacks even among asylum seekers. It has been reported that the lack of organised activities in these centres is the main cause for these problems.⁴⁷
123. The authorities have informed ECRI that in the Sečovce Detention Facility which is the main detention centre for non-citizens, the latter may request consultations or legal assistance from NGOs. The authorities have indicated that no complaints from foreign nationals have been received by them or registered by

⁴⁶ See: Being a Refugee, Age, Gender and Diversity Mainstreaming Report 2007, How Refugees and Asylum Seekers Experience Life in Central Europe, United Nations High Commissioner for Refugees, Regional Representation for Central Europe.

⁴⁷ *Ibid.*

NGOs who are in regular contact with them. ECRI has also been informed that these centres are indeed in better condition. It has, however, also received information of problems in the Sečovce centre concerning the confiscation of non-nationals' property during detention. It appears that promises were made to change the situation. ECRI thus considers that the fact that no complaints have been received from foreign nationals detained in these centres should not necessarily be considered to be an indication that there are no problems.

124. The authorities have informed ECRI that the Border and Alien Police Department of the Ministry of Interior, in cooperation with UNHCR and human rights NGOs, organises regular training seminars for border and alien police officers. It has been confirmed to ECRI that the Alien and Border Police receive training on international norms and obligations concerning asylum seekers and refugees, from the United Nations High Commissioner for Refugees (UNHCR). ECRI has however been informed that more measures should be taken by the authorities to train them on issues pertaining to racism and racial discrimination as not many steps are taken in that direction at the moment.
125. No long-term strategy for integrating refugees has been established. ECRI has been informed that one should be drafted by the end of 2008. It thus hopes that the strategy will be adopted and implemented as soon as possible in consultation with and with the participation of UNHCR and relevant NGOs.
126. ECRI strongly recommends that the Slovak authorities ensure that asylum seekers receive legal aid throughout the asylum application procedure and that measures are taken to ensure that an effective appeal mechanism exists within this procedure.
127. ECRI further recommends that measures be taken to provide asylum seekers with the possibility of working in Slovakia earlier than the current one year after the beginning of the asylum procedure. It also recommends that measures be taken to provide activities in asylum centres such as Slovak language lessons.
128. ECRI encourages the Slovak authorities to continue improving the conditions in detention facilities. It also recommends that measures be taken to ensure that foreign nationals detained therein have access to complaints mechanisms should they need them and that they have confidence in them.
129. ECRI recommends that the Slovak authorities take more measures to raise Alien and Border police officers' awareness of issues pertaining to racism and racial discrimination and that they provide initial and on-going training to them on these questions.
130. ECRI encourages the Slovak authorities in their drafting of an integration strategy for refugees and recommends that they ensure that it will include, among others, language lessons and assistance in finding housing and employment.

VI. Antisemitism

131. ECRI notes with interest that since 2001, the 9th of September has been designated as a "Memorial Day for Victims of the Holocaust and Racial Violence" in Slovakia. On this day, which is commemorated under the auspices of the President of Slovakia, wreaths are laid at the memorial of victims of the Holocaust in Bratislava. Representatives of the Jewish community have informed ECRI that the Ministry of Education has stated that all pupils and students should pay a visit to the Auschwitz concentration camp. ECRI considers that these are important steps in ensuring that the Holocaust is duly recognised. However, it notes with concern information provided by Jewish community representatives according to which there are instances of antisemitic physical attacks, mostly

against Jews who wear traditional attire. Antisemitism on the Internet has also been noted. A number of cases have been brought to court for antisemitic acts, including attacks against buildings such as memorials, synagogues and schools. As previously mentioned⁴⁸, the authorities have adopted the Action Plan for the Prevention of All Forms of Discrimination, Racism, Xenophobia, Anti-Semitism and Other Expressions of Intolerance. They have informed ECRI that the priorities set out in the 2006-2008 Action Plan include intensifying the monitoring of antisemitism as well as education and awareness-raising on this problem. However, ECRI has no information on the specific measures taken in this regard and on the human and financial resources allocated.

132. ECRI notes with concern a regrettable incident which occurred in the Slovak Parliament on 4 September 2008 whereby the Minister of Justice made several antisemitic statements to a fellow politician of Jewish origin. Although the Slovak Prime Minister distanced himself from the statements and ECRI has been informed that this is the first such occurrence in many years, it considers that a strong message should be sent that these types of statements are unacceptable so as to avoid this incident setting a dangerous precedent. This is all the more important in the light of the position held by the person who made the statements.
133. ECRI strongly recommends that the Slovak authorities take steps to combat all forms of antisemitism, as outlined in its General Policy Recommendation No.9 on the fight against antisemitism. ECRI also recommends that the Slovak authorities send a strong message that antisemitic statements by anyone will not be tolerated, among others, by applying the relevant provisions of the Criminal Code.
134. ECRI recommends that the measures included in the Action Plan for the Prevention of All Forms of Discrimination, Racism, Xenophobia, Anti-Semitism and Other Expressions of Intolerance to combat antisemitism be implemented and that the necessary human and financial resources be allocated.
135. ECRI further wishes to again bring to the Slovak authorities' attention the commitments enshrined in the Charter of European Parties for a non-racist Society in Europe, including that political parties deal firmly with any racist statements and behaviour within their own ranks.

Education/Awareness-raising

136. In its third report, ECRI recommended that human rights teaching in school education, and especially the way in which issues relating to racism and discrimination were taught, be evaluated on an on-going basis in order to ensure that the best possible methodology was in place, and that all schools were providing a satisfactory standard of teaching in this area. It also stressed the importance of relating teaching on racism and intolerance to the situation of minority groups living in Slovakia.
137. In its third report, ECRI furthermore felt that care should be taken in order to review all books and other material available in schools, particularly history teaching manuals, to ensure that they were in conformity with current best practice as regards the avoidance of stereotypes and prejudices.
138. The authorities have informed ECRI that the Ministry of Education has developed a National Action Plan on Human Rights Education for the period 2005-2014. They have indicated that human rights education in primary and secondary education is provided through general subjects such as civic education, ethics or social studies. The authorities have also indicated that since 1997, secondary

⁴⁸ See "Racism in Public Discourse" above.

school pupils hold Human Rights Olympics and that, recently, the event has also dealt with issues such as discrimination, racism, xenophobia and antisemitism. While recognizing these measures, ECRI wishes to again draw the Slovak authorities' attention to Chapter II of its General Policy Recommendation No. 10 in which it recommends that Member States ensure that human rights education form an integral part of the school curriculum at all levels and across all disciplines. This is all the more important in the light of previously discussed manifestations of discrimination and intolerance exhibited by some pupils towards, among others, Hungarians and Roma.⁴⁹

139. As mentioned above,⁵⁰ at the time of writing, controversy had arisen concerning textbooks in Hungarian with place names written in Slovak. On this point, ECRI also wishes to point out that it recommends, in Chapter II of General Policy Recommendation No.10, that Member States revise school textbooks to ensure that they reflect more adequately the diversity and plurality of society.

140. ECRI encourages the Slovak authorities to continue the measures taken thus far to teach human rights in schools. It recommends in this regard that they draw inspiration from its General Policy Recommendation No.10, and in particular on the measures prescribed in Chapter II 2) on ensuring that school education plays a key role in the fight against racism and racial discrimination in society.

141. ECRI recommends that measures be taken to ensure that school material adequately reflect minority groups' contribution to society and that any racist material or material that encourages stereotypes, intolerance or prejudice against any minority group be removed, as indicated in its General Policy Recommendation No.10.

VII. Conduct of law enforcement officials

142. In its third report, ECRI recommended that further measures be taken to put an end to incidents of police misbehaviour and mistreatment towards members of minority groups, and in particular Roma. It stressed the importance of setting up an independent investigatory mechanism which can carry out enquiries into allegations of police misconduct and where necessary ensure that the alleged perpetrators are brought to justice. ECRI also stressed that cases of police violence which are brought to court should be dealt with as rapidly as possible. In its third report, ECRI also considered that the recruitment of members of minority groups, particularly the Roma minority, among officials responsible for law enforcement, and particularly as police officers, should also be given further impetus.

143. The authorities have informed ECRI that there are three branches of the Department of Internal Inspection and Audit to which individuals can address complaints concerning police abuse of power or violence and that there is always a supervising prosecutor in all such cases. However, this mechanism does not appear to operate independently of the police. The authorities have also indicated that in 2005, 18 posts were created in Prešov and Košice for community police worker positions designated for people active within the community. There are currently 118 such community police officers, who are not all necessarily Roma.

144. ECRI notes with concern reports according to which instances of police brutality against members of the Roma minority still occur. There are also reports of police being occasionally reluctant to take witness testimony from, among others,

⁴⁹ See "Discrimination in Various Fields" and "Vulnerable/Target Groups" above.

⁵⁰ See "Vulnerable/Target Groups".

members of this group and that often cases involving Roma and other minorities are not promptly and thoroughly investigated. Moreover, there do not appear to have been many successful prosecutions of police for their misconduct against, among others, members of ethnic minority groups.

145. ECRI also notes a recent report of a police action on 1 November 2008 against Hungarian football fans⁵¹ in which it was alleged that excessive force was used. Whilst at the time of writing the full facts of the incident had not been established, ECRI hopes that any possible racist element in the incident will be explored and if found, that it will be duly punished.

146. ECRI recommends that in accordance with its General Policy Recommendation No. 11, the Slovak authorities provide for a body which is independent of the police and prosecution authorities, entrusted with the investigation of alleged cases of racial discrimination and racially-motivated misconduct by the police.

147. ECRI strongly recommends that the Slovak authorities ensure, as indicated in its General Policy Recommendation No.11 on combating racism and racial discrimination in policing, effective investigations into allegations of racial discrimination or racially-motivated conduct by the police and ensure as necessary that the perpetrators of these types of acts are adequately punished.

148. With regard to relations between the police and members of minority groups, ECRI recommends that the Slovak authorities take the measures enunciated in Section IV of its General Policy Recommendation No. 11.

149. ECRI encourages the authorities to continue recruiting police officers among Roma and recommends that campaigns be waged in their communities to that end.

VIII. Monitoring racism and racial discrimination

150. Section 8 of the Act on Personal Data prohibits the processing of personal data revealing the racial or ethnic origin or religious beliefs of a person. However, Section 9 provides for a number of exceptions to this prohibition, for example if the person in question has provided their written consent. ECRI notes therefore that there is a legal framework within which ethnic data can be collected. However, as indicated above⁵², there is no system for collecting this type of data in Slovakia, although it would enable the authorities to better monitor the results of various programmes adopted and implemented as concerns Roma in various fields such as education, health, housing and employment.

151. ECRI recommends that the Slovak authorities consider ways of establishing a coherent, comprehensive data collection system in order to monitor the situation of minorities by means of information broken down according, for instance, to ethnic origin, language, religion and nationality. Data should be collected in different public policy areas and the authorities should ensure full respect for the principles of confidentiality, informed consent and voluntary self-identification of people as belonging to a particular group. This system should also take into consideration the possible existence of double or multiple discrimination.

⁵¹ For more information on the situation of the Hungarian minority, see "Vulnerable/Target Groups" above.

⁵² See "Discrimination in Various Fields" and "Vulnerable/Target Groups" above.

RECOMMENDATIONS CHOSEN FOR INTERIM FOLLOW-UP

The three specific recommendations for which ECRI requests priority implementation from the authorities of Slovakia are the following:

- ECRI recommends that the Slovak authorities take steps to strengthen the role of the Slovak National Centre for Human Rights as an anti-discrimination body by ensuring that it is perceived as being fully independent in practice, that it has the power to represent victims of racial discrimination in court and that it receives sufficient human and financial resources. In line with its General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, ECRI further recommends that the strengthening of the Slovak National Centre for Human Rights include more active research on its part on issues pertaining to racism and racial discrimination as well as on the situation of minority groups, and widespread awareness-raising campaigns on these questions.
- ECRI commends the Slovak authorities for making issues pertaining to Roma a horizontal priority and urges them to increase the capacity of the Office of the Plenipotentiary for Roma to manage funds allocated to that end by increasing the human and financial resources available to this Office. ECRI further recommends wide-ranging consultations and involvement of Roma communities leaders in decisions on the manner in which these funds are spent as well as the regular monitoring and assessment of the impact of measures taken.
- ECRI strongly recommends that in order to combat the de facto segregation of Roma children in education, the Slovak authorities provide incentives, including financial ones, to local authorities to draw up and implement action plans to desegregate schools in their areas.

A process of interim follow-up for these three recommendations will be conducted by ECRI no later than two years following the publication of this report.

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APPENDIX

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Slovakia

ECRI wishes to point out that the analysis contained in its report on Slovakia, is dated 19 December 2008, and that any subsequent development is not taken into account.

In accordance with ECRI's country-by-country procedure, ECRI's draft report on Slovakia was subject to a confidential dialogue with the authorities of Slovakia. A number of their comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the authorities of Slovakia requested that the following viewpoints on their part be reproduced as an appendix to ECRI's report.

Viewpoints of the Slovak Republic to the

„Draft Fourth Report on Slovakia“ of the European Commission Against Racism and Intolerance (ECRI)

The Slovak Republic welcomes constructive dialogue with ECRI together with the fact that ECRI took into account and valued progress made in a number of fields since the last monitoring cycle. Recalling the importance the Slovak Republic ascribes to the principles pursued by the Council of Europe, the Slovak Republic will pay due attention to the recommendations contained in the draft Fourth Report (hereinafter referred to as Report).

In view of the Slovak Republic, however, the Report does not fully reflect recent development of the legislation, in particular amendments to the Anti-Discrimination Act. The Slovak Republic would further wish that the sources of information of ECRI are more balanced. It follows from the above that the Slovak Republic renders it necessary to provide for additional comments.

International legal instruments (paragraph 7)

The Slovak Republic is pleased to inform ECRI that on 24 April 2009, Slovakia ratified the Revised Social Charter.

Law on the Use of National Minority Languages (paragraphs 9-13)

The *Act on the Use of National Minority Languages* (Act No. 184/1999 Coll.) entered into force on September 1999. It lays down rules for the use of minority languages in official communications in municipalities where citizens of the Slovak Republic belonging to a national minority make up at least 20% of the population according to the results of the last census. In its instrument of ratification the European Charter for Regional or Minority Languages, Slovakia declared that pursuant to article 1 (b) "territory in which the regional or minority language is used" refers to a municipality specified in Government Regulation No. 221/1999 Coll. of 25 August 1999 establishing the list of municipalities in which citizens of the Slovak Republic belonging to a national minority make up at least 20% of the population, including the application of article 10 thereof. There is a total of 655 such municipalities.

As to the right to use a minority language in proceedings before courts and law enforcement authorities or other authorities, the right is long-established in legislation on proceedings before these authorities. The Ombudsman encountered only isolated cases when the claimant raised objections about the use of their mother-tongue in criminal proceedings.

To support the use of the Roma language, the *Standardisation of the Roma Language* in Slovakia was ceremonially proclaimed on 29 June 2008 under the auspices of the Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities. The ceremony included the signing of the "Declaration of the Roma of the Slovak Republic on the Standardisation of the Roma Language in the Slovak Republic" by representatives of the Roma national minority. The objective of the standardisation of the Roma language was to officially proclaim the Roma language, lay the foundations for the

creation of conditions for upbringing and education in the Roma language and place it on an equal footing with the other languages of national minorities living in Slovakia.

Anti-discrimination Act, Anti-discrimination bodies and other institutions (paragraphs 18-40)

Slovak National Centre for Human Rights

In accordance with §10 of the Anti-Discrimination Act (1) „Parties to the proceedings concerning the violation of the principle of equal treatment may also be represented by legal entities a) who have such authority under a separate law, or, b) whose activities are aimed at or consist in the protection against discrimination. (2) If a legal entity takes up representation pursuant to section 1, it shall assign one of its members and/or employees to act on behalf of the person represented“. The Act No. 308/1993 Coll. on establishment of Slovak National Centre for Human Rights as amended explicitly states in §2 Sect.3 that „Centre is empowered with competency to represent parties to the proceedings concerning the violation of the principle of equal treatment.“

Moreover, the recently adopted provision §9a of the Anti-Discrimination Act (the provision entered into force on 15 October 2008) provides: „Legal entity under the provision of § 10 shall be entitled to seek the protection of right to equal treatment if the violation of the principle of equal treatment could aggrieve the rights or interests protected by law or freedoms of greater or indefinite group of persons or if such violation could constitute serious threat to public interest. Legal entity shall be entitled to seek that the person violating the principle of equal treatment be made to refrain from such conduct and, where possible, rectify the illegal situation.“ Such regulation entitles legal entity (NGO or the Centre) to act on behalf of potential victims of violation of the principle of equal treatment.

Bearing in mind the constant need for raising awareness of the Anti-Discrimination Act, the Slovak Republic has adopted a number of measures (media presentations, dissemination of information on discrimination measures and legal protection, training to judges, prosecutors, other officials, and others as mentioned in the Report). The number of complaints received by the Slovak National Centre for Human Rights, as indicated in the Report, shows these measures successful.

Education (paragraphs 41-64)

In May 2008, the National Council of the Slovak Republic adopted Act No. 245/2008 Coll. on *Education and Training (The School Act)* and amendments to certain acts. The School Act accentuates the following main principles of training and education (§3): The principles of equal access to education and training, taking into account the educational needs of individuals and their co-responsibility for their own education; and prohibition of all forms of discrimination and, in particular, segregation. The new School Act clearly defines and distinguishes between children and students with special educational needs, handicaps, disabilities, or feeble health from those children and students, who come from a socially disadvantaged environment.

The above principles and definitions are in full compliance with the recommendations of the Council of Europe Commissioner for Human Rights on equal treatment in education and training in the education system.

In compliance with the National Plan for Human Rights Education for 2005-2014, the Action Plan for the Prevention of All Forms of Discrimination, Racism, Xenophobia, Anti-Semitism and Intolerance for the 2006-2008 period, the Concept of Migration Policy of the Slovak Republic adapted for the education sector and the National Action Plan for Children, *the Pedagogical and Organizational Guidelines* for school year 2008/2009 emphasizes the need to address educational tasks more intensively and effectively in line with the principles of humanism, and with the focus on intensive human rights education, the rights of the child and the prevention of all forms of discrimination, xenophobia, intolerance, and racism. Furthermore, the *Policy on the Training and Education of Roma Children and Students*, including the Development of Secondary and Tertiary Education approved by the Slovak Government in 2008, builds on the measures adopted to improve the education of Roma and socially disadvantaged children and students from the perspective of the Ministry of Education, and puts forward further solutions.

As regards Roma issues, in March 2008, the Government of the Slovak Republic adopted the Medium-term Concept of Development of the Roma Ethnic Minority in the Slovak Republic Solidarity-Integrity-Inclusion 2008-2013 (the "Medium-term Concept"), which is based on an analysis of previous governments' concepts. In the field of education and training of Roma children and pupils the Government of the Slovak Republic adopted in April 2008, the *Concept of Education and Training of Roma Children and Pupils*, including the Development of High Schools and University Education. The individual recommendations of the Concept are formulated for the period 2008-2015. One of the objectives of the concept is to lower the percentage of Roma children attending special elementary schools for pupils with mental disabilities.

In this context, we cannot agree with the opinion of ECRI expressed in paragraphs 42, 43 and 46 that the "zero year" would have the effect of continuing the segregation of Roma children. The *zero grade of elementary school* is designated for children who, as of September 1, reach the physical age of 6 but fail to achieve school competence, come from socially disadvantaged environments and due to that social environment there exists the pre-qualification that they will not manage the education program of the first grade of elementary school. Children are only included in the zero grade with the informed consent of the legal representative of the child.

Housing (paragraphs 65-74)

It is regrettable the Report pays little attention to the *positive results and measures* taken by the Slovak authorities in order to improve housing conditions of marginalised groups and to fight segregation. Successful projects in the municipalities of Zborov, Sveržov, Nálepkovo, Moldava nad Bodvou and elsewhere serve as a good example. As regards the issue of accessibility of social housing, it should be noted that in case of marginalised groups

affirmative action is allowed for and up to 80 percent of social housing is funded by the authorities.

Employment (paragraphs 80-84)

The Constitution of the Slovak Republic stipulates that human rights are guaranteed to every individual regardless of sex, race, colour, language, belief and religion, political affiliation or other conviction, national or social origin, nationality or ethnic origin, property, descent or any other status. No person shall be denied their legal rights, discriminated against or favoured on any of these grounds. This also concerns Roma and their access to labour market. They have the equal right to re-training, vocational training, and inclusion into the labour market.

Racist violence, Racism in Public Discourse and Antisemitism (paragraphs 89-100, 131-135)

The Government of the Slovak Republic, in the interest of developing the multiethnic and multicultural character of the Slovak society, fights against all forms of racial, ethnic, religious and political hatred. Rising figures of racially-motivated criminal acts noted by ECRI in paragraph 92 have to be read in conjunction with the fact that in 2006 the Slovak Republic adopted the new Criminal Code, which provides for a new system of gathering statistics on racist crimes.

With the aim of eliminating and preventing all expressions of discrimination in society, the Government of the Slovak Republic adopted the *"Action Plan for the prevention of all forms of discrimination, racism, xenophobia, anti-Semitism and other expressions of intolerance"*. The Action Plan focuses on the prevention and reduction of negative phenomena in society such as racism, xenophobia, and many other expressions of intolerance and discrimination. It also has long term objectives of fighting these negative phenomena in society in order to increase the level of tolerance among all citizens of Slovakia, including foreigners. The means are, for instance, systematic education of professionals, presentations of minority cultures under auspices of the Ministry of Culture, or grant projects "Culture of Ethnic Minorities", and "Culture of disadvantaged groups". An important part of the Action Plan are activities carried out by non-governmental organisations or other subjects working in this area. An amount of 287 000 EUR has been allocated of the state budget for 2008 to fund project activities by eligible subjects.

Special attention is paid to the development of Roma culture. Under the auspices of the Ministry of Culture, numerous cultural activities are organized for children from socially-disadvantaged environment, in particular Roma children, with a view to raise their awareness in the area of culture. In 2006, the Government of the Slovak Republic adopted a Development Strategy for museums and galleries in the Slovak Republic, which projects creation of permanent exposition of Roma culture as well as establishment of research and documentary centres. The Ministry of Culture has provided a valuable contribution to the commemoration of the Roma Holocaust by carrying out the project *Ma bisterň - Nezabudnite (Remember)*. In the framework of the

project, commemorative tablets were placed where Roma persecutions took place during the Second World War.

Developments in allegations of sterilisations of Roma women in the Slovak Republic without their full and informed consent (paragraphs 110-114)

The accusations of alleged forced sterilisations of Roma women in Eastern Slovakia caused immediate reaction from the Government, which initiated a criminal prosecution against unidentified offender for the criminal offence of genocide. On 24 October 2003, the criminal prosecution was stopped since it was apparent that the act for which the criminal prosecution was undertaken had not happened. The decision of the investigator was, among other things, based on the opinion of the Faculty of Medicine, which on the scientific grounds confirmed that the sterilisations were performed *lege artis* and the medical interventions had no influence on the reproductive ability of the Roma ethnic minority. The investigation did not reveal commission of any other criminal act in connection with the investigated commission. However, in course of the prosecution some deficiencies in the Slovak healthcare legislation and, in some cases, administrative shortcomings made by individual physicians and healthcare establishments were identified, but these were however of purely administrative character.

The suspension of prosecution was also based on the fact that the control executed by the inspection group of the Ministry of Health confirmed that genocide, discrimination against or segregation of Roma women had not occurred at any of the gynecological and obstetrical departments. The conclusions done by experts proved that in those regions where it was possible to assess indirectly the ratio of Roma patients in relation to the total number of patients, the frequency of sterilisations and c-sections was considerably lower than the number of interventions on the majority population. Moreover, the experts stated that all medical interventions on women, complaining about the forced sterilisations, were done in sake of their health and life, irrespective of their ethnic origin and in compliance with the then legislation. As a warning served an example of one Roma woman who died after having refused to undergo the sterilisation.

The relevant institutions of the international organisations, with whom the Government of the Slovak Republic communicated intensively, closely observed the issue of alleged forced sterilisations. The information was submitted also to the Committee on the Elimination of Discrimination against Women. The Slovak Republic prepared observations that informed in detail about the investigation of the incident in Slovakia and about the measures taken (including legislation modifications). The Committee decided not to conduct an inquiry under article 8 of the Optional Protocol.

Hungarian minority (paragraphs 115-118)

Investigation of the *case of H. Malinová* has been conducted by independent investigatory bodies. The Slovak Republic refuses to politicise the case.

The right to education in the languages of national minorities is guaranteed in the Constitution of the Slovak Republic and Act No. 245/2008 Coll. on training and education (the schools act) and the amendment of certain acts. Training and education for children and pupils is provided in elementary and secondary schools with teaching of the language of a national minority, with tuition in the language of a national minority and with tuition in Slovak language based on the free decision of parents or legal guardians. Pre-school education and extracurricular education and training in education facilities also take into consideration children's mother tongue.

As mentioned above, the schools act establishes the prohibition of all forms of discrimination and especially segregation as one of the principles of education and training. If an applicant, child, pupil or student believes that his or her rights or legally protected interests have been offended as a result of a breach of the principle of equal treatment the schools act allows them to obtain legal protection from the courts in accordance with specific legislation. The specific legislation is Act No. 365/2004 Coll. on equal treatment in certain areas and protection against discrimination and the amendment of certain acts, as amended.

Schools with tuition in the language of a national minority always use translations of Slovak textbooks or adapted textbooks approved by the Ministry of Education of the Slovak Republic. The necessary textbooks and workbooks for schools with tuition in the language of a national minority and with the teaching of the language of a national minority are approved each year.

With regards to the paragraph 116, the respective bill was adopted by the National Council of the Slovak Republic as amendment to the Act No. 245/2008 Coll. on training and education (the Schools Act) in February 2009.

The languages of national minorities are also taught in state higher education institutions. These institutions are part of the education and training system of the Slovak Republic and are financed from the state budget. In addition to state schools, the law allows the establishment of private or church schools that also receive funding from the state budget in accordance with relevant legislation.

Migrants (Paragraph 121)

The review of appeals against asylum decisions are made by regional courts who cannot take a decision, but send the case back to the Migration Office to re-examine them. Migration office is nevertheless bound by the opinion of the Court. Asylum seekers do receive legal aid also at the appellate stage of the proceeding. Except for numerous NGOs, since December 2008 also the Centre for Legal Aid established by the Ministry of Justice offers these services.

